

# MAINE STATE LEGISLATURE

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REPORTS  
OF  
THE COMMISSIONER  
AND  
THE LEGISLATIVE COMMISSION  
SUBMITTING THE FINAL DRAFT OF THE  
SIXTH REVISION  
OF THE  
PUBLIC LAWS  
OF THE  
STATE OF MAINE  
UNDER RESOLVE OF MARCH 25, 1915

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AUGUSTA  
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SIXTH REVISION OF THE PUBLIC LAWS

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND SIXTEEN.

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AN ACT

TO REVISE AND CONSOLIDATE THE PUBLIC LAWS  
OF THE STATE.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF MAINE,  
in the manner stated under the several titles and chapters, not includ-  
ing abstracts of sections, notes, or references:



## TITLE ONE.

The State: its Sovereignty, divisions, domain, revenue; parts of its civil and military administrations.

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- CHAP. I. Divisions of the state. Constitutional amendments. Statutes. Rules of construction. Standard time.
2. Sovereignty and Jurisdiction. Public buildings. Organization of the legislature. Notice of petitions for legislation. Tenure of office and qualification of officers. Secretary of state. Treasurer of state and state bonds. State auditor.
  3. The state library. The state historian. The publication and distribution of public documents. State printing and binding.
  4. Towns, their meetings, officers, powers and duties.
  5. The qualification and registration of voters.
  6. Nominations of candidates for office.
  7. Elections.
  8. The public lands. Land agent. Location and care of lots for public uses. Forest commissioner and preservation of forests. Maine Forestry District.
  9. The board of state assessors and the assessment of excise taxes.
  10. The assessment of taxes.
  11. The collection of taxes.
  12. Registers of deeds.
  13. County treasurers.
  14. Indian tribes.
  15. The military law.
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## CHAPTER 1.

Divisions of the State. Constitutional Amendments. Statutes. Rules of Construction. Standard Time.

**Section 1. Divisions of state. R. S. c. 1, § 1.** The state is divided into counties, districts, towns and plantations.

72 Me. 432; 105 Me. 372.

**Sec. 2. When constitutional amendments take effect. R. S. c. 1, § 2.** Unless otherwise provided in the resolve submitting it, every constitutional amendment shall take effect and become part of the constitution, on the first Wednesday of January following its adoption by the people.

**Sec. 3. Proclamation and publication thereof. R. S. c. 1, § 3.** Within thirty days after it appears that a constitutional amendment has been adopted, the governor shall make proclamation thereof, and the secretary of state shall forthwith cause such proclamation to be published in the state paper, and it shall also be prefixed to the next volume of acts and resolves.

**Sec. 4. Notice of approval of public acts. R. S. c. 1, § 4.** When a public act is approved by the governor, the secretary of state shall give written notice thereof to the presiding officers of the senate and house, describing

it by its title, and the date of its approval, which shall be entered on the journal of each house.

See c. 2, § 54; 81 Me. 546.

**Sec. 5. Construction of repealing acts. R. S. c. 1, § 5.** The repeal of an act or resolve passed after the fourth day of March, eighteen hundred and seventy, does not revive any statute in force before the act or resolve took effect. The repeal of an act does not affect any punishment, penalty or forfeiture incurred before the repeal takes effect, or any suit, or proceeding pending at the time of the repeal, for an offense committed or for recovery of a penalty or forfeiture incurred under the act repealed. Actions pending at the time of the passage or repeal of an act, are not affected thereby.

21 Me. 60; 23 Me. 237; 30 Me. 489; 45 Me. 73, 514; 49 Me. 533; 52 Me. 158; 61 Me. 24; 63 Me. 29, 30; 64 Me. 134, 435; 65 Me. 129; 68 Me. 396, 520, 527; 70 Me. 278; 71 Me. 404; 73 Me. 212; 75 Me. 444; 84 Me. 64; 88 Me. 227; 93 Me. 127; 95 Me. 315.

**Sec. 6. Rules of construction. R. S. c. 1, § 6.** The following rules shall be observed in the construction of statutes, unless such construction is inconsistent with the plain meaning of the enactment.

I. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases, and such as have a peculiar meaning convey such technical or peculiar meaning. The words "and" and "or" are convertible as the sense of a statute may require.

47 Me. 347; 49 Me. 525; 58 Me. 170, 328; 63 Me. 63; 64 Me. 129; 72 Me. 425, 461; 75 Me. 116; 88 Me. 404; 98 Me. 83; 105 Me. 111; 111 Me. 286; 112 Me. 362.

II. Words of the singular number may include the plural; and words of the plural number may include the singular. Words of the masculine gender may include the feminine.

48 Me. 550; 72 Me. 428; 105 Me. 306.

III. Words giving authority to three or more persons authorize a majority to act, when the enactment does not otherwise determine.

39 Me. 223; 48 Me. 358-9, 406; 62 Me. 519; 63 Me. 265; 64 Me. 262; 77 Me. 129; 79 Me. 130.

IV. The words "annual meeting," applied to towns, mean the annual meeting required by law for choice of town officers.

62 Me. 517; 96 Me. 434.

V. The word "grantor" means the person who conveys a freehold estate or interest in land; and the word "grantee," the person to whom it is conveyed.

VI. The word "highway" may include a county bridge, county road or county way.

See c. 24, § 99; c. 26, § 1. 18 Me. 412; 26 Me. 409; 34 Me. 12; 59 Me. 363, 452; 79 Me. 528; 106 Me. 302.

VII. The word "inhabitant" means a person having an established residence in a place.

37 Me. 372; 106 Me. 236.

VIII. The words "insane person" may include an idiotic, non compos, lunatic, or distracted person; but in reference to idiotic or non compos persons this rule does not apply to sections three to fifty-two, both inclusive, of chapter one hundred and forty-five.

49 Me. 361; 53 Me. 207; 76 Me. 595.

IX. The word "issue," applied to the descent of estates, includes all lawful lineal descendants of the ancestor.

95 Me. 277; 104 Me. 310.

X. The word "land" or "lands," and the words "real estate," include lands and all tenements and hereditaments connected therewith, and all rights thereto and interests therein.

See c. 69, § 29; c. 10, § 3; 69 Me. 347; 78 Me. 97; 85 Me. 331; 86 Me. 77, 131; 105 Me. 532.

XI. The words "timber and grass," when used in reference to the public lots, so called, in unincorporated townships in the state, mean all growth of every description on said lots.

XII. The word "month" means a calendar month; and the word "year," a calendar year, unless otherwise expressed. The word "year," used for a date, means year of our Lord.

See c. 16, § 49, Par. II. 47 Me. 393; 64 Me. 332.

XIII. The word "oath" includes an affirmation, when affirmation is allowed.

79 Me. 103.

XIV. The word "person" may include a body corporate.

See c. 69, § 29; 70 Me. 181; 95 Me. 448; 105 Me. 306.

XV. By the words "preceding" or "following," used with reference to a section, is meant the section next preceding or following that in which it is used, when not otherwise expressed.

XVI. When the seal of a court, magistrate or public officer, is to be affixed to a paper, the word "seal" may mean an impression made on the paper for that purpose with or without wafer or wax.

33 Me. 427; 34 Me. 222; 36 Me. 368; 66 Me. 227.

XVII. Whenever a corporate seal is used or required on any instrument, an impression made on the paper of such instrument by the seal of the corporation, without any adhesive substance, shall be deemed a valid seal.

XVIII. The words "United States" include territories and the District of Columbia. The word "state," used with reference to any organized portion thereof, may mean a territory or said district.

XIX. The word "town" includes cities and plantations, unless otherwise expressed or implied.

56 Me. 31; 66 Me. 155; 71 Me. 142; 77 Me. 422; 82 Me. 194.

XX. The words "in writing" and "written" include printing and other modes of making legible words. When the signature of a person is required, he must write it or make his mark.

56 Me. 392; 68 Me. 387, 587; 104 Me. 263.

XXI. The word "will" includes a codicil.

XXII. The words "sworn," "duly sworn," or "sworn according to law," used in a statute, record, or certificate of administration of an oath, refer to the oath required by the constitution or laws in the case specified, and include every necessary subscription to such oath.

30 Me. 326; 41 Me. 226; 42 Me. 376; 58 Me. 532; 84 Me. 378.

XXIII. When an act that may be lawfully done by an agent, is done by one authorized to do it, his principal may be regarded as having done it.

48 Me. 554; 59 Me. 175; 68 Me. 92, 387; 95 Me. 554.

## CHAP. 1

XXIV. When a person is required to be disinterested or indifferent in a matter in which others are interested, a relationship by consanguinity or affinity within the sixth degree according to the civil law, or within the degree of second cousins inclusive, except by written consent of the parties, will disqualify.

29 Me. 542; 30 Me. 156; 32 Me. 311; 47 Me. 476, 594; 52 Me. 501; 59 Me. 264; 66 Me. 352; 68 Me. 219; 73 Me. 58; 79 Me. 33; 84 Me. 305; 86 Me. 185.

XXV. The term "municipal officers" means the mayor and aldermen of cities, the selectmen of towns, and the assessors of plantations.

Sec. c. 127, § 45; 56 Me. 31; 71 Me. 142; 74 Me. 369; 78 Me. 106; 102 Me. 398; 105 Me. 146.

XXVI. The words "state paper" mean the newspaper designated by the legislature, in which public acts, resolves, advertisements, and notices are required to be published.

Resolves of 1911, c. 149. See c. 84, § 7.

XXVII. Abstracts of titles, chapters and sections, and notes are not legal provisions.

111 Me. 48.

XXVIII. Acts of incorporation shall be regarded in legal proceedings as public acts. All acts of incorporation granted since the first day of January, eighteen hundred and ninety-three, become null and void in two years from the day when the same take effect, unless such corporations shall have organized and commenced actual business under their charters.

24 Me. 143; 69 Me. 317; 83 Me. 445; 93 Me. 127; 97 Me. 563.

XXIX. The organization of any corporation under any general law of the state becomes null and void in two years from the day when its certificate of incorporation has been filed in the office of the secretary of state, unless such corporation shall have commenced actual business under its organization.

See c. 53, § 161; c. 54, § 4; c. 56, § 7; c. 58, § 13.

**Sec. 7. Affirmations. R. S. c. 1, § 7.** When a person required to be sworn, is conscientiously scrupulous of taking an oath, he may affirm.

78 Me. 488; 79 Me. 103.

**Sec. 8. Eastern standard time established. R. S. c. 1, § 8.** All courts, and all state, county and town officers and their employees, in the transaction of their official business, and all contracts, unless it is otherwise provided therein, and all proceedings in law and equity, shall be governed by the eastern division of standard time.

Note. Definitions under primary election law, c. 6, § 1; under corrupt practices act, c. 7, §§ 124, 125; under Australian ballot law, c. 7, § 1; under inheritance tax law, c. 69, § 100; under law for inspection of plumbing, c. 19, § 114; under state highway law, c. 25, § 2; under automobile law, c. 26, § 15; under law relating to inland fisheries and game, c. 33, §§ 16, 36, 57; under law against adulteration or misbranding of goods, c. 36, §§ 2, 37; under law relating to employment agencies, c. 42, § 13; relating to department of labor and industry, c. 49, §§ 13, 15; under workmen's compensation act, c. 50, § 1; under the public utilities law, c. 55, § 9; under insolvent law, c. 75, § 12; under laws relating to cruelty to animals, c. 126, § 67.

Definitions of words "benevolent and charitable corporations" under tax law, c. 10, § 6, Par. 3; "officer" and "soldier" under military law, c. 15, § 132; of word "academy" c. 16, § 104; of term "practitioner" under law for registration of veterinary surgeons, c. 18, § 58; under law relating to practice of optometry, c. 18, § 44; of words "way" and "team," c. 26, § 1; of word "family" in pauper law, c. 29, § 9; of "nursery stock," c. 38, §§ 1, 14; of "public warehouseman," c. 39, § 8; of "itinerant vendors," c. 41, § 25; of term "serious physical injuries" in law relating to reports of industrial accidents, c. 49, § 15; of terms "dealer" and "securities" under law for registration of dealers in securities, c. 40, § 14; of "domestic" and "foreign" in insurance law, c. 53, § 103; of "association" in insurance laws, c. 54, § 27; of "dwelling house," c. 121, § 8; of "bucket shop," c. 127, § 13; of "intoxicating liquors," c. 127, § 21; of "butter" and "cheese" under law relating to dairy products, c. 130, § 12; of words "felony" and "owner," c. 133, §§ 11, 12; of terms "prison service" and "good record" in state prison pension law, c. 142, § 32.

## CHAPTER 2.

**Sovereignty and Jurisdiction. Public Buildings. Organization of the Legislature. Notice of Petitions for Legislation. Tenure of Office and Qualification of Officers. Secretary of State. Treasurer of State and State Bonds. State Auditor.**

- Sections 1-21 Sovereignty and Jurisdiction.  
 Sections 22-28 Public Grounds and Buildings.  
 Sections 29-35 Organization of the Legislature.  
 Sections 36-40 Notice of Petitions for Legislation.  
 Sections 41-45 Tenure of Office and Qualifications of Officers.  
 Sections 46-56 Secretary of State.  
 Sections 57-80 Treasurer of State and State Bonds.  
 Sections 81-104 State Auditor.

**Sovereignty and Jurisdiction.**

**Sec. 1. Sovereignty and jurisdiction.** R. S. c. 2, § 1. The jurisdiction and sovereignty of the state extend to all places within its boundaries, subject only to such rights of concurrent jurisdiction as are granted over places ceded by the state to the United States.

76 Me. 331.

**Sec. 2. Title to islands shall remain in state, for public use.** 1913, c. 132. The title to all islands located in great ponds within the state, except such as have been previously granted away by the state, and the title to all islands located in the sea within the jurisdiction of the state, except such as have been previously granted away by the state or are now held in private ownership, shall remain in the state and be reserved for public use.

**Sec. 3. State flag.** 1909, c. 19, §§ 1, 3. The flag to be known as the official flag of the state shall be of blue, of the same color as the blue field in the flag of the United States, and of the following dimensions and designs; to wit, the length, or height, of the staff to be nine feet, including brass spear-head and ferule; the fly of said flag to be five feet six inches, and to be four feet four inches on the staff; in the center of the flag there shall be embroidered in silk on both sides of the flag the coat of arms of the state, in proportionate size; the edges to be trimmed with knotted fringe of yellow silk, two and one-half inches wide; a cord, with tassels, to be attached to the staff at the spear-head, to be eight feet six inches long and composed of white and blue silk strands. A flag made in accordance with the description given in this section shall be kept in the office of the adjutant general, as a model.

**Sec. 4. Flag to be carried by National Guard.** 1909, c. 19, § 2. The flag of the state to be carried by the regiments of the National Guard of Maine shall be the same as the flag described in the preceding section, with the addition of two scrolls in red, one above and one below the coat of arms

## CHAP. 2

of the state; in the upper scroll the inscription, Regiment Infantry, and in the lower scroll the inscription, National Guard State of Maine.

**Sec. 5. State processes executed in places ceded.** R. S. c. 2, § 3. Civil, criminal and military processes, lawfully issued by an officer of the state, may be executed in places ceded to the United States, over which a concurrent jurisdiction has been reserved for such purpose.

**Sec. 6. Governor may cede not exceeding ten acres to United States.** R. S. c. 2, § 4. The governor, with the advice and consent of the council, reserving such jurisdiction, may cede to the United States for purposes named in its constitution any territory not exceeding ten acres, but not including any highway; nor any public or private burying-ground, dwelling-house or meeting-house, without consent of the owner.

**Sec. 7. Compensation to owner.** R. S. c. 2, § 5. If compensation for such land is not agreed upon, the estate may be taken for the intended purpose by payment of a fair compensation, to be ascertained and determined in the same manner as, and by proceedings similar to those provided for ascertaining damages in locating highways, in chapter twenty-four.

See c. 24, §§ 4-8.

**Sec. 8. Governor may purchase or take land for forts and other purposes, and may cede the same to the United States.** R. S. c. 2, § 6. Whenever the public exigencies require it, the governor, with the advice and consent of the council, may take, in the name of the state, by purchase and deed, or in the manner herein denoted, any lands, or rights of way, for the purpose of erecting, using or maintaining any fort, fortification, arsenal, military connection, way, railroad, lighthouse, beacon or other aid to navigation, with all necessary rights, powers and privileges incident to their use, and may deliver possession and cede the jurisdiction thereof to the United States, on such terms as are deemed expedient.

**Sec. 9. Shall cause land to be surveyed; plan, etc., to be filed and recorded.** R. S. c. 2, § 7. When the governor and council determine that a public exigency requires the taking of any land or rights as aforesaid, they shall cause the same to be surveyed, located, and so described that the same can be identified, and a plan thereof, with a copy of the order in council, shall be filed in the office of the secretary of state, and there recorded. The filing of said plan and copy shall vest the title to the land and rights aforesaid, in the State of Maine, or their grantees, to be held during the pleasure of the state, and if transferred to the United States, during the pleasure of the United States.

**Sec. 10. Compensation to owner.** R. S. c. 2, § 8. The owner of any land or rights, taken as aforesaid, shall have a just compensation therefor, to be determined as prescribed in section seven, provided, that application is made within five years after the land is taken.

**Sec. 11. Consent of legislature to acquisition by U. S. of land within the state for public buildings; record of conveyances.** R. S. c. 2, § 9. 1905, c. 50, § 1. In accordance with the constitution of the United States, article one, section eight, clause seventeen, and acts of congress in such cases provided, the consent of the legislature is hereby given to the acquisition by the United States, or under its authority, by purchase, condemnation, or

otherwise, of any land in this state, required for the erection of lighthouses or for sites for custom-houses, court-houses, post-offices, arsenals or other public buildings, or for any other purposes of the government; deeds and conveyances or title papers for the same, shall be recorded upon the land records of the county, or registry district in which the land so conveyed may lie; and in like manner may be recorded a sufficient description by metes and bounds, courses and distances, of any tracts and legal divisions, of any public lands belonging to the United States, set apart by the general government for either of the purposes before mentioned, by an order, patent, or other official paper, so describing such land.

III Me. 78.

Note. As to National Home for Disabled Volunteer Soldiers, see P. L. 1867, c. 66.

**Sec. 12. Jurisdiction ceded to U. S. over land acquired for public purposes; concurrent jurisdiction with U. S. retained. R. S. c. 2, § 10. 1905, c. 50, § 2.** Exclusive jurisdiction in and over any land so acquired by the United States shall be, and the same is hereby ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this state; provided, that the jurisdiction hereby ceded shall not vest until the United States of America has acquired title to such land by purchase, condemnation or otherwise; the United States of America are to retain such jurisdiction so long as such lands shall remain the property of the United States, and no longer; such jurisdiction is granted upon the express condition that the State of Maine retains a concurrent jurisdiction with the United States in and over the said lands, so far as that civil process, in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue under the authority of the State of Maine against any person or persons charged with crimes or misdemeanors committed within or without the limits of the said lands, may be executed therein, in the same way and manner as if no jurisdiction had been ceded.

III Me. 78.

**Sec. 13. Such property not to be taxed. R. S. c. 2, § 11. 1905, c. 50, § 3.** Lands with the tenements and appurtenances, so acquired for the purposes mentioned in section eleven shall be and continue exempt from all state, county, and municipal taxation, assessment or other charges which may be levied or imposed under the authority of this state, so long as the said lands shall remain the property of the United States, and no longer.

See c. 10, § 6, ¶ 1.

**Sec. 14. Proceedings for relinquishment to the U. S. of the title to land for the erection of lighthouses, forts, &c., when the title cannot otherwise be obtained. R. S. c. 2, § 12.** Whenever, upon application of an authorized agent of the United States, it is made to appear to any justice of the supreme judicial court, that the United States desires to purchase a tract of land and the right of way thereto, within the state, for the erection of a lighthouse, beacon light, range light, or light keeper's dwelling, forts, batteries or other public buildings, and that any owner is a minor, or is insane, or is from any cause incapable of making perfect title to said lands, or is unknown, or a non-resident, or from disagreement in price or any

## CHAP. 2

other cause, refuses to convey such land to the United States, said justice shall order notice of said application to be published in some newspaper in the county where such land lies, if any, otherwise in a paper in this state nearest to said land, once a week, for three months, which notice shall contain an accurate description of said land, with the names of the supposed owners, provable in the manner required for publications of notice in chapter eighty-six, and shall require all persons interested in said land on a day specified in said notice, to file their objections to the proposed purchase; and at the time so specified a justice of said court shall empanel a jury, in the manner provided for the trial of civil actions, to assess the value of said land at its fair market value, and all damages sustained by the owner of such land by reason of such appropriation; which amount when so assessed, with the entire costs of said proceedings, shall be paid into the treasury of said county, and thereupon the sheriff thereof, upon the production of the certificate of the treasurer that said amount has been paid, shall execute to the United States, and deliver to its agent a deed of said land, reciting the proceedings in said cause, which deed shall convey to the United States a good and absolute title to said land against all persons.

See c. 86, § 21.

**Sec. 15. Disposal of the purchase money.** R. S. c. 2, § 13. The money so paid into such county treasury shall there remain until ordered to be paid out by a court of competent jurisdiction.

**Sec. 16. Treasurer receiving the money to give a bond.** R. S. c. 2, § 14. The judge directing the money to be paid to a county treasurer, in accordance with the five preceding sections, shall require of such treasurer a bond in double the amount ordered to be paid to him, with two or more sufficient sureties, or with a surety company, as surety, to be approved by said judge. Such bonds shall be payable to the people of the State of Maine, for the use of such persons, severally, as are entitled to said money, and shall be approved and filed with the clerk of said court before payment of the money to the treasurer.

**Sec. 17. U. S. coast survey.** R. S. c. 2, § 15. Persons employed under the government of the United States in the coast survey, may enter on any land in the state, and erect thereon such buildings and do such other acts, as the objects of the survey require.

**Sec. 18. Compensation for use of land.** R. S. c. 2, § 16. If satisfactory compensation is not made to the owner by the officers or agents of the United States under whose direction such lands are taken, he may make complaint to the county commissioners, who, after not less than fourteen days' notice to the parties of the time and place of hearing, shall view the premises, hear the parties, and assess the damages sustained by the taking of the land for said purposes, including the time during which it will be required for such use, order them to be paid at such time as they direct, and award costs to the prevailing party.

**Sec. 19. Report to be filed with S. J. C.; appeal allowed.** R. S. c. 2, § 17. The commissioners shall file in the office of the clerk of the supreme judicial court a report of their doings, which shall be conclusive upon the parties, unless one of them, within thirty days after the next term of the court, files

in court his petition for a new trial, which, after due notice to the opposite party, may, for due cause, be granted, to be had in said court.

**Sec. 20. Tender of amends; costs.** R. S. c. 2, § 18. The person so entering upon land may tender to the party injured sufficient amends, and if the damages finally assessed do not exceed the tender, judgment shall be rendered against the owner for costs. Costs recovered by the prevailing party shall be taxed as in case of appeal from judgments of a trial justice.

**Sec. 21. Injury to works.** R. S. c. 2, § 19. Whoever wilfully injures said buildings, works, or apparatus used therewith, forfeits not exceeding fifty dollars, to be recovered by indictment to the use of the prosecutor; and is also liable in a civil action for damages.

### Public Grounds and Buildings.

**Sec. 22. State park; commissioners may receive gift or legacy.** P. & S. L. 1911, c. 57. All that portion of the state lands situate in the city of Augusta and lying between State Street on the west and the location of the Maine Central Railroad Company on the east, shall be maintained as a public park under the supervision and control of a commission of three persons, appointed by the governor for terms of four years. They shall serve without compensation. One of said commissioners shall be a resident of the city of Augusta, recommended to the governor for appointment by the city council of said city. They may receive moneys by gift or legacy and shall hold the same as trustees for the purposes stated in this section.

**Sec. 23. Superintendent of public buildings, appointment and duties.** R. S. c. 2, § 25. The governor, with the advice and consent of the council, shall appoint a superintendent of public buildings, who shall take charge of the same and all the furniture and other property connected therewith; preserve the same from injury, at all proper times open and ventilate the several apartments, and constantly keep every part thereof properly swept and cleansed, and at all suitable hours personally attend visitors, free of expense, take care of the public grounds, fences, forest trees, and all other property not before enumerated, pertaining to the public buildings; and under the direction of the governor and council, superintend and cause all necessary repairs to be made upon the public buildings and furniture thereof, upon the fences and walks of the public grounds, set out suitable ornamental and forest trees, and protect the same from injury or decay; and make all purchases of furniture, lights, wood, and everything necessary for the use and convenience of all the apartments of the state house, strict economy being required in all contracts for repairs and purchases; and no contract shall be made upon the credit of himself or the state. He shall give bond to the state in the sum of two thousand dollars, for the preservation of said property and the faithful discharge of his trust. The governor and council may also require him to perform any other duties that the public interest may require, without extra compensation.

See Resolves 1889, c. 243; c. 117, § 55.

**Sec. 24. Room shall be reserved for representatives of the press.** 1915, c. 201, § 2. Room eighty-two, on the fourth floor of the state house, known as the pharmacy and dentistry room, shall be maintained and reserved, dur-

## CHAP. 2

ing each legislative session, for the use of such representatives of the press as have the privilege of the floor of the senate and house of representatives under section thirty-five of this chapter; the superintendent of public buildings shall see that such room is properly furnished, lighted, heated, and kept in order.

**Sec. 25. Competitive bids for contracts for state work. 1909, c. 202, § 1.** All contracts for construction or repairs of buildings at the expense of the state involving a total cost of more than three thousand dollars, shall be awarded by a system of competitive bids in accordance with the provisions of the following section and such other conditions and restrictions as the governor and council may from time to time prescribe.

**Sec. 26. Advertisements for sealed proposals; bond. 1909, c. 202, §§ 2, 4.** The trustees, commissioners, or other persons in charge of such construction shall advertise for sealed proposals not less than two weeks in such papers as the governor and council may direct; the last advertisement shall be at least one week before the time named therein for the closing of such bids. Sealed proposals submitted in accordance with such advertisement shall be addressed to the trustees, commissioners, or other persons having the construction in charge and shall remain sealed until opened in the presence of a committee of the governor's council at such time as the governor and council may direct. No contract shall be awarded unless the faithful performance thereof shall be secured by a bond in the penal sum of not less than twenty per cent of the amount of the contract, payable to the state, and deposited with the treasurer of state.

**Sec. 27. Insurance on public buildings. 1911, c. 160.** All fire and liability insurance upon public buildings and other property belonging to the state shall be placed thereon by the several boards of trustees having said property in charge, subject to the approval of the governor and council, or by the governor and council, and all expense therefor shall be paid from the several appropriations for insurance on said property. The policies for all insurance so placed shall be deposited with the treasurer of state, and a record thereof kept by the governor and council.

**Sec. 28. Insurance money, available for replacement. 1913, c. 125.** Whenever any officer or department of the state has taken out fire insurance on property owned by the state, or for which the state is responsible, and the property has been destroyed, the money paid by the insurance companies on the loss shall, with the approval of the governor and council, be made immediately available for the use of such office or department in replacing the destroyed property, or otherwise, as may be needed in the work of the office or department.

### Organization of the Legislature.

**Sec. 29. Secretary of state to furnish certified rolls of members elect. R. S. c. 2, § 26.** The secretary of state shall, on or before the day preceding the meeting of the legislature, furnish to the secretary of the preceding senate, a certified roll, under the seal of the state, of the names and residences of senators elect, according to the report of the governor and council, and to the clerk of the preceding house of representatives a certified

roll, under the seal of the state, of the names and residences of the representatives elect, according to the report of the governor and council, and shall report the vacancies, if any exist.

**Sec. 30. Duty of secretary of senate at organization. R. S. c. 2, § 27.** The secretary of the preceding senate, at the time and place appointed for the meeting of the legislature, shall call the senators elect, present, to order, and from the certified roll furnished him as aforesaid, call their names, and if a quorum respond, he shall preside until they are qualified and a president is elected; if no quorum appear he shall preside, and the senators elect, present, shall adjourn from day to day, but shall transact no business, except to go into conventions to fill vacancies, until a quorum appear and are qualified and a president is elected.

**Sec. 31. Duty of clerk of house at organization. R. S. c. 2, § 28.** The clerk of the preceding house of representatives in like manner shall call the representatives elect to order and preside until they are qualified and elect a speaker; if no quorum appear he shall preside, and the representatives elect, present, shall adjourn from day to day, until a quorum appear and are qualified, and a speaker is elected.

70 Me. 589, 590.

**Sec. 32. In the absence of secretary or clerk, assistants to act. R. S. c. 2, § 29.** In case of vacancy in the office of such secretary or clerk, or absence or inability of either to perform the duties aforesaid, they shall be performed by the assistants.

**Sec. 33. When secretary of senate shall amend record. R. S. c. 2, § 30.** The secretary or assistant secretary of any senate shall amend, according to the fact, the journal of said senate, whenever empowered or required by authority of the same, or of any subsequent senate.

**Sec. 34. When clerk of house shall amend record. R. S. c. 2, § 31.** The clerk or assistant clerk of any house of representatives shall amend, according to the fact, the journal of said house, whenever empowered or required by authority of the same, or of any subsequent house.

**Sec. 35. Rights and privileges of representatives of the press, defined; shall have no interest in private claims. 1915, c. 201, § 1.** Representatives of the press who shall be actually engaged in sending daily reports of the doings of the legislature to daily newspapers, shall have the privilege of the floor of the senate and house of representatives, and shall be subject to such rules as may from time to time be adopted by either branch of the legislature. No such representative shall be interested in any private claim or measure pending before the legislature, nor shall any such representative, while acting as correspondent for any daily newspaper, and as such correspondent having the privileges mentioned in this section, become interested in the prosecution of any such claim or measure.

#### Notice of Petitions for Legislation.

**Sec. 36. Notice of petitions affecting individuals or corporations. R. S. c. 2, § 32.** Notice of any petition for legislation affecting the rights of individuals or corporations, may be given by serving them with a true copy of the petition at least fourteen days before the commencement of the next

## CHAP. 2

session, or by publishing such copy three weeks successively in some newspaper printed in the counties in which such individuals reside, or such corporations are established; or if no newspaper is there published, then in the state paper, the last publication to be at least fourteen days before the session; and if further service is deemed necessary, or if notice is defective or insufficient, further notice may be ordered.

63 Me. 239.

**Sec. 37. Affecting town or county, how given.** R. S. c. 2, § 33. Notice of any petition affecting the rights or interests of any town or county may be given to such town by serving it with a true copy of the petition at least fourteen days before the session, and to such county, by publishing as prescribed in the preceding section.

63 Me. 239.

**Sec. 38. If no notice, petition to be referred.** R. S. c. 2, § 34. Petitions mentioned in the two preceding sections without proof of notice as prescribed, shall be referred, with order of notice, to the next legislature.

63 Me. 239.

**Sec. 39. Service; proof.** R. S. c. 2, § 35. Service of notice of such petitions may be made by any sheriff, constable or coroner, and proved by his proper return or by written acknowledgment of the adverse party on the petition, or if notice is given by publication, then by the newspapers, or the affidavit of the printer.

**Sec. 40. Notice of petitions for special legislation pertaining to fish and game; laws which do not conform to general law, deemed special.** R. S. c. 2, § 36. Whoever petitions the legislature, or whoever shall introduce any bill, or resolve for special legislation, regarding or in any manner pertaining to fish or game, shall first have given notice of their intention with full description of the territory or waters affected by such legislation, in some weekly publication nearest the locality so affected, for eight consecutive weeks, the last notice to be not less than one, nor more than three weeks before the assembling of the legislature of which such legislation is requested, and such notice shall be absolutely required before any such legislation shall be enacted. All laws hereafter enacted pertaining to fish or game which do not conform to the general laws of the state, shall for the purposes of this section be deemed special. Provided, however, that the provisions of this section shall not apply to any petition, act or resolve, either repealing or amendatory which has for its object the placing of the territory or waters in question under the general laws of the state.

#### Tenure of Offices and Qualifications of Officers.

**Sec. 41. Tenure of office.** R. S. c. 2, § 37. All civil officers, appointed by the governor and council, whose tenure of office is not fixed by law or limited by the constitution, otherwise than during the pleasure of the governor and council, except ministers of the gospel appointed to solemnize marriages, and persons appointed to qualify civil officers, shall hold their respective offices for four years and no longer, unless re-appointed; subject to removal at any time within said term by the governor and council.

72 Me. 558, 564. 110 Me. 296.

**Sec. 42. Tenure of women appointed to solemnize marriage, etc.** R. S. c. 2, § 38. The appointment of any woman under the laws of the state to solemnize marriages, administer oaths and take acknowledgments of deeds shall authorize her to act within and for every county of the state, and shall continue for the term of seven years.

See c. 64, § 12; c. 78, § 23, c. 134, § 2.

**Sec. 43. Qualifying officers, how appointed.** R. S. c. 2, § 39. 1911, c. 178. The governor, with the advice and consent of the council, may appoint in every county, persons before whom the oath, required by the constitution to qualify civil officers, may be taken and subscribed. Such persons shall exercise their powers and duties, and shall be commissioned to act within and for every county. This section shall apply to such persons appointed and commissioned prior to the thirtieth day of June, nineteen hundred and eleven, and shall validate any acts theretofore or thereafter done by them which would be valid hereunder.

70 Me. 591-2.

**Sec. 44. Certain officers to take oath before the governor and council; others, before magistrates.** R. S. c. 2, § 40. The justices of the supreme judicial court, attorney general, secretary, treasurer, adjutant general and quartermaster general, shall take and subscribe the oath or affirmation required by the constitution, before the governor and council, when in session, and in their recess, before any two members of the council; and every other person elected or appointed to any civil office, shall take and subscribe the oath before any one member of the council, or before any magistrate commissioned by the governor for that purpose, except when the constitution otherwise provides.

70 Me. 591-2.

**Sec. 45. Officers may be required to give new bonds; if new bond is not given, office is deemed vacant.** R. S. c. 2, § 41. The governor and council may require any officer, who by law gives bond to the state, to give a new bond when they consider it necessary; and when it is given, the obligors in the former bond are discharged from liability thereon for acts and defaults after the acceptance of the new one; and if such officer does not give a new and satisfactory bond within the time specified by the governor and council, his office becomes vacant, and shall be filled as provided by law.

#### Secretary of State.

**Sec. 46. Secretary's office.** R. S. c. 2, § 42. **Resolve of June 9, 1820.** The secretary of state shall keep his office at the seat of government; have the custody of the state seal, and preserve all records in such office, at the expense of the state.

**Sec. 47. Vacancy, how filled.** R. S. c. 2, § 43. When a vacancy happens in the office of secretary during the recess of the legislature, the governor, with the advice and consent of the council, shall appoint a suitable person to act as secretary of state, until one is elected by the legislature; and the person thus appointed shall take the oath required of the elected secretary; and have the same compensation, while he performs the duties of the appointment.

## CHAP. 2

**Sec. 48. Bond and condition. R. S. c. 2, § 44.** The secretary, elected or appointed, shall give bond to the state, to be deposited in the office of the treasurer, in such sum as the governor and council direct, with sufficient sureties, or with a surety company authorized to do business in the state, as surety, with condition that he will faithfully appropriate according to law all moneys belonging to the state which come to his hands, and render, annually, a true account thereof to the governor and council.

See c. 117, § 55.

**Sec. 49. Account of fees. R. S. c. 2, § 45.** He shall keep an accurate account of all fees received by him in his office, and shall, annually, in December, make return thereof, under oath, to the governor and council, and pay the amount of such fees to the treasurer of state.

See c. 118, § 13.

**Sec. 50. Secretary of state to notify registers of probate and clerks of courts of appointments. R. S. c. 2, § 47. 1915, c. 29.** The secretary of state, upon receiving evidence of the qualification of any justice of the peace, trial justice or notary public shall immediately notify the register of probate and the clerk of the judicial courts of the county where such officer resides, of his appointment and qualification, and shall on the first days of June and December, forward to the registers of probate courts, judges of municipal and police courts, and clerks of United States courts in the state a list of all justices of the peace, trial justices, and notaries public, whose commissions are then in force, and the evidence of whose qualification has been filed in his office within the six months next preceding the time of forwarding such lists, which shall contain the name and residence of every such officer, the date of his commission, and the county or counties for which he is commissioned, and he shall send at the same time two copies of such lists to each of the clerks of the state courts.

**Sec. 51. Clerks of courts shall note reception; evidence of appointment. R. S. c. 2, § 48.** The clerks of the state courts shall make a memorandum on such lists of the fact and date of their reception, and either of such lists so attested, or the certificate of such clerk under the seal of his court, shall be legal but not conclusive evidence of the appointment and qualification of such officers, and at the expiration of each decade of years it shall be the duty of the clerk then in office to have one set of such lists received during the decade, bound in a substantial manner.

**Sec. 52. Secretary to notify officers appointed, to pay duties. R. S. c. 2, § 49.** The secretary of state shall notify every person appointed to an office upon which a duty is to be paid, and on receipt of evidence of its payment, shall cause a commission to be immediately made, under direction of the governor, and delivered to such officer, or to any person appointed by him to receive it.

**Sec. 53. Secretary to prepare commissions; to record qualifications; to engross bills. R. S. c. 2, § 50.** He shall prepare and present to the governor and council under the seal of the state, in order that the same may receive the signature of the governor, a commission for every person appointed or elected to any office for which a commission is required; enter in a suitable book the time when and the person by whom any commission

is taken from his office, and the time when any certificate of the qualification of any officer is filed therein. He shall cause all bills passed by the legislature to be engrossed, under his special direction, for the use thereof.

**Sec. 54. Public laws to be printed in newspapers.** R. S. c. 2, § 51. He shall cause the public laws passed at each session to be printed within thirty days after the close thereof on extra sheets, on good paper, in good, clear nonpareil type, by the publishers of each newspaper; and each printer who so publishes and distributes the laws to his subscribers within the state, shall receive ten dollars, besides two dollars for every hundred copies so distributed within the state.

<sup>2</sup> Me. 303; 9 Me. 56; 16 Me. 70; 21 Me. 60; 39 Me. 295; 81 Me. 546.

**Sec. 55. Tables referring to changes in statutes shall be prepared.** R. S. c. 2, § 52. After final adjournment of each regular session of the legislature, he shall cause tables to be prepared showing what general statutes have been affected by subsequent legislation, in such manner as to furnish ready reference to all changes in such statutes. The tables so prepared shall be printed in the official edition of the laws hereafter published by the state. The compensation for the services herein provided for shall be fixed by the governor and council.

**Sec. 56. Mail election blanks to town clerks; clerks to notify sec'y, if not rec'd; penalty for neglect.** R. S. c. 2, § 53. He shall cause blanks for all election returns required by law to be seasonably distributed to the clerks of the several towns, by mail; and if any clerk fails to receive such blanks by the twentieth day of August, in any year in which an election is held of which returns are to be made to the office of the secretary of state, he shall forthwith notify the secretary of state. If the secretary neglects this duty he forfeits one hundred dollars for each neglect.

See c. 7, § 64.

Note. Secretary of state to furnish copies of law relating to registration of dogs, c. 4, § 108; copies of law forbidding sale of votes, c. 7, § 98; returns for election of presidential electors, c. 7, § 64, blank applications for license to solemnize marriages, c. 64, § 12.

Duties of secretary of state as to primary elections, c. 6, § 9, et seq; as to official ballots, c. 7, § 5 et seq; as to voting machines, c. 7, § 35; as to itinerant vendors, c. 41, §§ 14, 15, 23 and 24; as to recording conditional contracts for railroad equipment, c. 57, § 89.

Secretary of state forbidden to draft any instrument which he is by law required to record, c. 12, § 14.

### Treasurer of State and State Bonds.

**Sec. 57. Treasurer's office; bond.** R. S. c. 2, § 54. 1915, c. 30. The treasurer of state shall keep his office at the seat of government, and give the bond required by the constitution, to the state of Maine, with good and sufficient sureties residing therein, or with two or more surety companies authorized to transact business therein, as sureties, in the penal sum of not less than one hundred and fifty thousand dollars.

<sup>52</sup> Me. 551.

**Sec. 58. Condition of treasurer's bond.** R. S. c. 2, § 55. The condition of the bond shall be for the faithful discharge of all the duties of his office and the fidelity of all persons by him entrusted with any of its concerns, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor, for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors

## CHAP. 2

or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office, to the legislature, or to such committee as it appoints, on the first day of each regular session of the legislature, previous to the choice of a new treasurer, and at any other time, when required by the legislature, or the governor and council; and that he will settle and adjust said account, and faithfully deliver to his successor in office, or to such person as the legislature appoints, all moneys, books, property, and appurtenances of said office, in his, or any of his agents' possession, and pay over all balances found due on such adjustment. Such bond, when approved as the constitution prescribes, shall be lodged in the office of the secretary of state.

52 Me. 551; 58 Me. 123.

**Sec. 59. Premiums on bonds shall be paid by state.** 1909, c. 38. The premiums necessarily incurred and due and payable on account of any bond given by the treasurer of state or by any clerk in the treasury department of the state shall be paid out of the state treasury, and the legislature shall at each session make appropriate provision by resolve or otherwise for such payment.

**Sec. 60. Treasurer not to use, or receive benefit from state money or credit.** R. S. c. 2, § 56. The treasurer shall not in any way receive for his own use any interest, premium, gratuity, or benefit, by reason of any money belonging to the state, or of any loan obtained for the state, or for keeping on hand or circulating the bills of any bank; but whatever is so received shall be accounted for to the state. He shall not loan or use in his own business, or for his own benefit, any such money, or permit any other person to do it, unless authorized by law, on pain of forfeiting a sum equal to the amount so used or loaned, to be recovered by indictment.

52 Me. 551. 69 Me. 367. See § 74.

**Sec. 61. Attorney general to prosecute.** R. S. c. 2, § 57. When the attorney general receives satisfactory information, that a treasurer of state has violated any provision of the preceding section, he shall cause him to be indicted therefor and shall prosecute such indictment to final judgment.

69 Me. 367.

**Sec. 62. Deposit of state funds; limitation.** R. S. c. 2, § 58. 1907, c. 17. The treasurer may deposit the moneys of the state in any of the banking institutions or trust companies organized under the laws of this state or in any national bank or banks located therein. Not exceeding twenty thousand dollars shall be deposited in any one such bank or institution unless fifteen per cent of the sum of its capital stock and surplus exceeds said amount, in which case said deposit may be increased to an amount equal to said fifteen per cent. The above restrictions shall not apply to deposits actually made to meet the payment of the bonded debt of the state and the interest accruing thereon. Deposits for this purpose may be made in any bank when bonded debt as above is about to mature where by terms of the contract such debt and interest are made payable.

52 Me. 551; 69 Me. 367.

**Sec. 63. Monthly exhibits to be prepared.** R. S. c. 2, § 59. At the expiration of each month, the treasurer shall prepare an exhibit showing the

banks and places in which moneys of the state have been kept or deposited during the preceding month, and the amount at the time of such exhibit, and file it in the office of the secretary of state, open to public inspection.

52 Me. 551; 69 Me. 367.

**Sec. 64. Report receipts from land agent. R. S. c. 2, § 60.** His report shall state the time, when each sum was received of the land agent, and the amount of it.

**Sec. 65. Investment of sinking funds. R. S. c. 2, § 61.** The treasurer, with the advice of the governor, shall from time to time, as funds appropriated for any sinking fund established by law, are received into the treasury, invest the same, with the income thereof, as it accrues, in any bonds of Maine, of any other New England state, or in the registered bonds of the United States; and as such bonds fall due and are paid, the proceeds thereof shall be re-invested in like manner.

**Sec. 66. Register to be kept by treasurer. R. S. c. 2, § 62.** The treasurer shall keep a register of all such investments, showing the date, amount, and number of each bond, by whom issued, and the time when it will mature, and in his annual report to the governor and council, he shall include an exhibit of the condition of said sinking funds.

**Sec. 67. Treasurer may issue registered bonds; date, interest, when payable, and how signed. R. S. c. 2, § 63.** The treasurer may issue registered bonds, transferable by assignment, in pieces of not less than one thousand dollars, and of any multiple of one thousand, in exchange for, and in place of, any coupon bonds issued under the laws of this state, bearing the same rate of interest and maturing at the same time as the bonds which he may receive therefor in exchange; but the place of payment prescribed therein shall be the state treasury; and said bonds shall be signed by the treasurer, countersigned by the governor, and attested by the secretary of state, with the seal of the state.

**Sec. 68. Equivalent bond to be issued on assignment. R. S. c. 2, § 64.** Upon due assignment of any such registered bond and delivery thereof to the treasurer, an equivalent bond or bonds, in form as aforesaid, shall be issued to the assignor in substitution therefor.

**Sec. 69. Cancellation and registry of old bonds. R. S. c. 2, § 65.** All bonds thus received by the treasurer for exchange shall be canceled, and retained in the office of the treasurer; and the secretary of state, as well as the treasurer, shall keep a register of all such bonds, showing the serial number, date, interest, amount of each certificate, to whom originally issued and when payable; and also a like description of the new bonds issued in place thereof.

**Sec. 70. Bonds in state treasury, how indorsed. R. S. c. 2, § 66.** Every United States or other bond when received into the treasury, shall immediately be indorsed with the words following, viz.: "Property of the State of Maine; not transferable by the treasurer without the consent of the governor indorsed thereon."

**Sec. 71. Coupon bonds of sinking fund shall be converted into registered bonds. R. S. c. 2, § 67.** All coupon bonds issued by the state belonging to any sinking fund of the state, shall be converted into bonds registered in

## CHAP. 2

the name of the treasurer; no registered bond of the state belonging to such sinking fund shall be negotiated by the treasurer unless the governor's assent to the transfer is first indorsed thereon, and all such bonds shall exhibit upon their face this restriction of their negotiability; and any coupon bonds so issued and held by or deposited with the treasurer for trust purposes may be converted into the registered form of bonds, whenever the parties depositing them so desire.

**Sec. 72. Purchase of unmatured bonds of state.** P. & S. L. 1903, c. 6. Whenever, from time to time, in the judgment of the treasurer, it may be done to the financial advantage of the state, he may, with the advice and consent of the governor and council, purchase, with any funds in the state treasury not otherwise appropriated, and when so purchased, may cancel, any outstanding, unmatured bonds of the state.

**Sec. 73. Indemnity bonds deposited in state treasury.** 1913, c. 152. All bonds indemnifying the state, other than the bond of the treasurer of state, shall be deposited in the office of the treasurer of state.

**Sec. 74. Governor and council to examine into complaints against treasurer; may declare office vacant.** R. S. c. 2, § 68. Upon written complaint of any person, that the treasurer is insane or insolvent, or has absconded, or concealed himself to avoid his creditors, is absent from the state and neglecting his duties to the hazard of the trust reposed in him, has violated any provision of section sixty or has failed faithfully to perform the duties of his office, the governor and council shall forthwith examine into the charges, and if either of them is found true, they shall remove him and declare the office vacant.

69 Me. 367.

**Sec. 75. Audit of contingent fund.** R. S. c. 2, § 69. The state auditor shall audit his account of any contingent fund appropriated for him or his office; and any balance found due shall be paid by him to the state.

69 Me. 367.

**Sec. 76. May require a new bond.** R. S. c. 2, § 70. When it appears, to the governor and council, that his bond is not sufficient for the full security of the state, they shall make written demand upon him for a new bond; and if he neglects for ten days thereafter, to file such bond to their satisfaction, they shall remove him and declare the office vacant.

69 Me. 367.

**Sec. 77. May appoint a commissioner to fill vacancy.** R. S. c. 2, § 71. In case of a vacancy in the office of treasurer, the governor, with the advice and consent of the council, shall appoint a commissioner to perform the duties of the office during the residue of the term for which he was chosen, unless another is sooner elected by the legislature; and the person so appointed shall, before entering on the duties of his office, take and subscribe the oaths, and give bond with the same conditions as are required of the treasurer, to the acceptance of the governor and council.

**Sec. 78. Inventory for commissioner.** R. S. c. 2, § 72. When such commissioner is appointed, the secretary of state and the attorney general, or two impartial citizens to be appointed by warrant under the hand and seal of the governor, shall, as soon as practicable, after notice to the sureties,

or any two of them, of the late treasurer, or of the treasurer to be superseded, take a true account and inventory of all moneys, notes, books of account and other property belonging to the state, which were in the hands of such treasurer, or of any of his agents, and deliver it to such commissioner, he giving a receipt therefor, which shall be lodged in the secretary's office.

**Sec. 79. Treasurer shall issue warrants for taxes.** R. S. c. 2, § 73. The treasurer shall issue warrants or executions against delinquent towns, assessors, constables and collectors, to enforce the collection and payment of state taxes in cases prescribed in chapter eleven.

See c. 8, § 63.

**Sec. 80. Names of delinquents to be reported.** R. S. c. 2, § 74. He shall report the names of all officers who have not settled their accounts as by law required, or who have not paid over the money in their hands belonging to the state, and the amount due from each.

### State Auditor.

**Sec. 81. Election of state auditor; bond; qualifications; tenure; vacancy.** 1907, c. 147, §§ 1, 2. A state auditor shall be elected by the electors of the state qualified to vote for governor, biennially, on the second Monday of September; he shall hold his office for two years from the first day of January next succeeding his election. He shall give to the treasurer of state a bond, for the faithful discharge of his duties, in an amount and with sureties, or with a surety company authorized to do business in the state, as surety, to be approved by the governor, with the advice and consent of the council. He shall be a competent accountant, and no person shall be eligible to hold said office for more than three successive terms. In case a vacancy occurs, the governor, by and with the advice and consent of the council, may appoint a person to fill said vacancy for the unexpired term.

See c. 117, § 55.

**Sec. 82. Duties; shall audit accounts of trustees, commissions, and public officers; shall issue and record certificates for payments.** 1907, c. 147, § 3. The state auditor shall examine all accounts and demands against the state, including all matters requiring the payment of money from the state treasury. In the examination of claims, accounts and demands he may require affidavits that articles have been furnished, services rendered, and expenses incurred, as therein specified; and the affidavit for articles furnished, services rendered, and expenses incurred for or by any officer, institution, commission, or board of trustees, may be made by the disbursing agent or any officer thereof having special knowledge of the matter. All accounts filed with the auditor shall be fully itemized. He shall in all cases, after he has approved a claim, account or demand, make a certificate specifying the amount due and allowed thereon, the name of the party to whom such amount is due or payable, the law authorizing the same, and the particular head, expenditure, department or appropriation to which it is chargeable. When the legislature, by express statute, authorizes a board of trustees, commission, or public officer to approve demands against the state, and an appropriation therefor has been made, the auditor shall, when such ac-

## CHAP. 2

counts or demands are properly approved, promptly audit and certify as aforesaid such accounts as he may deem correct, not exceeding the appropriation for that purpose; and if, upon such audit any account or claim is rejected or reduced in amount, and the person presenting such account or claim is dissatisfied therewith, the auditor shall report the same to the governor and council, with a separate certificate therefor. He shall issue a certificate for the payment of all salaries established by law as the same shall become due and payable, and when the legislature has authorized the payment of money for any specific purpose or purposes, he shall promptly issue a certificate for the payment of said money in accordance with the said act of the legislature. He shall record all certificates issued by him in a book kept for that purpose, and shall transmit such certificates to the governor and council.

See c. 114, § 11.

**Sec. 83. Shall keep on file all bills, vouchers and affidavits. 1907, c. 147, § 4.** The auditor shall keep on file in his department, all original bills and vouchers on which moneys have been or may be paid from the state treasury. He shall also keep on file all affidavits filed with him in relation to the auditing of any matters before him. All boards, commissions or public officers authorized to make contracts under which moneys may be payable from the state, shall at once file with the auditor certified copies of any and all contracts made by them.

**Sec. 84. Shall keep account of all receipts and expenditures; shall investigate all accounts; have free access to books and papers; direct method of keeping accounts; notify heads of departments of balances of appropriations. 1907, c. 147, § 5.** The auditor shall keep a distinct account of all state receipts and expenditures under appropriate heads. He shall keep a statement of all property belonging to the state and of all debts and obligations due to and from the state. He shall investigate all accounts, demands, bills, vouchers or claims against the state, including those made by any state officer, department, commission or trustee. And if, after said investigation, the amount demanded seems to be excessive or improper, he may reject the account or claim, in whole or in part, and if the person presenting such account or claim is dissatisfied therewith, the auditor shall report the same to the governor and council, with a separate certificate therefor. He shall have free access to all the books and papers of the several departments, commissions, boards, and institutions of the state. Every officer, department, commission, institution and board of trustees shall keep books of accounts in such form and manner as the auditor shall direct, and they shall at all times make such reports to the auditor as he may require. He shall, from time to time, notify the said officers, heads of departments, institutions, commissions and trustees, who are entrusted with the expenditure of public moneys of the state, of the condition of the specific appropriation which they are entrusted to expend, showing the balance of such appropriation unexpended. The auditor shall not approve nor issue his certificate for the payment of any bill or account unless there is a specific appropriation or fund for the payment thereof, or an expenditure is authorized by law to be paid out of a contingent fund, or from moneys in the

treasury not otherwise appropriated; and whenever any appropriation or fund is expended, all bills and accounts presented to said auditor and drawn on said expended appropriation or fund shall not be approved by him, but shall be reported by him to the next session of the legislature, and he shall not approve any bill or account against any appropriation unless said bill or account was incurred during the time for which said appropriation was made.

**Sec. 85. State contingent fund created; includes all unexpended balances; exception; amount of income above expenses, credited. 1915, c. 317, §§ 1, 2, 3.** The state auditor and treasurer of state shall open on their books an account to be known as the state contingent fund, to which shall be transferred and credited all balances of unexpended appropriations which exist on the first day of January of each year and which are not continued by law, except such appropriations as relate to the issue and payment of state bonds, temporary loans and special funds in the state treasury department. There shall also be credited to said account on the first day of January of each year or as soon thereafter as the amount can be correctly ascertained, the amount by which the actual income of the state for the preceding year exceeds the current expenses of said year.

**Sec. 86. Fund may be increased by appropriations. 1915, c. 317, § 4.** The fund established by the preceding section and accounted for in the account aforesaid may be increased from time to time by direct legislative appropriations.

**Sec. 87. Contingent fund, how to be expended; proviso. 1915, c. 317, § 5.** Warrants may be drawn upon, charged to, and paid out of said fund, to pay outstanding bills or accounts that were properly chargeable to the several appropriations previous to the first day of January of each year; to pay outstanding bills necessarily contracted by state departments or state institutions for which the legislature failed to make sufficient provision, and to pay such other expenses as may be necessarily incurred under any requirement of law or for the maintenance of government, and which the governor, with the advice and consent of the council, shall authorize; provided, however, that no payment shall be made from this fund, except as above provided, unless some emergency shall arise requiring an expenditure of money not provided for by the legislature.

**Sec. 88. Warrants shall be supported by vouchers; transfers and payments prohibited. 1915, c. 317, §§ 6, 7.** Warrants drawn upon this fund shall be supported by proper vouchers, itemized, approved and audited in conformity to law. No transfer or payments other than those provided by the three preceding sections shall be made from any fund thereby created except by special authority of the legislature.

**Sec. 89. State auditor shall examine the books of treasurer of state; books shall be open to inspection. 1907, c. 147, § 6.** The state auditor shall annually, in the month of January, examine the books, accounts and vouchers of the treasurer of state, and report the result of such examination to the governor and council. He shall comply with all regulations in relation to the duties of his office which may be transmitted to him by the governor

**CHAP. 2**

and council, and which are consistent with the provisions of sections eighty-one to ninety-two, both inclusive, of this chapter. The books, accounts, vouchers, affidavits, and other records and papers in his office relating to the public business shall be open for inspection to the citizens of this state at all reasonable times and for all proper purposes.

**Sec. 90. Report to the legislature; contents.** 1907, c. 147, § 7. He shall, on or before the first day of February, biennially, submit to the legislature a report, showing a full and accurate statement of the financial condition of the state and of the financial transactions thereof for each of the two preceding years, ending on the thirty-first day of each December. Said report shall contain a statement of the receipts by and payments from the state treasury and a statement of the receipts by, appropriation for, and expenditures of each department, institution, commission and board of trustees, for each of the two preceding years; the latter statement shall be so made that it will show a separate statement in detail of each department, institution, commission and board of trustees, for each of said years. All salaries and other general charges and appropriations shall likewise appear in said report; no expenditure exceeding five hundred dollars shall, if it is composed of separate items, be included under one indefinite head. Said report shall also contain a particular statement of all transactions affecting any funds belonging to or held in trust by the state, including any and all new investments which may have been made of any portion of said funds during each of the two preceding years, and of the disposition and expenditure of any and all funds applicable to educational purposes.

**Sec. 91. Report shall show statement of public debt and of temporary loans.** 1907, c. 147, § 8. The report shall show the aggregate amount of the funded debt of the state at the beginning and end of each of the two preceding years, the balance of increase or decrease, and a statement as to the cause of such balance; a statement of the aggregate amount of any and all temporary loans at the beginning and end of each of the two preceding years, the balance of increase or decrease, and a statement of the cause of such balance; a statement showing whether the ordinary expenses of each of the two preceding years have exceeded the income or not, and the amount of the balance.

Note. Name of town treasurer to be communicated to state auditor before town shall receive money from state, c. 4, § 47.

**Sec. 92. Heads of departments shall file estimates with auditor.** 1907, c. 147, § 9. On or before the first Monday of December in each year preceding the session of the legislature, the heads of the various departments, state institutions, commissions and boards of trustees, who are entrusted with the expenditure of public moneys, shall file with the auditor a written estimate in detail of the necessary expenditures of the department, institution or commission, of which they are in charge, for each of the two following years, together with the estimated income, if any, for said several years. This estimate shall be divided into, first, fixed charges; second, other charges; third, extraordinary or unusual expenses. A written statement showing the reason for all estimated expenditures, other than fixed charges, shall be filed with said estimate. Said auditor shall tabulate these

statements under the various heads, and biennially on or before the fifteenth day of January shall submit to the legislature, a report showing these tabulated statements, including the reasons given for estimated expenditures, other than fixed charges, together with an estimate for each of the two following years of the ordinary revenues of the state, and of such other means as the auditor may be able to point out for defraying the expenses of the state, so that said report shall show the estimated revenues and income of the state, and the estimated expenditures of the state for each of the two following years. The three preceding sections and sections eighty-two, eighty-three and eighty-four of this chapter shall not apply to the contingent fund of the governor and council.

**Sec. 93. Statement of desired appropriations to be filed with state auditor; state auditor may require reports to be made.** 1911, c. 145, § 1. 1915, c. 49. On or before the first Monday of December in each year preceding the session of the legislature, every corporation, not including municipal corporations, and every association and institution, whether public or private, receiving an appropriation from the state, shall file with the state auditor a statement in detail of all moneys, with the reason therefor, for which any general or special appropriation is desired at the ensuing session of the legislature, by such corporation, association or institution. The state auditor, may from time to time, require any such corporation, association or institution to report to him as to such fiscal affairs as he may deem necessary for the proper compilation of the tabulation provided in the following section. Each of the reports and statements of desired appropriation which is made shall be in such form as may be prescribed by the state auditor, and shall be public records.

**Sec. 94. Tabulation of statements and reports by state auditor.** 1911, c. 145, § 2. On or before the fifteenth day of December in each year, the state auditor shall make a tabulation of such statements and reports, accompanied by comparative data and estimates, together with such comments and a statement of such other matters as he shall deem necessary and proper for the full understanding of such tabulation, and shall transmit such tabulation to the governor and to the legislature on the first day of its session. Such tabulation so transmitted shall also contain a statement of all moneys required by the state auditor, together with the reasons therefor, for which any general or special appropriation is desired by him at the ensuing session of the legislature, together with such comparative and other data as he may deem necessary and proper for the full understanding of the purposes last mentioned.

**Sec. 95. Governor and council shall submit estimate to legislature, of expenses of public service, sums for charitable and state institutions; statement of valuation and rate of taxation necessary and income.** 1915, c. 299. The governor and council shall submit to each legislature not less than fifteen days after it convenes, an estimate in detail, or a general estimate in any instance where it is impracticable to give specific items, subdivided under appropriate headings, of such sums as may be deemed necessary to defray the several charges and expenses of the public service for the current and succeeding year. This estimate shall also include such sums as may be deemed necessary for charitable and benevolent institutions, new

## CHAP. 2

buildings or the renovation of old buildings of state institutions, and for such other purposes for which public money may be properly appropriated. It shall be accompanied by a statement showing the total valuation of taxable property in the state as compiled by the board of state assessors and the rate of taxation necessary to produce approximately the revenue required to meet such appropriations. It shall also show the estimated income of the state for said two years from sources other than direct taxation.

**Sec. 96. Collection of fees by state officers and their clerks. 1909, c. 250, § 1.** All state officers, their clerks or agents, who furnish copies or information from any of the records of the various state departments shall account to the state and pay over to the treasurer of state all fees collected therefor. No state department, commission, board or institution shall be charged for information or copies of records furnished by another state department, commission, board or institution.

**Sec. 97. All fees collected shall be paid to the treasurer of state; appropriation of fees received by state board of health. 1909, c. 250, §§ 2, 3. 1913, c. 217.** All fees, or other income which may accrue to any institution, department, board or commission of the state, except educational institutions, from whatever source accruing, shall be paid by the official receiving the same, directly to the treasurer of state. Such income shall be credited to the appropriation of the institution to which it accrues and the same is hereby appropriated for the maintenance of such institution; fees and income accruing to any department, board or commission shall be credited, as now provided by law; any fees received by the state board of health or the registrar of vital statistics and paid over to the treasurer of state, shall be added to and made a part of the appropriations for such departments. Such payments shall be made and a detailed statement of the source and amount of such fees or such income shall be filed with the state auditor at the end of each calendar month.

**Sec. 98. Payment of bills of state institutions; auditor may make advance on treasurer; auditor may prescribe rules for crediting fees, etc. 1909, c. 250, § 2. 1913, c. 217.** All bills of any institution of the state shall be paid by the treasurer of state, on warrants approved by the governor and council, after proper vouchers therefor have been approved by the proper official of the institution or department contracting the same and audited by the state auditor. The auditor may make an advance on the treasurer of state to any institution of the state needing the same, of such sum as he may think necessary, not to exceed two thousand dollars at any one time. The fees or other income accruing to state institutions, except educational institutions, shall be credited, and the bills of such institutions shall be paid, under such regulations as the state auditor may prescribe.

**Sec. 99. Charge for service in institutions receiving state aid, regulated. 1913, c. 166.** No institution which accepts persons for medical or surgical treatment, in any of its departments, for a stated consideration, and whose financial affairs are not wholly under the control of the state, shall receive from the state treasury any appropriation made by the legislature, or any part thereof, until the state auditor shall be satisfied that the per capita per diem charge of such institution for service in such departments is not less

than the average cost of such service for the preceding year; but nothing herein shall be construed to prevent the acceptance by any institution of a less sum than the face of any bill, in payment of the same, from any individual judged by the managers to be unable to pay the full amount, nor the performance of a gratuitous service for any individual deemed worthy.

**Sec. 100. Application of public money.** R. S. c. 2, § 20. Money appropriated for the various branches of expenditure in the public service, shall be applied solely to the object for which the appropriation is made.

**Sec. 101. State shall pay accounts semi-monthly.** 1915, c. 263. On all contracts with the state or any department thereof the state shall make payments on account at least semi-monthly unless otherwise agreed upon. Nothing herein contained shall be construed to relieve the state, its officers, boards and commissioners from paying mechanics, workmen and laborers employed by it or them as provided in section thirty-four of chapter forty-nine.

**Sec. 102. Heads of departments not to employ counsel.** R. S. c. 2, § 21. No head of any department shall employ counsel or witnesses, at the expense of the state, to appear before any committee of the legislature, without the consent of the legislature.

**Sec. 103. No agent or officer of state shall exceed appropriations; penalty.** R. S. c. 2, § 22. No agent or officer of the state, or of any department thereof, whose duty it is to expend money under an appropriation by the legislature, shall contract any bill or incur any obligation on behalf of the state in excess of the appropriation, and whoever exceeds in his expenditure said appropriation, shall not have any claim for reimbursement. Any such agent or officer who shall violate the provisions of this section shall upon conviction be fined a sum equal to such excess of appropriation by him expended, and imprisoned in the discretion of the court. All prosecutions under this section shall be by indictment and the fines inure to the state.

**Sec. 104. Purchase of supplies by competitive bids.** 1911, c. 13. All materials and supplies purchased in wholesale quantities by the state, or on the credit of the state, for any state department or institution, shall be purchased by competitive bids under the direction of the governor and council, whenever in their judgment it is advisable to adopt such a method of purchasing supplies.

## CHAPTER 3.

**The State Library. The State Historian. The Publication and Distribution of Public Documents. State Printing and Binding.**

Sections 1-18 State Library.  
 Sections 19-24 State Historian.  
 Sections 25-30 Distribution of Public Documents.  
 Sections 31-39 State Printing and Binding.

### State Library.

**Sec. 1. Enumeration of property included in library; expenditures.** R. S. c. 3, § 1. All books, documents, pamphlets, manuscripts, records, archives, maps, pictures, and all other works of art, science and literature, and all annual, biennial and special reports of departments, officers and institutions controlled or supported by the state, and all other property appropriate to a general library, if owned by the state, and all books, documents and publications received by any one through purchase, gift, exchange or loan, from any source, for the use of the state, shall constitute the Maine State Library, and shall be in charge and under the general control and management of the librarian. All money appropriated by the legislature for the purchase of books and documents shall be expended by the librarian under the direction of the governor, and all books, documents and other works received by any state official, and designed as a gift or exchange for the use of the state, shall be delivered to the librarian and placed in the library.

**Sec. 2. What works shall be kept in the library.** R. S. c. 3, § 2. There shall be procured and kept in the library, full and complete sets of digests, law reports, public laws and legislative documents of the United States and of the several states; a full set of English and Canadian law reports, digests and laws; the general works on elementary law and practice; histories of all countries, including those of this state, its counties and towns; works on the arts and sciences with special reference to agriculture, forestry, fishing, ship building and road making; maps, charts, plans and manuscripts, statistical and other publications relating to the financial, social, religious and educational condition of the world and more especially of this state, as fast as means are furnished by the state therefor, and all the printed documents of this state and reports of all departments, offices, institutions and towns, required by law, not distributed by the several departments, shall be kept in the library.

**Sec. 3. Trustees of library; rules and regulations.** R. S. c. 3, § 3. The state library shall be under the management and control of the governor and council as a board of trustees and they may make such rules and regulations as are necessary for the proper management of the library and the safety of its contents.

**Sec. 4. Librarian, how appointed; tenure; bond; assistant.** R. S. c. 3, § 4. They shall appoint a librarian of the state library, who shall hold office three years unless sooner removed, and give bond to the state for the faithful performance of the duties of his office, in such sum and with such sureties, or with such surety company authorized to do business in the state, as surety, as shall be approved by the governor and council. The librarian shall appoint one assistant who shall perform the duties prescribed by him, and shall give bond to the librarian for the faithful performance of the same.

See c. 117, § 55.

**Sec. 5. Library, when to be kept open.** R. S. c. 3, § 5. The librarian shall keep the library open every day in the year, Sundays and the usual public holidays excepted, during the usual business hours; and the superintendent of public buildings and his assistants shall see that no one is admitted to the library rooms out of office hours or that any book is taken therefrom, without the consent of the librarian.

**Sec. 6. Persons allowed to take books.** R. S. c. 3, § 6. Books may be taken from the library by the governor, members of the council and of the legislature, judges of the judicial courts, secretary of state, deputy secretary of state, treasurer of state, adjutant general, attorney general, land agent, reporter of decisions, counsel engaged in the argument of causes before the law court sitting at Augusta, superintendent of public buildings, superintendent of public schools, superintendents of the insane hospitals, chaplains, secretary and assistant secretary of the senate, chaplains, clerk and assistant clerk of the house, and commissioner of agriculture; but this privilege to the members of the legislature and those officially connected therewith, is limited to the time of the session.

**Sec. 7. Conditions upon which books may be taken from the library.** R. S. c. 3, § 7. Under such rules and regulations as the governor and council may prescribe the librarian may lend books and documents from the state library to any responsible citizen of the state, on written application therefor and on payment of all express and carriage charges; but books and documents in the library for reference and library use only shall not be so loaned.

**Sec. 8. Books may be loaned to free library associations; conditions.** R. S. c. 3, § 8. On the application of the officers of any free library within the state, or of any association composed of five or more persons residing in a town in the state destitute of a free library, and upon the payment in advance by said free library or association to the librarian of the state library of five cents a volume to cover express and other charges, the librarian may, from books selected and kept for the purpose, loan to such library or association for a period not longer in duration than six months, not exceeding fifty volumes at any one time. Books so loaned are, under such rules as the library commissioners of the state may prescribe, to be in turn loaned free of charge to the patrons of such free library or to the citizens of the town where such association is located.

**Sec. 9. Liability of persons receiving books from library; actions, how prosecuted.** R. S. c. 3, § 9. Any person or persons, who, on his or their

**CHAP. 3**

own request, or on written application therefor, receive the loan of any books or documents from the state library, shall be responsible for the full value thereof to the librarian, and in case of the loss of or damage to a volume belonging to a set, shall procure a new volume, or be responsible for the value of the set. If any person or persons shall neglect or fail to return any books or documents loaned to them, or shall return the same in an injured or mutilated condition, after due demand and notice, the librarian may maintain an action at law against such person or persons for the full value of such books or documents. Actions to enforce the liability mentioned in this section may be brought by the librarian in his own name in behalf of the state, and in case of his death or removal, the action shall be prosecuted by his successor.

See c. 129, § 26.

**Sec. 10. Appointment of library commissioners; tenure and duties. R. S. c. 3, § 10. 1911, c. 37.** The governor, with the advice and consent of the council, shall appoint four persons as library commissioners who shall hold their offices for a term of four years each; they shall serve without pay; the commission shall give advice to all school, state institutional, free and public libraries, and to all communities in the state which may propose to establish libraries as to the best means of establishing and administering them; selecting and cataloguing books, and other details of library management; and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established. It may also receive gifts of money, books, or other property which may be used or held in trust for the purpose or purposes given. It may publish lists and circulars of information and may co-operate with other state library commissions and libraries in the publication of documents in order to secure the most economical administration of the work for which it was formed. It may conduct courses or schools of library instruction and hold librarians' institutes in various parts of the state, and co-operate with others in such schools or institutes. It shall select the books to be purchased for traveling libraries and advise the librarian of the state library in reference thereto, and shall perform such other service in behalf of public libraries as it may consider for the best interests of the state.

**Sec. 11. State librarian shall be a member and secretary of commission; duties. R. S. c. 3, § 11.** The librarian of the state library shall be, ex-officio, a member of the library commission and secretary thereof. He shall purchase the books selected by the library commissioners for traveling libraries, cause the same to be properly catalogued and placed in proper cases for transportation and use, keep accurate accounts of all matters relating to the expenditures of money, the transportation of libraries and such other statistics as the commissioners may require.

**Sec. 12. Expenditures. R. S. c. 3, § 12.** All expenditures of money shall be made with the sanction of the governor and council, and the commissioners shall make to them a yearly report.

**Sec. 13. Special duties of librarian. R. S. c. 3, § 13.** In addition to the general duties of his office the librarian of the state library shall solicit and receive all duplicate copies of books and documents, and maintain a bureau

of deposits and exchange with all other libraries and institutions of learning, and shall aid in the establishment of free public libraries in the state by gifts of such books and documents as are published or purchased by the state for distribution.

**Sec. 14. Collect and preserve local histories.** R. S. c. 3, § 14. He shall collect from time to time, and preserve in the state library copies of the histories of the towns and counties of the state, when published, and all other publications relating to the material, social and religious progress of the state.

**Sec. 15. Town and city clerks shall furnish copies of reports to librarian; reports of corporations.** R. S. c. 3, § 15. Town clerks of the several towns, city clerks of the several cities, and treasurers of the several counties, shall promptly transmit to the librarian of the state library, copies of all printed reports of said towns, cities and counties, including all printed exhibits of town, city and county expenditures. The directors of all corporations doing business in the state shall transmit to said librarian copies of all printed reports, relating to the affairs of said corporations.

**Sec. 16. Appropriation.** R. S. c. 3, § 16. Two thousand dollars shall be biennially appropriated for the library, to be expended in purchasing or otherwise procuring such books, maps, charts and works, as are deemed most useful, and in binding and keeping in good condition the works therein.

**Sec. 17. Catalogue.** R. S. c. 3, § 17. The governor and council shall from time to time cause to be made and printed a catalogue of all books, maps, charts and works in the library, and such as are annually added thereto.

**Sec. 18. Report of librarian.** R. S. c. 3, § 18. The librarian shall report to the legislature biennially, in January, the receipts and expenditures on account of the library, with a list of all books, maps and charts acquired during the two preceding years, specifying those obtained by purchase, donation and exchange, and those which have been lost or are missing, and shall make suggestions in relation to the improvement of the library.

#### State Historian.

**Sec. 19. Appointment of state historian; duties.** 1907, c. 88, § 1. The governor, with the advice and consent of the council, shall appoint a state historian, who shall be a member of the Maine Historical Society and whose duty it shall be to compile historical data of the state and encourage the teaching of the history of the state in the public schools. He shall also encourage the compiling and publishing of town histories, combined with local geography; he shall examine, and when he decides that the material is suitable, approve histories of towns compiled as provided in the following section.

**Sec. 20. May approve publication of town history.** 1907, c. 88, § 2. Whenever any town shall present to the state historian material, which he considers suitable for publication as a history of the town presenting the same, he may approve the publication of a history with the local geography, which will be suitable for use in the grammar and high school grades of the public schools.

Note. Preservation of records and history of Grand Army of the Republic, Dept. of Maine, P. & S. L. 1909, c. 149; 1911, c. 205.

## CHAP. 3

**Sec. 21. Board to compile history.** 1907, c. 88, § 4. The superintending school committee and the superintendent of schools, with some citizen of the town to be elected by them, shall constitute a board to compile a history and the local geography of the town in which they reside. Two or more towns may unite in compiling and publishing a history and the local geography of the towns forming the union. The superintendent of schools shall forward two copies of such history to the state library and notify the superintendent of public schools of the title of said history.

**Sec. 22. Towns publishing history shall receive state aid.** 1907, c. 88, § 3. Whenever material for a town history with local geography has been approved by the state historian, and the same has been published by the town, or by a union of towns, and provision has been made for its regular use in the public schools of said town, the treasurer of state shall pay the town so publishing a sum not exceeding one hundred and fifty dollars, provided that the state shall not pay to any town more than one-half of the amount paid by said town for printing and binding the history thereof.

**Sec. 23. Historical sites.** 1909, c. 138. The marking of historical sites, as authorized by the legislature, shall be under the direction of the state historian.

**Sec. 24. Expenses of historian.** 1907, c. 88, § 5. 1909, c. 138. 1911, c. 159. The actual cash expenses of the state historian incurred while in the discharge of his official duties shall be paid from the state treasury, but shall not exceed five hundred dollars a year; any portion of said amount may be expended by the state historian under the direction of the governor and council, in the publication of historical matter and data relating to the history of the state, or in making available by card catalogue, and otherwise, historical materials in the possession of the state.

#### Distribution of Public Documents.

**Sec. 25. Publications distributed to towns, are the property of the state.** R. S. c. 3, § 19. All Maine reports, statutes, digests, acts and resolves, and other publications, printed or purchased by the state, and hereafter distributed according to law or custom, to the several towns and plantations within the state, shall be and remain the property of the state, and shall be held in trust by such towns or plantations for the sole use of the inhabitants thereof, and for no other purpose.

**Sec. 26. All books furnished any state, county, or town officer, shall be held in trust by such officer.** R. S. c. 3, § 20. All such books and publications as may hereafter be furnished by the state, to any state, county or town officer, shall be and remain the property of the state, and shall be held in trust by said officer, for the sole use of his said office; and at the expiration of his term of office or on his removal therefrom by death, resignation or other cause, such officer, or if he be dead, his legal representatives, shall turn over to his successor in office all of said books and publications so furnished by the state and shall take a receipt therefor.

**Sec. 27. How such books shall be marked. R. S. c. 3, § 21.** All Maine reports, revised statutes, public laws and digests distributed by the librarian of the state library to the several towns and public officers in the state, shall be plainly marked upon the cover and upon the title page with the following words: "The property of the State of Maine, not to be sold," and shall have a registered number conforming to the list to be made by the librarian. Any town not retaining said volumes, shall not make any requisition upon the librarian for their replacement, and shall forfeit all claim to be supplied with any further state publications.

**Sec. 28. State librarian may transmit laws to the several states and any foreign state. R. S. c. 3, § 22.** The librarian of the state library, under the direction of the governor, may transmit to each department of the United States, to the several libraries of each state and territory, and to any foreign state, three copies of all the acts and resolves published by order of the legislature, and one copy of all public documents printed and bound by like order, and one copy of the printed decisions of the supreme judicial court.

**Sec. 29. Librarian shall distribute books and documents; shall transmit reports to public libraries and schools, and members of the legislature; document room; clerk. R. S. c. 3, § 23.** He shall distribute all the reports of the departments and institutions of the state, and all books and documents published or purchased by the state, to such nations, counties, municipalities, corporations, institutions and persons as are or may be by law entitled to receive the same. He shall also supply the chief officers of each state department and institution with such numbers of its reports as the governor and council may order for complimentary and official distribution by said officers. He shall procure such number of each volume of the Maine reports and of the acts and resolves when published, and distribute the same to such corporations, officers, institutions and persons within the state as the legislature may designate. He shall transmit one copy of each published report of each department of the state government to each public library in the state and to such schools and other public institutions therein as may desire the same. He shall also transmit to the legislature and to each member and officer thereof, as soon after the commencement of its session as practicable, one copy of each of the printed reports of each state department. He shall maintain a document department in a room provided for that purpose, in which shall be stored all department reports and the publications of the state intended for distribution, and shall keep an accurate account of all books and documents received, and of every book, document or package sent out from said department. A clerk may be employed who shall perform the duties pertaining to said department under the direction of the librarian.

**Sec. 30. Representatives of the press shall be furnished with public documents. 1915, c. 201, § 3.** In the distribution of public documents, the librarian shall send to each representative of the press who was on duty at the last preceding session of the legislature, such public documents as are customarily sent to members of the legislature.

**State Printing and Binding.**

**Sec. 31. Governor and council shall determine number of reports not to exceed numbers, as herein provided; distribution.** R. S. c. 3, § 24. 1905, c. 138. 1915, c. 318, § 1. The number of copies of the following named reports to be printed hereafter at the expense of the state shall be determined by the governor and council but shall not exceed the following numbers: The report of the commissioner of agriculture, six thousand copies annually; the report of the bank commissioner, two thousand copies annually; the report of the commissioner of the department of labor and industry, four thousand copies biennially; the report of the trustees of juvenile institutions, fifteen hundred copies annually; the report of the warden and inspectors of state prison and jails, fifteen hundred copies annually; the report of the University of Maine, fifteen hundred copies annually; the report of the Maine Agricultural Experiment Station, one thousand copies annually; the report of the registrar of vital statistics, two thousand copies annually; the report of the insurance commissioner, two thousand five hundred copies annually; the report of the public utilities commission, two thousand copies annually; the report of the state superintendent of public schools, four thousand copies on each legislative year, and three thousand five hundred copies on the alternate year; the report of the treasurer of state, three thousand copies on each legislative year, and twenty-five hundred copies on the alternate year; the report of the trustees and officers of the state hospitals, two thousand copies on each legislative year, and one thousand five hundred copies on the alternate year; the report of the board of state assessors, four thousand copies on each legislative year, and three thousand copies on the alternate year; the report of the attorney general, one thousand copies biennially; the report of the land agent and forest commissioner, three thousand copies biennially; the report of the commissioners of inland fisheries and game, three thousand copies annually; the report of the commissioner of sea and shore fisheries, two thousand copies biennially; the report of the state board of health, forty-five hundred copies biennially; the report of the adjutant general, twelve hundred copies annually; the report of the librarian of the state library, one thousand copies biennially; the report of the Bath Military and Naval Orphan Asylum, one thousand copies biennially. Of the above named reports seventy-five copies may be retained by the binder for public documents, and at least six hundred and seventy-five copies shall be delivered to the state librarian, by the binder, for exchange, library use and general distribution, and the balance of the number of each report shall be delivered to the head of the department or institution where it originated and was prepared for publication.

**Sec. 32. Number of other reports determined by governor and council.** R. S. c. 3, § 25. 1905, c. 138. 1915, c. 318, § 2. The reports, catalogues and compilations of all state departments, commissions and institutions, other than as enumerated in the preceding section, may be printed and bound, but the number and the styles in which the same shall be so printed and bound, at the expense of the state, shall be determined from time to time by the governor and council, who shall also fix the number of the same

which shall be delivered from the bindery or printing office to the librarian of the state library.

**Sec. 33. Incidental printing subject to approval of governor and council.** R. S. c. 3, § 26. 1905, c. 52. 1915, c. 318, § 3. Each department, institution, commission and board of trustees may have printed at the expense of the state, bulletins and circular letters of inquiry and information, blank books, blanks, stationery and office supplies, required for the conduct of the business of the department at such times and in such numbers as the officer in charge thereof may consider necessary, such requisition for printing to be subject to the approval of the governor and council. Except as provided in this and the preceding section, no reports, catalogues or compilations shall be printed, stitched or bound by any department, commission or institution of the state, at the expense of the state, unless by virtue of special legislative provision therefor.

**Sec. 34. Governor and council may contract for state printing on basis of competitive bids; term of contract.** 1915, c. 318, § 4. The governor and council may contract, in behalf of the state, on the basis of competitive bids, for the printing of the reports, catalogues, compilations, bulletins and circulars, authorized to be printed under the three preceding sections and for all other miscellaneous printing, now or hereafter authorized by law, for each department of the state government, including the legislative printing. They may, in their discretion, call for bids, and contract separately, for distinct portions of the state printing or state binding, but may reject any and all bids which they do not deem for the interest of the state to accept, and may take such security as they deem necessary for the faithful performance of any contract made under the authority of the three preceding sections. No such contract shall be for a longer time than two years.

**Sec. 35. Contracts for stock, electrotypes, etc.** 1915, c. 318, § 5. The governor and council may in their discretion contract from time to time, on the basis of competitive bids, for the making or delivery of the paper stock, engravings, electrotypes, dies, lithographs or other plates required in the execution of the state printing. No such contract shall be for a longer time than two years.

**Sec. 36. State binding shall be contracted for by governor and council.** 1915, c. 318, § 6. The governor and council may contract, in behalf of the state, on the basis of competitive bids, for all the folding, stitching, ruling and binding for every department of the state government, for which the state is held to pay. They may in their discretion call for bids, and contract separately for distinct portions of the state binding, but may reject any and all bids which they do not deem it the interest of the state to accept, and may take such security as they deem necessary, for the faithful performance of any contract made under the authority of the four preceding sections. No such contract shall be for a longer time than two years.

**Sec. 37. Superintendent of public printing appointed; qualifications.** 1915, c. 318, § 7. To carry out the provisions of the six preceding sections, the state auditor shall appoint a superintendent of public printing, whose appointment shall be approved by the governor and council. He shall be

**CHAP. 3**

an experienced practical book and job printer with a working knowledge of the various grades, sizes and weights of paper stocks, type measurements, classes of composition and method of press work.

**Sec. 38. Duties of superintendent of public printing; report. 1915, c. 318, § 8.** All state departments, institutions, commissions and boards of trustees requiring printing or bindery work for which the state is properly holden to pay out of any public moneys, shall make requisition for the same to the superintendent of public printing, who shall superintend the execution of all orders upon such requisitions, and examine, correct and approve all bills rendered against the state on account of such orders. He shall keep a correct record of the expenditures hereunder of the several departments, institutions, commissions and boards of trustees through the office of the state auditor, and the same shall always be available for public inspection. He shall also report to the governor and council annually in detail the description, quantity and cost of each item of expenditure relating to the state printing and binding.

**Sec. 39. Superintendent shall not be owner of any office handling state work. 1915, c. 318, § 9.** No contract authorized by the eight preceding sections shall be awarded to a printing office or bindery in which the superintendent of public printing is owner, partner, stockholder, director, manager or agent, or otherwise financially interested.

## CHAPTER 4.

## Towns, Their Meetings, Officers, Powers and Duties.

Sections	1-37	Town Meetings. Town Officers.
Sections	38-41	Wards of Cities. Election of City Officers.
Sections	42-47	Duties of Municipal Officers.
Sections	48-50	Preservation of Records.
Sections	51-53	Burial of Discharged Soldiers and Sailors.
Section	54	Armories.
Sections	55-56	Street Coasting Restricted.
Sections	57-73	Authority to Raise and Hold Money in Trust.
Sections	74-83	Free Public Libraries.
Sections	84-93	Public Parks and Squares.
Sections	94-96	Street Sprinkling.
Section	97	Disorganized Towns.
Section	98	Town, Village and City By-Laws and Ordinances.
Sections	99-100	Police Officers.
Sections	101-120	Registration and Licensing of Dogs.
Sections	121-125	Wharves and Fish Weirs.
Sections	126-133	Harbor Masters.
Sections	134-136	Town Lines.
Sections	137-152	Plantations.

## Town Meetings. Town Officers.

**Sec. 1. Towns, corporations. R. S. c. 4, § 1.** The inhabitants of each town are a body corporate, capable of suing and being sued, and of appointing attorneys and agents.

3 Me. 371; 13 Me. 80; 14 Me. 377; 20 Me. 46, 246; 54 Me. 250; 63 Me. 240; 105 Me. 372.

**Sec. 2. Meetings called by warrant. R. S. c. 4, § 2.** Every town meeting, except in the cases mentioned in the two following sections, shall be called by a warrant signed by the selectmen.

**Sec. 3. First meeting, how called; when no officers, called on application to justice of the peace. R. S. c. 4, § 3.** The first town meeting shall be called and notified in the manner prescribed in the act of incorporation; and if no mode is therein prescribed, by any justice of the peace in the same county. When a town, once organized, is destitute of officers, a meeting may be called on application to such justice for his warrant for the purpose, made in writing by any three inhabitants thereof. When, by reason of death, removal, or resignation, a majority of the selectmen do not remain in office, a majority of those remaining in office may call a town meeting.

**Sec. 4. Selectmen refusing, meeting how called; ten voters may have articles inserted in warrant. R. S. c. 4, § 4.** If the selectmen unreasonably refuse to call a town meeting, any ten or more legal voters therein may apply to a justice of the peace in the county, who may issue his warrant for

**CHAP. 4**

calling such meeting. When ten or more voters in writing request the selectmen to insert a particular thing in a warrant, they shall insert it in the next warrant issued, or shall call a special meeting for the consideration thereof.

53 Me. 390; 66 Me. 590.

**Sec. 5. Form of warrant. R. S. c. 4, § 5.** In either case, the warrant shall specify the time and place at which the meeting shall be held; and in distinct articles shall state the business to be acted upon at such meeting; and no other business shall be there acted upon.

3 Me. 310; 10 Me. 322; 12 Me. 489; 13 Me. 472; 17 Me. 102; 19 Me. 189;  
57 Me. 305; 60 Me. 573; 63 Me. 240; 65 Me. 352; 68 Me. 85.

**Sec. 6. Warrant, how directed. R. S. c. 4, § 6.** The warrant may be directed to any constable of the town, or any person by name, directing him to warn and notify all persons qualified to vote at such meeting, to assemble at the time and place appointed.

65 Me. 352.

**Sec. 7. Notice; return. R. S. c. 4, § 7.** Such meeting shall be notified by the person to whom the warrant is directed by posting an attested copy thereof in some public and conspicuous place in said town seven days before the meeting, unless the town has appointed, by vote, in legal meeting, a different mode, which any town may do. In either case, the person who notifies the meeting shall make return on the warrant, stating the manner of notice, and the time when it was given.

7 Me. 429; 12 Me. 489; 13 Me. 472; 17 Me. 447; 25 Me. 563; 26 Me. 179;  
29 Me. 525; 34 Me. 578; 49 Me. 351; 51 Me. 30; 55 Me. 195; 56 Me. 392; 65  
Me. 352; 66 Me. 587; 82 Me. 181; 110 Me. 514.

**Sec. 8. Sections 4, 5, 6 and 7 apply to cities and their officers. R. S. c. 4, § 8.** Sections four, five, six and seven apply to cities and the municipal officers of cities, the same as to towns and the selectmen of towns, and when any meeting thus provided for is called in cities, it shall be by warrants posted in each ward.

**Sec. 9. Village corporation meeting, how called. R. S. c. 4, § 9.** The meetings of any village corporation may be notified by the person to whom the warrant is directed, by posting attested copies in two or more public and conspicuous places within the corporation limits seven days before the meeting, instead of in the manner provided by the act creating such corporation; provided, that such corporation shall first, at a legal meeting, designate at what and how many places such notices shall be posted.

112 Me. 451.

**Sec. 10. Errors in records, tax lists, and returns, how amended. R. S. c. 4, § 10.** When omissions or errors exist in the records or tax lists of a town or school district, or in returns of warrants for meetings thereof, they shall be amended, on oath, according to the fact, while in or after he ceases to be in office, by the officer whose duty it was to make them correctly. If the original warrant is lost or destroyed, the return, or an amendment of it, may be made upon a copy thereof.

See c. 10, § 36; c. 11, § 31; 7 Me. 429; 12 Me. 490; 13 Me. 472; 17 Me. 447;  
25 Me. 563; 26 Me. 179; 29 Me. 526; 34 Me. 578; 48 Me. 356; 49 Me. 351;  
51 Me. 30; 55 Me. 195; 56 Me. 392, 395; 65 Me. 25, 352; 66 Me. 587; 85 Me.  
301; 89 Me. 320; 94 Me. 355; 102 Me. 418; 108 Me. 126; 110 Me. 514.

**Sec. 11. Who are legal voters. R. S. c. 4, § 11.** Every person, qualified to vote for governor, senators and representatives, in the town in which he resides, may vote in the election of all town officers, and in all the affairs thereof.

**Sec. 12. Annual meetings; auditor may be chosen; treasurers and collectors not to be selectmen or assessors; may be same person. R. S. c. 4, § 12. 1913, c. 146.** Annual town meetings shall be held in March, and the voters shall then choose, by a major vote, a clerk, three, five or seven inhabitants of the town to be selectmen and overseers of the poor, when other overseers are not chosen, three or more assessors, two or more fence viewers, treasurer, surveyors of lumber, sealers of leather, measurers of wood and bark, constables, collectors of taxes and other usual town officers; and if one-third of the voters present are in favor thereof, they shall choose, by a major vote, one auditor of accounts, all of whom shall be sworn. In towns of over four thousand inhabitants the candidates receiving the greatest number of votes for any of the above mentioned offices shall be deemed elected to such office. Treasurers and collectors of towns shall not be selectmen or assessors, until they have completed their duties as treasurers and collectors and had a final settlement with the town. The treasurer and collector of taxes of cities and towns, may be one and the same person.

Election of park commissions, § 84; of superintending school committee, c. 16, § 32; of overseers of the poor, c. 29, § 11; of fish warden, c. 33, § 11; compensation of selectmen and assessors, c. 10, § 90. See § 30, also c. 10, §§ 91, 92; c. 11, § 57; c. 30, § 6; 17 Me. 447; 48 Me. 357, 444; 62 Me. 111, 517; 63 Me. 154; 70 Me. 562, 565; 77 Me. 417; 81 Me. 188; 83 Me. 220; 96 Me. 485; 98 Me. 156; 104 Me. 258.

**Sec. 13. Elections for three years. 1905, c. 170.** Any town electing three selectmen, three overseers of the poor and three assessors, may, if the electors present vote so to do, elect one member of each board to hold office for one year, one for two years, and one for three years, and at each annual meeting thereafter one member of each of the said boards shall be elected for a term of three years; towns electing more than three selectmen, three overseers of the poor and three assessors, may by vote determine how many of each of said boards shall be elected annually and the tenure of their office.

See § 98, ¶ xi.

**Sec. 14. Officers chosen by ballot. R. S. c. 4, § 14. 1913, c. 213, § 2. 1915, c. 221.** Moderator, town clerk, selectmen, assessors and overseers of the poor, treasurer, auditor, and school committee shall be elected by ballot, and the other said officers by ballot, or if not so elected, they shall be appointed by the selectmen.

78 Me. 568; 96 Me. 485; 104 Me. 258.

**Sec. 15. Vacancy in office of auditor filled by appointment. 1913, c. 92.** When by reason of the non-acceptance, death, removal, insanity or other incompetency of a person elected to the office of town auditor, there is a vacancy in said office, the selectmen may appoint a person to fill said office, who shall perform all the duties of said office until an auditor is elected by the town at its next annual meeting. The person so appointed, shall be duly sworn.

## CHAP. 4

**Sec. 16. Appointment of road commissioner; removal; application of section.** R. S. c. 4, § 13. 1907, c. 79. 1909, c. 200. 1913, c. 66. 1913, c. 213, §§ 1, 4. The selectmen of each town shall annually choose by written appointment a road commissioner who shall be sworn and shall hold his office until the first Monday of April in the year following; provided, however, that selectmen may so choose such commissioner for a longer term, not exceeding three years. Any town may, at its option, vote to have not more than three road commissioners whose appointment, powers and duties shall be the same as prescribed for a single commissioner. Any road commissioner may be removed from office by the selectmen for incompetency or neglect to perform his official duties. Selectmen may act as road commissioners. This section shall not apply to road commissioners chosen prior to the twelfth day of July, nineteen hundred and thirteen, nor abridge their term of office, but shall apply to their successors in office; nor shall this section apply to cities or towns which choose road commissioners under special acts of the legislature.

**Sec. 17. Vacancies.** R. S. c. 4, § 15. 1909, c. 261. 1913, c. 213, § 3. If a person appointed as road commissioner fails to qualify within seven days after appointment, the office shall be deemed vacant, and shall be filled by the selectmen by appointment; and in the event of a vacancy caused by death or otherwise, the selectmen shall appoint some competent person to fill out the unexpired term, who shall qualify and perform the duties of said office. If after the choice of any officer not required to be chosen by ballot, there is a vacancy in any such office, the municipal officers may fill such vacancies by the written appointment of proper persons, who shall be summoned by the constable to appear and take the oath of office provided in section twenty-seven subject to the penalties provided in section twenty-eight. Such appointment and oath shall be recorded as in case of a choice by the town. No person shall be so appointed without his consent.

1 Me. 248; 39 Me. 530; 61 Me. 544; 62 Me. 459; 68 Me. 160; 72 Me. 517; 96 Me. 486.

**Sec. 18. Presiding officer in meeting.** R. S. c. 4, § 16. During the election of moderator the clerk shall preside; when he is absent from any such meeting, either of the selectmen or of the assessors, and if neither of those is present, any constable may do all the duties of clerk in receiving and counting the votes for moderator. The moderator may call on the voters to give in their ballots for a clerk pro tempore, who shall be sworn by the moderator, or by a justice of the peace.

17 Me. 447.

**Sec. 19. Clerk to be sworn; form of oath.** R. S. c. 4, § 17. The town clerk, before entering on the duties of his office, shall be sworn before the moderator, or a justice of the peace, truly to record all votes passed in that and other town meetings during the ensuing year and until another clerk is chosen and sworn in his stead, and faithfully to discharge all the other duties of his office.

54 Me. 518, 532.

**Sec. 20. Deputy town clerks how appointed; their duties; municipal officers may appoint deputy clerk, in certain cases; tenure of office; form of**

**appointment; deputy clerk to be sworn; appointment of woman as deputy.**  
**R. S. c. 4, § 18.** The clerk of any town may appoint a citizen thereof his deputy, who may, in the clerk's absence, perform all the duties of said office with the same effect as if done by the clerk; the appointment may be made in writing as follows:

"I hereby appoint \_\_\_\_\_ to perform the duties of town clerk as set forth in section twenty, of chapter four, of the revised statutes, in the town of \_\_\_\_\_, during my absence from the clerk's office.  
 \_\_\_\_\_, Clerk of the town of \_\_\_\_\_."

In case of the clerk's absence, death, resignation or removal from office, without having made such appointment, the municipal officers may appoint a citizen to fill said office, who shall perform all the duties of the clerk during his absence, or in case of his death, resignation or removal from office, until a clerk is elected. The appointment may be made in writing, as follows:

"I (or we,) hereby appoint \_\_\_\_\_ to perform the duties of town clerk, in the town of \_\_\_\_\_, during the clerk's absence from his office, or until a clerk is elected. \_\_\_\_\_, clerk, or municipal officers, of the town of \_\_\_\_\_."

Said deputy, or person appointed by the municipal officers, shall be sworn faithfully to perform the duties of his office before he enters thereon.

The clerk may also appoint a woman, otherwise qualified by the constitution, who in his absence may so far act as deputy clerk as to receive and record chattel mortgages and other papers, and make certified copies of the records in the clerk's office.

See c. 96, § 2; 70 Me. 564.

**Sec. 21. Treasurer shall give bond; amount; office of treasurer vacant if bond is not filed seasonably; vacancy; approval of bond and record; municipal officers may accept bond of a surety company, at expense of town.**  
**R. S. c. 4, § 19.** The treasurer before entering upon the discharge of his official duties, shall give bond to the inhabitants of his town with such sureties and for such sum as shall be designated by the municipal officers, not exceeding, however, twice the amount of the taxes to be collected during the year for which he is treasurer, conditioned for the faithful discharge of all the duties and obligations of his office. If such bond is not furnished and delivered to the municipal officers, within ten days after written demand by the municipal officers on the treasurer therefor, the office of treasurer shall be deemed vacant, and the town or plantation, at any meeting of its inhabitants legally called, may elect a treasurer to fill the vacancy, or the municipal officers may fill the vacancy by written appointment which shall be recorded by the clerk in the town records. The municipal officers shall be the sole judges of the sufficiency of such bond and sureties. Such bond, after its approval and acceptance by the municipal officers, shall be recorded by the clerk, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond. The municipal officers may accept any surety company authorized to do business in the state, as surety on such bond, and dispense with any further surety or sureties thereon. Any town or plantation may law-

## CHAP. 4

fully vote, at its annual meeting, to raise money to be expended by its treasurer, under the direction of the municipal officers, for the purpose of purchasing from any surety company authorized to do business as aforesaid, the bond required by this section.

69 Me. 369.

**Sec. 22. Deputy town treasurers, appointment.** R. S. c. 4, § 20. The treasurer of any town or plantation may appoint a citizen thereof as his deputy during his temporary absence or other temporary disability. The appointment shall be in writing and be recorded. It may be in the form following:

"I, \_\_\_\_\_, hereby appoint \_\_\_\_\_ to perform the duties of town treasurer of the town of \_\_\_\_\_, during the treasurer's temporary absence from his office. \_\_\_\_\_ Treasurer."

**Sec. 23. Treasurer responsible.** R. S. c. 4, § 21. The treasurer and the sureties upon his official bond, are responsible for all acts and omissions of his deputy in such office.

**Sec. 24. Treasurer to render account quarterly.** R. S. c. 4, § 22. Every treasurer shall render an account of the finances of his town, and exhibit all books and accounts pertaining to his office, to the municipal officers thereof, or to any committee appointed by it to examine said accounts, when required; and such officers shall examine such treasurer's accounts as often as once in three months.

60 Me. 475; 70 Me. 439; 113 Me. 547.

**Sec. 25. In case of vacancy, municipal officers may appoint treasurer.** R. S. c. 4, § 23. In case of death, resignation, removal or other permanent disability of a treasurer of a town or plantation, the municipal officers may appoint a citizen thereof to be treasurer until his successor is elected and qualified. Such appointment shall be in writing and be recorded. It may be in the form following:

"We, the municipal officers of the town of \_\_\_\_\_, hereby appoint \_\_\_\_\_ treasurer of said town until his successor is elected and qualified."

**Sec. 26. Treasurer so appointed, to be sworn and give bond.** R. S. c. 4, § 24. Before such appointee enters upon his official duties he shall be sworn, and give bond to the town for the faithful performance thereof in such sum and with such sureties as the municipal officers order.

**Sec. 27. Officers chosen, summoned to take their oath.** R. S. c. 4, § 25. The town clerk or any two selectmen shall forthwith make a list of the names of all persons chosen into office, of whom an oath is required, and deliver it to a constable with a warrant to him directed; and he shall, within three days thereafter, summon each person therein named to appear before the town clerk, within seven days from the time of notice, to take such oath of office; and at the end of ten days after receiving his warrant, the constable shall return it or forfeit six dollars to the town; and the town shall allow him a reasonable compensation for his services.

**Sec. 28. Penalty for refusing a town office.** R. S. c. 4, § 26. Every person so notified, neglecting to take such oath within said seven days, except officers for whose neglect a different penalty is provided, forfeits five dollars, two-thirds to the town, and one-third to the prosecutor.

See c. 10, § 100; c. 30, § 6; 1 Me. 248.

**Sec. 29. Town or parish officer, how sworn; record; clerk may record his own election; penalty for neglect.** R. S. c. 4, § 27. Any town or parish officer may be sworn by the moderator in open town meeting, town or parish clerk, or by any person authorized by law, who shall give to the officer sworn, except when sworn in presence of such clerk, a certificate of the oath administered, which he shall return to such clerk to be filed. In either case the clerk shall record the name of the officer and of his office, by whom sworn, and the time of taking the oath and returning the certificate. Any town, school district, parish or corporation clerk elected to any office and sworn, may record his own election, the fact that he was sworn, and when and by whom. The record herein required shall be sufficient evidence that such officer was sworn. If any officer fails to return such certificates or any clerk to record such oath within ten days, he forfeits five dollars.

See c. 118, § 20; 12 Me. 234; 17 Me. 444; 48 Me. 443; 58 Me. 518; 79 Me. 472; 84 Me. 378; 109 Me. 474.

**Sec. 30. Vacancies.** R. S. c. 4, § 28. 1911, c. 51. When by reason of non-acceptance, death, removal, insanity or other incompetency of a person chosen to a town office, except the office of auditor and of road commissioner, there is a vacancy, or want of officers, the town may choose new officers; and they shall be sworn, if an oath is required, and have the same powers as if elected at the annual meeting. The meeting for choice of such new officers may be called by the person or persons legally elected and qualified as selectman or selectmen although less than a full board.

See § 12; c. 10, §§ 90, 92, 101-107; c. 11, §§ 36, 38, 57; c. 19, § 93; 1 Me. 248; 96 Me. 485.

**Sec. 31. Reports by sworn officers not to be verified.** 1913, c. 14. Town or municipal officers, who have been duly sworn to the faithful performance of their duty, shall not be required to make oath or affirm to any report, account or statement to be filed with any of the state departments.

**Sec. 32. Penalty for neglect of official duty.** R. S. c. 4, § 112. Every town officer, who neglects any duty lawfully required of him, forfeits not exceeding twenty dollars for every such neglect, when no other penalty is provided, to be recovered in an action of debt in the name and to the use of the town, by the treasurer thereof.

37 Me. 90.

Note. Penalty for misconduct of moderators, see § 37; c. 5, § 46; of town clerks, § 29; c. 5, § 46.

Penalties imposed upon municipal officers and town clerks for neglect of duties as to selection of jurors, c. 111, §§ 17-21; municipal officers and constables for neglect of duties as to mobs, c. 125, § 12; constables for not returning warrant to notify officers of election, § 27; for neglect of duties as to selection of jurors, c. 111, § 18; city officers for neglect as to registration of voters, c. 5, § 29.

City, town and plantation officers for refusing to allow access to town books or reports, § 45; for neglect of duty as to registration of dogs, § 114; for improper use of sinking fund, § 61; for neglecting to attend perambulation of town lines, § 134; for refusing to be sworn, § 28; c. 10, §§ 100, 101, 107; c. 46, § 23; c. 48, § 12; for using improper ballot boxes and improperly receiving votes, c. 7, §§ 34, 105, 115; for illegal conduct relating to elections, c. 7, §§ 95, 99 to 123 both inclusive; for refusing to assess taxes, c. 10, §§ 94, 95, 96; for misapplication of certain fines, c. 21, § 4; for refusing to prosecute persons for sale of intoxicating liquors, c. 127, § 45; for not appointing sealer of weights and measures, c. 48, § 8.

Town treasurers for wilfully withholding deeds of lands sold for taxes, c. 11, § 81; for neglect of duties as to weights and measures, c. 48, § 9.

Constables and collectors of taxes, for refusing to give receipts, c. 11, § 16; for neglecting to make exhibit to municipal officers once in two months, c. 11, § 35; for neglecting to pay over money collected, c. 11, § 37.

Fence viewers, c. 28, §§ 15, 17; fire wards, c. 30, § 6; auctioneers, c. 41, §§ 3, 4, 5.

Municipal officers and fire engineers for neglect of duty as to protection against fires, c. 30, § 44; for neglect to report or investigate fires, c. 30, § 57.

Road commissioner for neglect of duty, c. 24, § 75.

## CHAP. 4

**Sec. 33. Moderator to be first chosen; his duties.** R. S. c. 4, § 29. At every town meeting a moderator shall be first chosen and sworn by a justice of the peace, or by the person presiding at the meeting when he is chosen. Said moderator shall regulate the business of the meeting; and when a vote declared by him is, immediately after such declaration, questioned by seven or more, he shall make it certain by polling the voters, or in such other way as the meeting directs.

48 Me. 444; 56 Me. 390.

**Sec. 34. Moderator to be obeyed.** R. S. c. 4, § 30. No person shall speak in meeting before leave is obtained of the moderator, nor when any other person is speaking; and all shall be silent at the command of the moderator, or forfeit to the town one dollar for every breach of such order.

**Sec. 35. His powers.** R. S. c. 4, § 31. If any person, after notice from the moderator, persists in disorderly conduct, the moderator may direct him to withdraw from the meeting; and by his refusal he forfeits three dollars to the town; and the moderator may cause him to be removed from the meeting by a constable, and detained in confinement for three hours, unless the meeting is sooner dissolved or adjourned.

**Sec. 36. §§ 1-35, inapplicable to state elections.** R. S. c. 4, § 32. Town meetings for the choice of governor, senators, and representatives, shall be as the constitution directs; and the foregoing sections are not applicable to them.

**Sec. 37. Folded votes not received; votes not to be examined.** R. S. c. 4, § 33. The person presiding at a meeting for the choice of town officers, shall not receive any folded vote, or permit any person before the poll is closed, without consent of the voter, to examine his ballot, on penalty of twenty dollars.

#### Wards of Cities. Election of City Officers.

**Sec. 38. Wards in cities, change or alteration in limits of, how made.** R. S. c. 4, § 34. 1911, c. 172. No change made by the city council, in the limits of any city ward, shall be valid unless it is approved by a majority of the legal votes cast at the election of city officers, held next after such action of said council; and warrants for such ward meetings shall contain an article for that purpose.

**Sec. 39. Election of assessors and subordinate officers; term.** R. S. c. 4, § 35. The assessors and subordinate officers of cities, when their charters do not otherwise provide, shall be chosen on the second Monday of March, annually, or as soon after as practicable, and hold their offices one year therefrom, and until others are chosen and qualified in their places.

67 Me. 62-3; 78 Me. 279.

**Sec. 40. Wardens and clerks in cities, how elected; term.** R. S. c. 4, § 36. At the annual election for the choice of mayor and aldermen in cities, the electors, in each ward shall, by written ballot, elect a warden and clerk, who shall enter on their duties on the Monday following their election, and hold their offices one year therefrom, and until others are chosen and qualified in their places.

71 Me. 387.

**Sec. 41. Mayor has casting vote in choice of officers; appointees of mayor and aldermen, removal. R. S. c. 4, § 37.** In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a casting vote, if two candidates have each half of the ballots cast, he shall determine and declare which of them is elected. Whenever appointments to office are directed or authorized to be made by the mayor and aldermen of cities, they may be made by the mayor with the consent of the aldermen, and such officers may be removed by the mayor.

79 Me. 81; 89 Me. 451.

#### Certain Duties of Municipal Officers.

**Sec. 42. Town officers not to act when pecuniarily interested. R. S. c. 4, § 38.** No member of a city government or selectmen of a town, shall in either board of such government, or in any board of selectmen, vote on any question in which he is pecuniarily interested directly or indirectly, and in which his vote may be decisive; and no action of such government or board taken by means of such vote, is legal.

73 Me. 58.

**Sec. 43. Interests in municipal contracts prohibited. R. S. c. 4, § 39.** No member of a city government shall be interested, directly or indirectly, in any contract entered into by such government while he is a member thereof; and contracts made in violation hereof are void.

68 Me. 149, 325; 88 Me. 41; 98 Me. 427; 108 Me. 549; 113 Me. 322.

**Sec. 44. Enforcement of §§ 42 and 43. R. S. c. 4, § 40.** The supreme judicial court in equity, by writ of injunction or otherwise, may restrain proceedings in any town in violation of the two preceding sections, upon application of ten or more taxable citizens.

See c. 82, § 6, ¶ xiii.

**Sec. 45. Selectmen and treasurer, to make reports; printed reports must be distributed before annual meeting; all town books to be open for public inspection; penalty for refusal or neglect. R. S. c. 4, § 41. 1907, c. 166.** Persons charged with the expenditure of the money of a town, shall, on or before the morning of each annual meeting, make a full, detailed written or printed report of all their financial transactions in behalf of the town, during the municipal year immediately preceding, with a full account of the receipts and disbursements during that period, and to whom and for what purpose each item of the same was paid, with a statement in detail of the indebtedness and resources of the town; including a list of all unpaid taxes which have been committed to the treasurer or collector for collection, giving the names of all delinquent taxpayers and the amount due from each. Such reports, or like reports of town auditors, if printed, shall be distributed to the voters on or before the morning of the annual meeting, or, if not printed, shall be presented and read in open town meeting before the election of selectmen, and, whether written or printed, shall be kept deposited in the office of the selectmen, or if they have no office or usual place of business, with the town clerk, with proper vouchers for the disbursements reported,

## CHAP. 4

where such reports and vouchers, and all the books of the town shall be open during the usual hours of business, to the inspection of voters; and if any town officer refuses or neglects to perform any requirement of this section, or refuses to allow any voter to examine such reports, vouchers, and town books, he shall be punished by a fine of fifty dollars for each refusal or neglect.

See c. 3, § 15.

**Sec. 46. Assessors to keep a record of persons moving into and from, towns and plantations. R. S. c. 4, § 42.** Towns and plantations may at any regular meeting, by a vote thereof, require their assessors of taxes to keep a record, with the date thereof as near as practicable, of all persons moving into and from their respective towns and plantations during each year, and on the first day of May make a return of the same to the clerk thereof, who shall record the same in a book to be kept for such purpose, and shall furnish copies of such records upon payment of a reasonable fee.

**Sec. 47. Notice of election of town treasurer. R. S. c. 4, § 43. 1909, c. 173.** When a town treasurer is elected and qualified, the clerk shall communicate his name to the treasurer of state and the state auditor; and no city, town or plantation shall receive any money from the treasurer of state until the name of its treasurer has been so communicated.

#### Preservation of Records.

**Sec. 48. Cities and towns shall provide safes and vaults. R. S. c. 4, § 62.** Cities and towns of more than thirteen hundred inhabitants shall provide fire proof safes or vaults of ample size for the reception and preservation of all completed books of record and registry belonging thereto; upon the completion of any such book of record and registry, the clerk of the city or town, shall deposit the same in such safe or vault, and such books shall be kept in such safe or vault, except when required for use.

**Sec. 49. Clerks shall make return to supreme judicial court, of books of record and registry. R. S. c. 4, § 63.** The clerks of all cities and towns shall, in the month of December in each year, make a return to the clerks of the supreme judicial court in the several counties, showing the number and nature of such books of record and registry as are in their custody, and where they are kept and deposited; said return shall also show where the books of the municipal officers and treasurer are kept and deposited.

**Sec. 50. Penalty for neglect of § 48. R. S. c. 4, § 64.** Any city or town which neglects to perform the duties prescribed by section forty-eight shall forfeit for each month so neglecting, the sum of ten dollars, one-half to the complainant and one-half to the county in which such city or town is located.

#### Burial of Honorably Discharged Soldiers and Sailors.

**Sec. 51. State shall pay burial expenses of destitute soldiers and sailors and their widows. R. S. c. 4, § 65. 1913, c. 10. 1915, c. 173.** Whenever any person who served in the army, navy or marine corps of the United States during the war of eighteen hundred and sixty-one or during the war

with Spain, or during the war with Mexico, and was honorably discharged therefrom, shall die, being at the time of his death a resident of this state and in destitute circumstances, the state shall pay the necessary expenses of his burial; or whenever the widow of any person who served in the army, navy or marine corps of the United States during the war of eighteen hundred and sixty-one or during the war with Spain, or during the war with Mexico, and was honorably discharged therefrom shall die, being at the time of her death a resident of this state and being in destitute circumstances and having no kindred living within this state and of sufficient ability legally liable for her support, the state shall pay the necessary expenses of her burial; such expenses shall not exceed the sum of thirty-five dollars in any case, and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead.

92 Me. 443; 93 Me. 101; 101 Me. 557.

**Sec. 52. Cities and towns shall be reimbursed such expenses; soldier shall not be regarded a pauper.** R. S. c. 4, § 66. The municipal officers of the city or town in which such deceased resided at the time of his death, shall pay the expenses of his burial, and if he die in an unincorporated place, the town charged with the support of paupers in such unincorporated place, shall pay such expenses, and in either case upon satisfactory proof by such town or city to the governor and council of the fact of such death and payment, the governor shall authorize the treasurer of state to refund said town or city the amount so paid, provided, however, that the person whose burial expenses are paid in accordance with the provisions of this section and the preceding section shall not be constituted a pauper thereby; said proof shall contain a certificate from the post commander of the post of the Grand Army of the Republic, located nearest the town or city which paid said burial expenses, stating that such person was an honorably discharged soldier or sailor and in destitute circumstances, or the widow of an honorably discharged soldier or sailor and in destitute circumstances, and having no kindred of sufficient ability, resident in this state legally liable for her burial expenses.

93 Me. 101; 101 Me. 557.

**Sec. 53. Appropriations.** R. S. c. 4, § 67. The legislature shall from time to time, appropriate the necessary sum of money for the purpose of carrying out the provisions of the two preceding sections.

#### Armories.

**Sec. 54. Armories to be provided by town officers; also places for parade; rent to be allowed by state.** R. S. c. 4, § 68. Municipal officers shall provide for each company of volunteer militia within their towns, a suitable armory or place of deposit for the arms, equipments and equipage, furnished by the state. They shall also provide a suitable room for the safe keeping of books, the transaction of business, and the instruction of officers for each regiment or separate battalion of such militia located within their towns, and suitable places for their parade, target practice and drill. A reasonable compensation for rent of such armory, headquarters, or place of deposit,

**CHAP. 4**

not exceeding one hundred dollars a year may be allowed from the state treasury to the town or city so furnishing such armory, headquarters or place of deposit.

See c. 15, §§ 90-94.

**Street Coasting May Be Restricted.**

**Sec. 55. Streets, roads or sidewalks may be designated for coasting.** R. S. c. 4, § 69. Municipal officers may designate public streets, roads or sidewalks whereon no person shall slide with any vehicle under a penalty not exceeding five dollars and the forfeiture of the vehicle, to be recovered on complaint to the use of the town where the offense is committed.

**Sec. 56. Record of such designation to be made.** R. S. c. 4, § 70. When streets, roads or sidewalks have been so designated, the municipal officers shall cause such designation to be recorded in the records of the town, and their action shall be in force until modified or annulled by like authority; police officers and constables shall enforce the preceding section.

**Authority to Raise and Hold Money in Trust.**

**Sec. 57. Purposes for which money may be raised.** R. S. c. 4, § 71. 1907, c. 59. 1915, c. 36. The voters, at a legal town meeting, may raise the necessary sums for the support of schools and the poor; making and repairing highways, town ways and bridges; and sprinkling streets; acquiring by purchase or otherwise suitable sites, or suitable sites and buildings, or erecting buildings for free public libraries; purchasing and fencing burying-grounds; maintaining private burying-grounds established before eighteen hundred eighty; purchasing or building and repairing a hearse and hearse-house for the exclusive use of its citizens; and for other necessary town charges.

3 Me. 91, 195; 14 Me. 378; 20 Me. 182; 51 Me. 176; 52 Me. 597; 54 Me. 259; 63 Me. 236; 72 Me. 354, 522; 82 Me. 44.

For providing armories, drill rooms and target ranges, c. 15, § 93; see c. 16, §§ 16, 25-27, 83, 85; c. 24, § 86; c. 25, § 18; c. 29, § 11.

As to power to aid in construction of railroads, see c. 56, §§ 41-46.

**Sec. 58. Other purposes for which cities and towns may raise money.** R. S. c. 4, § 72. 1905, c. 96. 1909, c. 160. 1915, c. 280. Cities and towns may raise money to procure the writing and publication of their histories, to celebrate any centennial or other anniversary of the settlement or incorporation of such city or town, and to publish the proceedings of any such celebration; to defray the expenses of the observance of memorial day, firemen's memorial Sunday, and of old home week; and a sum not exceeding five thousand dollars in any one town for erecting a suitable monument in memory of the soldiers and sailors who sacrificed their lives in defense of their country in the war of eighteen hundred and sixty-one, and a reasonable sum to secure, grade and care for a lot appropriate for such a monument. They may also raise money to be expended for exterminating or controlling brown-tail and gipsy moths and other insect pests.

59 Me. 494; see c. 38, § 10.

Cities and towns may appropriate money to aid in the erection of the Knox Memorial Building in Thomaston, 1915, c. 236.

**Sec. 59. Appropriation for advertising. 1913, c. 154.** Any city or town, having not more than fifty thousand inhabitants, may appropriate any sum, not exceeding one mill on a dollar, based on the valuation of the preceding year, to be expended and used for advertising the natural resources, advantages and attractions of such city or town.

**Sec. 60. Towns may create sinking fund. Investment of sinking funds. R. S. c. 4, § 73. 1915, c. 50.** Any city or town which has a funded indebtedness may create a sinking fund for the payment and redemption of such indebtedness, may raise money by taxation for such purpose, and is restricted to and may hereafter invest such sinking fund in its own bonds, in the public funds of the United States and of any of the New England states and the state of New York, and in the bonds of the counties, cities and towns of this state, and in the bonds and obligations of any municipal or quasi-municipal corporation of this state, when such securities are a direct obligation on all the taxable property of said corporation; provided that this section shall not be construed to require any change of investments heretofore made.

**Sec. 61. How fund shall be used; penalty for misuse. R. S. c. 4, § 74.** Such sinking fund shall be used for no other purposes than those provided for in the preceding section, and any town officer who shall use or appropriate the moneys or securities which compose such sinking fund in any other manner or for any other purpose, than above provided, shall be punished by fine not exceeding two thousand dollars or by imprisonment for not more than two years.

**Sec. 62. Cities and towns may refund indebtedness; temporary loan may be made in anticipation of money derived from sale of bonds; securities, when due and payable. R. S. c. 4, § 75. 1915, c. 242.** Cities and towns may issue and negotiate their notes, bonds or scrip for refunding or paying in whole or in part, any indebtedness thereof, which has or may hereafter become due. If a city or town votes to issue bonds, notes or certificates of indebtedness in accordance with the provisions of law, the officers authorized to issue the same may, in the name of such city or town, make a temporary loan for a period of not more than one year in anticipation of the money to be derived from the sale of such bonds, notes or certificates of indebtedness and may issue notes therefor; but the time within which such securities shall become due and payable shall not be extended by reason of the making of such temporary loan beyond the time fixed in the vote authorizing the issue of such bonds, notes or certificates of indebtedness; and notes issued under the provisions of this section for a shorter period than one year may be refunded by the issue of other notes maturing within the required period; provided, however, that the period from the date of issue of the original loan and the date of maturity of the refunding loan shall be not more than one year; and provided, further, that no notes shall be refunded under the provisions of this section except under the authority of such vote as is required for the original borrowing.

Issue of bonds payable in instalments, c. 51, § 106; property of inhabitants may be taken to pay debts, c. 51, § 105.

## CHAP. 4

**Sec. 63. Municipal corporations may contract for water, gas and electric light.** R. S. c. 4, § 76. Municipal corporations may contract for a supply of water, gas and electric light for municipal uses for a term of years upon such terms as may be mutually agreed, from time to time renew the same, and may raise money therefor. All such contracts made prior to the twenty-eighth day of April, nineteen hundred and three are confirmed and made valid.

104 Me. 226.

**Sec. 64. Fuel yards.** R. S. c. 4, § 87. Any city or town may establish and maintain, within its limits, a permanent wood, coal and fuel yard, for the purpose of selling, at cost, wood, coal and fuel to its inhabitants. The term "at cost," as used herein, shall be construed as meaning without financial profit.

111 Me. 488; 113 Me. 124.

**Sec. 65. Towns may raise money for propagation of fish.** R. S. c. 4, § 86. Towns may raise by a two-thirds vote at their annual meeting, a sum not exceeding five hundred dollars, to be expended by the municipal officers thereof or by a commissioner elected by the towns for the propagation and protection of fish in public waters located wholly or partially within their respective limits. A report of the expenditure thereof shall be made at the next annual meeting by the officer or officers authorized to expend such appropriation.

See c. 1, § 6, ¶ xix; c. 33, § 11.

**Sec. 66. Doings of towns in suppression of the rebellion, made valid.** R. S. c. 4, § 77. The past acts of towns, in offering, paying and contracting to pay, and in raising and providing means to pay expenses for recruiting for their several quotas, or bounties to or for volunteers, drafted men or substitutes of drafted men, or enrolled men, mustered into or enlisted for the military or naval service of the United States, are valid, provided, that such acts have been done at meetings legally called and held in pursuance of warrants therefor, setting forth the purposes upon which such acts were based. All taxes assessed, contracts made, and notes and orders given by municipal officers in pursuance of votes passed at such meetings, are valid.

51 Me. 610; 52 Me. 596; 53 Me. 450, 576; 56 Me. 202, 451; 59 Me. 316-17, 548; 60 Me. 122; 69 Me. 41, 55; 75 Me. 74.

**Sec. 67. War contracts valid.** R. S. c. 4, § 78. Contracts made in pursuance of votes, passed at such meetings, by such municipal officers, or their agents, with any volunteer, drafted man or substitute, or with third persons, or associations, for providing means to pay bounties to volunteers, drafted men or substitutes, are valid.

59 Me. 548; 60 Me. 122; 69 Me. 41, 56.

**Sec. 68. Unauthorized war contracts may be ratified.** R. S. c. 4, § 79. Contracts heretofore made by such municipal officers, or by third persons, for any town, without previous authority, to pay bounties to or for volunteers, drafted men or substitutes, in or enlisted for the military or naval service of the United States, may be ratified by any town at a legal meeting, called and notified as provided in section sixty-six.

55 Me. 14, 196; 69 Me. 55; 75 Me. 74.

**Sec. 69. Municipal officers authorized to call meetings to accept legacies and gifts; notice.** R. S. c. 4, § 80. Whenever the municipal officers of any city or town are notified in writing by the executors of any will, or by the trustees created by virtue of the terms thereof, that a devise or bequest in behalf of said city or town has been made upon conditions contained in said will, or by any individual, that he intends to make a conditional gift, in behalf of said city or town, the municipal officers of said city or town, shall, within sixty days after said notice to them, call a legal meeting of the inhabitants of said city or town qualified to vote upon city or town affairs; provided, however, that in cities the acceptance of such devise, bequest or conditional gift may be by vote of the city council, instead of by the inhabitants at a special election, if the municipal officers so direct. The municipal officers shall give public notice in their warrants, of the objects of said meeting of the inhabitants, and such other notice as they may deem proper. At such meeting, the said inhabitants, or the city council at a regular meeting, or at a special meeting called for that purpose, shall vote upon the acceptance of said devise or bequest or conditional gift, and if a majority of the legal voters, or of the members of the city council, present, then and there vote to accept said devise or bequest or conditional gift, in accordance with the terms contained in said will, and upon the conditions made by the testator or by said individual, said municipal officers of said city or town, shall forthwith notify said executors or trustees, or individual, in writing, of said acceptance by said city or town aforesaid, or the non-acceptance thereof.

105 Me. 374; 110 Me. 526.

**Sec. 70. Cities and towns may raise money to carry into effect terms of will or gift; shall only apply to gifts, etc., for certain purposes.** R. S. c. 4, § 81. Whenever the executors or trustees, under any will have fully discharged their duties respecting the payment, delivery, or otherwise, of any devise or bequest to said city or town, or any such individual has made such contemplated conditional gift to said city or town, and said city or town has accepted said devise or bequest or conditional gift, in accordance with the conditions thereto attached, as set forth in the preceding section, then said city or town shall perpetually comply with, and strictly maintain and keep all the conditions and terms upon which said devise or bequest or conditional gift was made; and any city or town so accepting said devise or bequest, or conditional gift and receiving the same, or enjoying the benefits therefrom, may raise money to carry into effect the requirements and terms upon which said devise or bequest or conditional gift was so accepted and received. The provisions of this and the preceding section shall apply only to devises and bequests and gifts, devised and bequeathed or given to cities and towns for educational, benevolent and charitable purposes and objects, or for the care, protection, repair and improvement of cemeteries owned by said cities or towns, or of cemetery lots owned by individuals.

See c. 21, § 18; 105 Me. 374.

**Sec. 71. Towns may receive money in trust.** R. S. c. 4, § 82. Any city or town may receive money by donation or legacy in trust for benevolent, religious or educational purposes, for the erection and maintenance of non-

## CHAP. 4

uments, and for the benefit of public cemeteries and lots therein; provided, that the city or town lawfully consents.

See c. 21, §§ 13-18; c. 4, § 24; 85 Me. 132, 511; 105 Me. 374.

**Sec. 72. Interest allowed, if fund is used; Supreme Judicial Ct. may establish rate of interest. R. S. c. 4, § 83.** Interest shall be allowed if the fund is used by the city or town; and any city or town may use the principal of any trust fund for municipal purposes, if the town, or the city council of the city, votes to so use it, at a meeting called after due notice, at a rate of interest less than six per cent, if the party creating the trust so provides, or by an agreement with the beneficiary, approved by a decree in equity of the supreme judicial court, or such city or town may procure a decree from the supreme judicial court sitting in equity, establishing the rate of interest that such city or town shall pay for the use of such fund, and the supreme judicial court is hereby given jurisdiction over the question of such use and rate of interest in such cases; otherwise, it shall be placed at interest or income, the city or town being responsible for its security.

85 Me. 132, 518; 105 Me. 374.

**Sec. 73. Fund applied according to directions of donor. R. S. c. 4, §§ 84, 85.** The city or town, by its officers or agents, shall apply the fund or its income in accordance with the written directions of the donor or testator, made known at the time when the fund was accepted. If the city or town fails to apply the fund or its income at the times and for the purposes prescribed in said directions, it reverts to the donor, if living; otherwise, to his heirs.

105 Me. 374.

### Free Public Libraries.

**Sec. 74. Towns may establish public libraries, and raise money therefor. R. S. c. 57, § 10. 1909, c. 84.** Any town may establish a free public library therein, for the use of its inhabitants, and provide suitable rooms therefor, under such regulation for its government as the inhabitants from time to time prescribe; and may appropriate, for the foundation and commencement of such library, a sum not exceeding two dollars, and for its maintenance and increase annually, a sum not exceeding two dollars for each of its ratable polls in the year next preceding. Any town in which there is a free public library may establish and maintain under the same general management and control, such branches of the same as the convenience and wants of its citizens seem to demand.

**Sec. 75. Villages may establish free libraries; may assess tax for their support; rights and privileges. R. S. c. 57, § 11.** Any village corporation located in a town where no free library exists, may establish a library within its limits for the free use of all its inhabitants; and may levy and assess a corporate tax and appropriate therefrom for the foundation and commencement of such library, a sum not exceeding two dollars, and for its maintenance and increase annually a sum not exceeding one dollar for each ratable poll within the limits of such village corporation in the year next pre-

ceding. Village libraries established under this section shall be subject to all the duties and entitled to all the privileges prescribed by the laws relating to free public libraries in towns.

**Sec. 76. Any town may raise money to secure free use of library in adjoining town. R. S. c. 57, § 12.** Any town may raise and appropriate annually a sum of money, not exceeding the legal limit established for maintaining free libraries, for the purpose of securing to its inhabitants the free use of a library located in an adjoining town, and shall be entitled to receive from the treasurer of state a sum equal to ten per cent of the amount so raised, appropriated and expended yearly, to be paid on the certificate of its municipal officers returned as provided in section seventy-eight.

**Sec. 77. Adjacent towns may unite in establishing free library. R. S. c. 57, § 13.** Two or more adjacent towns may unite in establishing and maintaining a free public library with branches thereof in each town, for the free use of all the inhabitants of said towns, and may each raise and appropriate for that purpose annually a sum not exceeding the legal limit established for maintaining free libraries, and such towns shall be subject to all duties and entitled to all the benefits prescribed by the laws relating to free libraries.

**Sec. 78. State stipend for support of public library. R. S. c. 57, § 14.** The municipal officers in any town or city, and the assessors of any village corporation where a free public library is established, shall annually, on the first day of May, certify to the state auditor the amount of money appropriated and expended by said town, city or village corporation during the preceding year, for the purchase of books and documents for the use and benefit of such free public library, and for the payment of the running expenses thereof; and the governor, with the advice and consent of the council, shall draw a warrant on the treasurer of state for the purchase of books for the use of such library, for a sum equal to ten per cent of the amount expended by said town or village corporation as certified by its municipal officers or assessors.

**Sec. 79. Free library maintained by an association receiving aid shall be considered a public library. R. S. c. 57, § 15. 1905, c. 166.** Any town or city, in which there is a library owned or controlled by a corporation or association, or by trustees, may appropriate a sum not exceeding one dollar for each of its ratable polls in the year next preceding to procure from such library the free use of its books for all the inhabitants of the town or city, under such restrictions and regulations as shall insure the safety and good usage of the books; and such library shall then be considered a free public library within the meaning of this chapter, and said town or city shall be entitled to the benefits of the preceding section, provided that any books and documents purchased with said stipend, and all books and documents donated by the state, shall be and remain the property of said municipality.

**Sec. 80. Free public libraries shall be entitled to Maine reports, etc., from state library; officers shall report annually to librarian of state library, aid withheld until report is made. R. S. c. 57, § 16.** In every town and city where a free public library exists, the librarian of the state library shall

**CHAP. 4**

transmit to such library all laws, Maine reports, and other documents which the town or city is by law entitled to receive from the state, and the same shall be constantly kept in such library for the use and benefit of all the citizens; and the municipal officers of said town or city, shall transfer to said library all the laws, Maine reports and other documents, heretofore received from the state, and now in custody of any of the officers of said town or city; and the officers of said library, on or before the first day of April of each year, shall send to the librarian of the state library a report containing a list of all books and documents purchased with the state stipend for the preceding year, and of all books and documents received from the state in said library. The aid from the state, hereby provided, shall be withheld from any town, city or village corporation until the report herein required to be made on or before the first day of April of each year, shall have been received by the librarian of the state library. And the same shall also be withheld unless said report shall show that the laws, Maine reports and other documents furnished to said town or city by the state are kept in said library as required by this section.

**Sec. 81. Assistance to towns in establishing free public libraries. R. S. c. 57, § 17.** The librarian shall donate from the state library to any town having no free public library owned or controlled by the town, books purchased for that purpose, not exceeding fifty per cent in value of the books and documents purchased by said town for the purpose of founding a free public library therein; said donation in no case to exceed one hundred dollars. No town shall be entitled to the benefits of this provision, until its legal voters, at a regularly called town meeting, have raised and appropriated not less than one hundred dollars for the purchase of books, and have provided for the care, custody and distribution of its own books, and of those to be donated by the state.

**Sec. 82. Librarians may receive instruction at state library. R. S. c. 57, § 18.** The librarian or trustees of any free public library may receive instruction at the state library in cataloguing, and any other matters pertaining to the maintenance or administration of the library.

**Sec. 83. Towns may receive devises and gifts for public libraries and art galleries. R. S. c. 57, § 19. 1909, c. 183.** Any town, as such, may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of a public library therein; and may accept by vote of the legal voters thereof, any land or land and buildings thereon, to be used as a public library or art gallery, or both combined. When any plantation is incorporated into a town, such gifts and the proceeds thereof fully vest in such town.

<sup>90</sup> Me. 414.  
Note. Wanton injury to a book, picture, statue or painting in any public library punished, c. 129, § 26.

### Public Parks and Squares.

**Sec. 84. Towns and cities may choose park commissioners. R. S. c. 4, § 88.** Cities and towns may choose by ballot, three park commissioners, to hold office one, two and three years, respectively, and after the first year choose annually a commissioner for three years in place of the one whose

term expires; they shall have the care and superintendence of the public parks and direct the expenditure of all moneys appropriated for the improvement of the same.

**Sec. 85. Towns may receive devises and gifts for public parks and playgrounds.** 1909, c. 183. Any town, as such, may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of public parks and playgrounds in such town; and may accept by vote of the legal voters thereof, any land in such town to be used as a public park or playground, or both combined. When any plantation is incorporated into a town, such gifts and the proceeds thereof fully vest in such town.

**Sec. 86. Village corporations may hold land for park purposes.** 1915, c. 247. Village corporations chartered by the legislature may take and hold lands by devise or gift, in trust for playground or park purposes, and may expend not exceeding ten per cent of the money apportioned such village corporation, under its charter, for the improvement and care of such land.

**Sec. 87. Land taken for parks, squares, public libraries and playgrounds.** R. S. c. 4, § 89. 1909, c. 143. 1909, c. 237. Any city or town, containing more than one thousand inhabitants, upon petition in writing signed by at least thirty of its tax-paying citizens, directed to the municipal officers, describing the land to be taken as hereinafter provided, and the names of the owners thereof so far as they are known, may, at a meeting of such town, or of the mayor, aldermen and council of such city, direct such municipal officers to take suitable lands for public parks, squares, playgrounds, buildings for municipal purposes, or a public library building; and thereupon such officers may take such land for such purposes, but not without consent of the owner, if at the time of filing such petition, with such officers, or in the office of the clerk of such town or city, such land is occupied by a dwelling-house wherein the owner or his family reside.

102 Me. 341; 103 Me. 436; 105 Me. 418, 578.

**Sec. 88. Proceedings by municipal officers.** R. S. c. 4, § 90. Whenever the municipal officers of such city or town are directed to take land as provided in the preceding section, they shall, within ten days, give written notice of their intention to take such land, describing the same, and the time and place of hearing, by posting the same in two public places in the town where the land lies, and in the vicinity thereof, and by publishing the same in a newspaper printed in such city or town, seven days before the day of such hearing, if any, otherwise, in a newspaper printed in the county where the land lies, three weeks successively, the last publication to be seven days before such hearing. The municipal officers shall meet at the time and place specified in the notice, view the land to be taken, hear all parties interested, and if they decide that the land is suitable for the purpose, they shall take the same and estimate the damages to be paid to each owner, so far as known, and make return of their doings in writing, signed by a majority of them, which return shall describe by metes and bounds the land so taken, and state the purpose for which it is taken, the names of the owners, so far as known, and the amount of damages awarded to each. The return shall be filed, and recorded in the clerk's office of such city or town,

## CHAP. 4

and a copy thereof, certified by such clerk, shall be recorded in the registry of deeds for said county.

103 Me. 436; 105 Me. 418, 578.

**Sec. 89. Appeal from estimate of damages; damages, how paid.** R. S. c. 4, § 91. Any person aggrieved by the estimate of damages may have them determined by written complaint to the supreme judicial court in the manner provided respecting damages for the establishment of town ways. When such damages are finally determined, they shall be certified to the clerk of such city or town, and paid by the treasurer thereof.

See c. 24, § 20; 98 Me. 131; 103 Me. 436; 105 Me. 418, 578; 106 Me. 147.

**Sec. 90. Preservation of trees along public ways; parkways.** 1907, c. 27, § 1. For the purpose of preserving and increasing the growth of trees on land abutting any public way, or located on uplands adjoining any navigable river or other body of water, cities and towns and the municipal officers thereof, acting pursuant to sections eighty-seven, eighty-eight, and eighty-nine, may set aside and define such land, located as aforesaid, in width not exceeding five rods; and all trees and shrubs growing on said land shall be held as for park purposes, under the exclusive care and control of park commissioners, chosen as provided in section eighty-four, and it shall be unlawful for the owner in fee of said land or any other person to injure, remove or destroy such trees or shrubs except as hereinafter provided. All proceedings relating to estimating and awarding damages provided in sections eighty-seven, eighty-eight, and eighty-nine are hereby made applicable to proceedings hereunder; and such proceedings may also be commenced upon petition in writing signed by at least thirty taxpayers owning taxable real estate in said town or city.

**Sec. 91. Land may be cleared for public ways; further award of damages; licenses to owners to make improvements.** 1907, c. 27, § 2. The preceding section shall not prevent the taking and clearing of so much of said land as may be necessary for public ways, nor abridge the right of the owner, or his tenant, to lay out a private way across the same, or to clear and improve so much thereof as may be necessary for actual building purposes, provided the written consent of the municipal officers to open such way or construct buildings thereon be first obtained; nor except as provided in the preceding section shall the provisions thereof and of this section restrict the use and enjoyment of such land by the owner thereof, or authorize any person to enter thereon, excepting municipal officers and park commissioners, and their agents, for the purposes of the preceding section. Whenever municipal officers refuse to give consent for laying out a private way or for cutting and clearing so much of said land as is necessary for immediate building purposes, when in writing requested so to do, such refusal shall be ground for a further award of damages to the owner as provided in section ninety. Park commissioners may grant written license to the owner to do such cutting and clearing on said land as is consistent with the preservation and general improvement of the growth thereon.

**Sec. 92. Failure to elect park commissioners; towns may appropriate money.** 1907, c. 27, § 3. If any city or town, having taken lands as herein

provided, fails to elect a board of park commissioners, the municipal officers shall have and exercise all the powers and duties of such commissioners. Cities and towns may appropriate money for the purposes of the two preceding sections, and said sections shall apply to every town, although containing less than one thousand inhabitants.

**Sec. 93. Penalties.** 1907, c. 27, § 4. Whoever violates any provision of sections ninety and ninety-one shall be punished by a fine not exceeding one hundred dollars, to be recovered on complaint, and shall also be liable to an action on the case, brought by the park commissioners or by a taxpayer, in the name and for the benefit of the town or city wherein said offense is committed, for all damages sustained.

### Street Sprinkling.

**Sec. 94. Appropriation for street sprinkling.** 1907, c. 188, § 1. A city may annually appropriate money for sprinkling all or a part of its public ways, or portions thereof, at its expense in whole or in part, and may determine that certain other public ways, or portions thereof, shall be sprinkled at the expense in whole or in part of the abutters thereon.

**Sec. 95. Municipal officers shall determine assessment on abutters for sprinkling of streets; proceedings.** 1907, c. 188, § 2. 1909, c. 47. 1913, c. 83. If a city, town or village corporation determines that streets or certain streets or portions of streets shall be sprinkled in whole or in part at the expense of the abutters thereon, such expense for sprinkling for a municipal year, and the proportions thereof to be borne by abutters, shall be determined by the municipal officers who after such notice as they may order shall view the abutting estates, and after hearing determine the amount to be assessed on estates abutting on such streets in proportion to the benefit secured to such abutting estates by such sprinkling. Provided, however, that if street railroads are operated upon such public ways or portions thereof as said city, town or village corporation may determine to sprinkle at the expense of the abutters, said railroads shall be assessed on the amount of space included between the outer rails and one foot beyond on each side extended such distance as such railroads operate on said way or portion thereof to be sprinkled, at the same proportionate rate as said space bears to the amount assessed in the whole space included within said limits of said public way, and provided further, that the provisions of this section as to sprinkling streets shall not apply to suburban districts, but only to thickly populated portions of a city, town or village corporation, nor to tracks laid along the side of streets or ways; and the amount assessed against a street railroad for such sprinkling in any street shall not exceed one-third of the cost of such sprinkling along the line of said railroad. Instead of paying an assessment as above provided, a street railroad may sprinkle its tracks at its own expense.

The amount of such assessment upon each estate and upon said railroad shall be determined by the municipal officers, or if said municipal officers so designate, by the board of public works, board of street commissioners, superintendent of streets or other officers, and said municipal officers or

## CHAP. 4

other officers or officer as aforesaid as soon as may be after the first day of April of each municipal year shall cause a list of such streets or portions thereof to be made, specifying each abutting estate, the length of track of street railroads on such streets to be sprinkled, and the amount determined to be assessed as aforesaid, against each abutting estate and said railroad and certify and commit said list to the assessors of taxes.

**Sec. 96. Tax shall be assessed; lien. 1907, c. 188, § 3.** The assessors shall assess the tax and shall include such assessment in the tax list and warrant committed by them to the collector of taxes for that municipal year, and it shall be included in the annual tax bill, or if the estate so assessed is otherwise exempt from taxation, it shall be rendered as a tax bill. Such assessment shall be a lien upon the estate, and shall be levied, collected, re-assessed, paid, apportioned or bear interest and become payable in the same manner as, and shall be a part of, the tax for that year on such estate; but the assessors shall make no abatement thereof except upon the recommendation of the board of officers by whom the list was certified to them.

#### Disorganized Towns.

**Sec. 97. Debts of disorganized towns collectable; so with school districts therein. R. S. c. 4, § 92.** Where towns are disorganized by a repeal of their charters, and their liabilities are excepted and reserved by the repealing act, legal service of process to collect such liabilities may be made on any inhabitant of lawful age resident in the territory included in said town, as provided for service of such process against towns; provided, that there are no legal officers in said territory on whom service can be made. This section extends to school districts in said towns so far as applicable.

See c. 86, § 19.

#### Town, Village and City By-Laws and Ordinances.

**Sec. 98. By-laws of towns, cities and villages. R. S. c. 4, § 93.** Towns, cities and village corporations may make by-laws or ordinances, not inconsistent with law, and enforce them by suitable penalties, for the purposes and with the limitations following:

36 Me. 320; 70 Me. 522; 101 Me. 512; 107 Me. 262.

I. For managing their prudential affairs, with penalties not exceeding five dollars for one offense, subject to the approval of the county commissioners, or a judge of the supreme judicial court.

See c. 16, § 63; c. 18, § 112; c. 21, § 17; c. 23, §§ 7, 10, 33-37; c. 30, §§ 1, 20, 23; 93 Me. 77.

II. For establishing police regulations, for the prevention of crime, protection of property, and preservation of good order, and to regulate the use and manner of the use of bicycles in the streets in the night time.

III. Respecting infectious diseases and health.

See c. 19, § 45, ¶ v; 100 Me. 184; 112 Me. 10.

IV. For regulating the going at large of dogs.

See §§ 109-118.

V. Respecting the measure and sale of wood, bark and coal brought to market, and teams coming therewith.

See c. 46, § 1.

VI. For setting off portions of their streets for sidewalks, keeping them clear of snow and other obstructions, regulating the use thereof, and for planting and preserving trees by the side thereof, and for the proper protection and care of public parks and squares within the same and all monuments, statues and erections thereon.

See c. 24, §§ 72, 90; 37 Me. 331; 78 Me. 31; 85 Me. 388; 104 Me. 351.

VII. Respecting the location and protection of monuments, boundary-stones, curb-stones, stepping-stones or horse-blocks, trees, lamp-posts, posts and hydrants, and all other things placed within the limits of their roads, ways and streets, by municipal authority and for legitimate municipal purposes; and no such objects placed as aforesaid, if located in accordance with such by-laws and ordinances, shall be deemed defects in such road, way or street.

VIII. Respecting the erection of buildings therein, and defining their proportions, dimensions and the material to be used in the construction thereof; and any building erected contrary to a by-law or ordinance adopted under this specification is a nuisance.

See c. 30, §§ 25-36; 102 Me. 285.

IX. For the regulation of all vehicles used therein, by establishing the rates of fare, routes and places of standing, and in any other respect; but by-laws and ordinances for this purpose shall be published one week at least before they take effect, in some newspaper printed therein, or if there is no newspaper printed therein, such by-laws and ordinances shall be posted at least one week before they take effect, in two public and conspicuous places therein, and published once in some newspaper printed in the county in which said town is situated; and penalties for their breach shall not exceed twenty dollars for one offense, to be recovered by complaint to the use of such city, town or corporation.

100 Me. 325; 93 Me. 77.

X. For protection of persons against injury from the sliding of snow and ice from roofs of buildings; but the municipal authorities shall notify the owners of the buildings of by-laws or ordinances adopted under this specification, and if such owners do not comply with them in thirty days after notice, they shall be liable for all injury sustained by any person in consequence thereof; and said authorities, at the expense of their cities, towns or corporations, may place the required guards or other obstructions on the roofs of such buildings, and the reasonable charges therefor may be recovered of such owners.

XI. Any town whose boards of assessors or selectmen consist of not more than three members each may provide by its by-laws for the election of a board of assessors and selectmen to serve for the term of three years, one member of such board being elected annually in the manner now prescribed for the election of members of the superintending school committee in towns.

1909, c. 243; 1911, c. 16. See § 13; c. 16, § 33.

XII. Cities may establish localities for, and regulate the sale of fresh meat and fish therein, and fix penalties for breach thereof.

See c. 23, § 7.

## CHAP. 4

XIII. Cities and all towns of more than one thousand inhabitants may establish and adopt by-laws and ordinances regulating the purchase and sale of articles usually bought by old junk dealers and dealers in second hand articles, and the pawning of articles with pawn-brokers, and may therein prescribe conditions to be observed by buyers and sellers, pawners and pawn-brokers, to prevent or detect the sale or purchase of stolen goods; and suitable penalties may be prescribed in such by-laws and ordinances.

1905, c. 78; 1911, c. 48.

### Police Officers.

**Sec. 99. Selectmen of towns authorized to appoint police officers. R. S. c. 4, § 94.** The selectmen of towns may appoint and shall control and fix the compensation of police officers. Such appointment shall be in writing, signed by a majority of the selectmen and recorded by the town clerk, and shall be for such time not exceeding one year as the selectmen shall determine.

**Sec. 100. Powers; removal. R. S. c. 4, § 95.** Police officers so appointed shall severally have all the powers of a constable in criminal matters, within the limits of the town, and may be removed by the selectmen when they shall deem that the interests of the town require such removal.

See c. 33, § 10; c. 85, § 58.

### Registration and Licensing of Dogs.

**Sec. 101. Assessors shall make lists of all dogs; return to treasurer of state; penalty for failure to make return. 1909, c. 222, § 2.** Assessors of taxes shall include in their inventories lists of all dogs owned by or in the possession of any inhabitant on the first day of April, setting the number and sex thereof opposite the names of their respective owners or persons in whose possession the same are found, and make a return to the treasurer of state of said lists and also of the number of dogs killed as required by section one hundred and six of this chapter on or before the fifteenth day of June following; and if any city or town fail to return to the treasurer of state on or before September first of each year, a sum of money equal to the license required by this chapter, on all dogs living on the first day of June preceding, such deficiency shall be collected in the same manner as the state tax of such delinquent city or town for the following year.

**Sec. 102. Dogs shall be annually registered, numbered and licensed; license fee; kennel license; fee for kennel license. 1909, c. 222, § 3.** Every owner or keeper, on the first day of April, of a dog more than four months old, shall annually before the tenth day of said April, cause it to be registered, numbered, described and licensed for one year commencing with the first day of April aforesaid, in the office of the clerk of the city or town where said dog is kept, and shall keep around its neck a collar distinctly marked with the owner's name and its registered number, and shall pay to said clerk for a license the sum of one dollar and fifteen cents for each male dog and for each female dog incapable of producing young so kept,

and five dollars and fifteen cents for each female dog capable of producing young.

Any person becoming the owner or keeper of a dog after the first day of April, not duly licensed as herein required, shall within ten days after he becomes the owner or keeper of said dog, cause said dog to be described and licensed as provided above.

Every owner or keeper of dogs, kept for breeding purposes, may receive annually a special kennel license authorizing him to keep said dogs for said purpose, provided he keep said dogs within a proper enclosure. When the number of dogs so kept does not exceed ten, the fee for such license shall be ten dollars and fifteen cents; when the number of dogs so kept exceeds ten, the fee for such license shall be twenty dollars and fifteen cents and no fees shall be required for the dogs of such owner or keeper under the age of six months. Dogs covered by kennel license shall be exempted from the provisions of this section requiring registration, numbering, and collaring.

93 Me. 387.

**Sec. 103. Duty of clerks.** 1909, c. 222, § 4. The clerks of cities and towns shall issue said license and receive the money therefor, and pay the same to the treasurer of their respective cities or towns within thirty days thereafter, retaining to their own use the sum of fifteen cents for each license so issued; and the said treasurer shall pay the money so received to the treasurer of state on or before September first of each year who shall credit the same to a fund called "Dog Licenses." Such clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed, and the sex, registered numbers and description of all such dogs; provided, however, that the sex, registered number and description shall not be required of dogs covered by a kennel license.

*Note.* As to the registration of dogs kept by Indians in the town of Perry, see special laws, 1899, c. 202, as amended by special laws, 1901, c. 473.

**Sec. 104. Treasurers shall keep account.** 1909, c. 222, § 5. The treasurer of each city or town shall keep an accurate and separate account of all moneys received and expended by him under the provisions of the preceding section.

**Sec. 105. Penalty for keeping unlicensed dog.** 1909, c. 222, § 6. Whoever keeps a dog contrary to the provisions of this chapter shall forfeit ten dollars, five of which shall be paid to the complainant and five to the treasurer of the town in which the dog is kept, and in addition thereto shall pay the cost of prosecution.

**Sec. 106. Warrants to be issued to officers to kill all unlicensed dogs.** 1909, c. 222, § 7. The mayor of each city and the municipal officers of each town or plantation shall annually within ten days from the first day of May issue a warrant, returnable on the first day of June following, to one or more police officers or constables, directing them to proceed forthwith either to kill or cause to be killed all dogs within said city, town or plantation not licensed, collared or enclosed according to the provisions of this chapter, and said constable or police officer shall or any other person may enter complaint against the owner or keeper thereof. On the first day of June, the mayors of cities and the municipal officers of towns and plantations shall

## CHAP. 4

issue to one or more police officers or constables a warrant returnable on the first Monday of the following February, directing said police officers or constables to kill or cause to be killed forthwith any dog not licensed or collared according to the provisions of this chapter and to enter complaint against the owner or keeper thereof.

93 Me. 388.

**Sec. 107. Return of warrant and what it shall contain.** 1909, c. 222, § 8. Each police officer or constable to whom the warrants named in the preceding section are issued, shall return the same at the times specified and shall state in his return on each warrant the number of dogs killed, the names of the owners and keepers thereof, and whether all unlicensed dogs within his precinct, have been killed, and the names of persons against whom complaints have been made under the provisions of said section. Such officers shall receive from the city, town or plantation the sum of two dollars for each dog killed, and for such other services rendered under the provisions of this chapter, they shall receive such compensation as the municipal officers may determine.

**Sec. 108. Secretary of state to forward copies of law; posting.** 1909, c. 222, § 9. The secretary of state shall seasonably forward to the clerks of the several cities, towns and plantations, copies of the seven preceding sections, and each clerk shall annually, at least twenty days before the first day of April, post said copies in the usual places of posting notices of the annual municipal or town elections.

**Sec. 109. Liability for damages by dogs.** 1909, c. 222, § 10. When a dog does damage to a person or his property, his owner or keeper, and also the parent, guardian, master, or mistress of any minor who owns such dog, forfeits to the person injured the amount of the damage done, provided the said damage was not occasioned through the fault of the person injured; to be recovered by an action of trespass.

62 Me. 279; 74 Me. 488; 75 Me. 564; 78 Me. 559; 83 Me. 568; 87 Me. 172;  
98 Me. 264; 100 Me. 25; 101 Me. 551; 110 Me. 307.

**Sec. 110. Payment of damages done by dogs and wild animals; determination of damages; recovery from owner; penalty for keeping dog that kills sheep.** 1909, c. 222, § 11. 1911, c. 40, § 1. Whenever any sheep, lambs, or other domestic animals, owned by a resident of this state are killed or injured by dogs or wild animals, such owner may make complaint thereof to the mayor of the city, or to one of the municipal officers of the town or plantation where such damage was done, within seven days after he has knowledge of the same, and thereupon the municipal officers shall investigate the complaint, and if satisfied that the said damage was committed by dogs or wild animals within the limits of their city, town or plantation, they shall estimate the damage thereof according to the full value for which they are kept, whether as breeders or for other purposes, and direct that the same with fifty per cent additional shall be paid from the town treasury. If the municipal officers and the owner of the sheep or domestic animals are unable to agree as to the amount of the damage which shall be paid, the amount shall be determined by three referees to be selected in manner following: one referee to be chosen by the municipal officers, one by the

owner of the animals injured or killed, and the third by the two referees already selected. In case one party refuses or neglects to select a referee, the other party, after thirty days from the time the notice of the aforesaid damage was given or received, shall select two referees, and the two selected shall choose the third. The said referees shall submit a written report, signed by a majority, within fifteen days from the date of their appointment, stating the amount to be paid by the town. The report of said referees shall be final and the expenses of the referees shall be divided equally between the owner of the animals and the town, city or plantation. Any town paying such damages caused by dogs may maintain an action on the case against the owner or keeper of such dogs to recover the amount paid, not exceeding the actual damage committed and fifty per cent additional. Any person who keeps a dog that kills or injures sheep or lambs shall be fined not less than fifty, nor more than one hundred dollars and costs, unless before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.

**Sec. 111. Joint owners of dogs liable jointly and severally.** 1909, c. 222, § 12. If any sheep, lambs, or other domestic animals are killed or injured by two or more dogs at the same time, kept by two or more owners or keepers, the said owners or keepers of said dogs shall be jointly and severally liable for such damage.

**Sec. 112. Reimbursement of amount paid by cities and towns.** 1909, c. 222, § 13. 1911, c. 40, § 2. When any city, town, or plantation shall have paid damages to the owners of sheep, lambs, or other domestic animals, as provided in section one hundred and ten, for losses caused by dogs, and the amount of such damages cannot be collected from the owners or keepers of said dogs, or the dog or dogs causing such losses cannot be identified, or shall have paid such damages for losses caused by wild animals, the mayor of such city, or the municipal officers of said town or plantation, shall forward to the state auditor a statement of facts in each case, showing the amount so paid, and the state shall reimburse such city, town or plantation to the amount of such damage from the fund received by said state under section one hundred and three, and so much as may be necessary is hereby appropriated to pay the same.

**Sec. 113. Expenditure of money remaining in state treasury.** 1909, c. 222, § 14. All money received by the treasurer of state as provided in section one hundred and three, and remaining unexpended at the end of the year shall be credited to the several cities, towns and plantations upon their state tax in proportion to the amount each has paid into the state treasury under the provisions of this chapter and so much thereof as remains unexpended as aforesaid, is hereby appropriated to pay the same; provided, however, that the amount to be refunded to such plantations as are taxed as wild lands shall be paid direct to the plantation treasurer instead of being credited upon the state tax.

**Sec. 114. Penalty, if officer refuses or neglects duty.** 1909, c. 222, § 15. Any mayor, selectman, clerk, constable, or police officer who refuses or wilfully neglects to perform the duties imposed by the thirteen preceding

## CHAP. 4

sections shall be punished by a fine of not less than ten nor more than fifty dollars and costs.

**Sec. 115. Liability for stealing or killing registered dog.** 1909, c. 222, § 16. Whoever steals, injures or confines and secretes any registered dog, or kills any such dog, except as provided in the following section, and unless such killing be justifiable in the protection of person, property or game, shall be liable to the owner in a civil action for the full value of the dog.

**Sec. 116. When dogs may be lawfully killed.** 1909, c. 222, § 17. Any person may at any time lawfully kill any dog found hunting or chasing moose, caribou, or deer, or any dog kept and used for that purpose. Any person may lawfully kill a dog which suddenly assaults him or another person when peaceably walking or riding, or is found worrying, wounding, or killing any domestic animal when said dog is outside of the enclosure or immediate care of his owner or keeper.

93 Me. 389; 112 Me. 362.

**Sec. 117. Written complaint of dangerous dogs at large.** 1909, c. 222, § 18. 1915, c. 166. Whoever is so assaulted or finds a dog strolling outside of the premises or immediate care of its keeper, and the said dog is not safely muzzled, may, within forty-eight hours thereafter, make written complaint before the municipal or police court having jurisdiction in the city or town where the owner or keeper resides, or in case there is no court, before a trial justice in said town, that he really believes and has reason to believe that said dog is dangerous and vicious, whereupon said court or trial justice shall order said owner or keeper to appear and answer to said complaint by serving said owner or keeper of said dog with a copy of said complaint and order a reasonable time before the day set for the hearing thereon; and if upon hearing, the court or trial justice is satisfied that the complaint is true, he shall order the dog to be killed and the owner or keeper shall pay the costs. If the dog is not killed within the time fixed by such order, the court or magistrate making said order, may, upon application by the complainant, or other person, issue his warrant directed to the sheriff of the county or any of his deputies, or to any police officer or constable in the town where the dog is found, commanding such officer forthwith to kill said dog and to make return of his doings on said warrant to the court or magistrate issuing the same within fourteen days from date thereof. The officer shall receive from the county treasury two dollars for executing said warrant, together with his legal fees for travel, and the owner or keeper aforesaid shall be ordered to pay the costs of such supplementary proceedings.

75 Me. 569.

**Sec. 118. Treble damages and costs when order is neglected.** 1909, c. 222, § 19. If a dog, whose owner or keeper refuses or neglects to comply with said order, wounds any person by a sudden assault as aforesaid, or wounds and kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs, to be recovered by an action on the case.

75 Me. 569.

**Sec. 119. Dogs in unorganized plantations.** 1909, c. 222, § 20. Dogs kept in unorganized plantations shall be licensed by their owners or keepers in the oldest adjoining plantation or town. In case there is no adjoining town or plantation, said dogs shall be licensed in the nearest town or plantation.

**Sec. 120. Jurisdiction of courts; fines, how disposed of.** 1909, c. 222, § 21. Trial justices, municipal and police courts shall have concurrent jurisdiction with the superior and supreme judicial court of all violations of the nineteen preceding sections. All fines imposed shall be paid into the treasury of the town where the offense is committed and shall be used for the benefit of the town unless otherwise provided.

### Wharves and Fish Weirs.

**Sec. 121. Application for license to build or extend wharves and fish weirs; proceedings; bond.** R. S. c. 4, § 96. 1911, c. 110, § 1. Any person intending to build or extend any wharf or fish weir or trap in tide waters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor. Upon receiving such application, said officers shall give at least three days' public notice thereof, and shall therein designate a day on which they shall meet on or near the premises described, and examine the same. If upon such examination and hearing of all parties interested, said officers decide that such erection or extension would not be an obstruction to navigation, or an injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing him to make said erection or extension, and to maintain the same within the limits mentioned in such license; the applicant for license to build or extend a fish weir or trap as aforesaid shall first give bond to the town, without sureties, in the sum of one hundred dollars, conditioned that upon the termination of such license he shall remove all stakes and brush from the location therein described.

68 Me. 259, 261; 85 Me. 120; 102 Me. 55.

**Sec. 122. License void.** 1911, c. 110, § 2. The license for the building or extension of a fish weir or trap issued under the provisions of the preceding section shall terminate and become void unless such weir or trap shall be built within one year from the date of the license and maintained and operated in good faith for some part of each year thereafter.

**Sec. 123. Waters lying between two towns.** R. S. c. 4, § 97. In any river or tide water lying between two towns or cities, no such wharf or fish weir shall be erected without the consent of the municipal officers of both; and in no case shall any wharf be extended beyond any wharf lines heretofore legally established.

85 Me. 120; 102 Me. 55.

**Sec. 124. Record; compensation to officers.** R. S. c. 4, § 98. The application and petition aforesaid, with the notice and proceedings thereon, and the license granted, shall be recorded in said town. Reasonable compensation shall be paid by said petitioner to the municipal officers for their

## CHAP. 4

services and expenses, and to the clerk for recording, and if license is granted, five dollars additional shall be paid therefor by said petitioner to said town.

85 Me. 120; 102 Me. 55.

**Sec. 125. Extension of weirs and wharves; application to herring weirs and traps.** R. S. c. 4, § 99. 1911, c. 110, § 3. No fish weir, trap or wharf shall be extended, erected, or maintained except in accordance with this chapter; and no fish weir, trap or wharf shall be erected or maintained in tide waters below low water mark in front of the shore or flats of another without the owner's consent, under a penalty of fifty dollars for each offense, to be recovered in an action of debt by the owner of said shore or flat. This section and the four preceding sections apply to all herring weirs and traps; but do not apply to other weirs or traps, the materials of which are chiefly removed annually, provided that such weirs or traps do not obstruct navigation nor interfere with the rights of others. This section shall not affect any wharves so erected or maintained on the twenty-first day of April, nineteen hundred one.

85 Me. 118; 91 Me. 352; 97 Me. 357, 464; 102 Me. 55.

## Harbor Masters.

**Sec. 126. Appointment of harbor masters; compensation.** R. S. c. 4, § 100. Selectmen of towns, on request by any person desiring mooring privileges or regulation of mooring privileges for boats or vessels, shall annually appoint a harbor master who shall be subject to all the duties and liabilities of said office as prescribed by law, and in case of the failure or refusal of said harbor master to perform said duties, he shall be subject to a fine of twenty-five dollars, for the benefit of the town, for each wilful neglect or refusal to attend the same. The selectmen may establish his compensation and may for cause by them declared in writing, after due notice to such officer and hearing thereon, if requested, remove him and appoint another in his stead.

*Note.* Appointment of harbor master and pilots for the harbor of Portland, P. & S. Laws, 1915, c. 184.

**Sec. 127. Rules for channel lines.** R. S. c. 4, § 101. 1905, c. 60. The municipal authorities of all maritime towns and plantations shall make rules and regulations for the keeping open of convenient channels for the passage of vessels in the harbors and waterways of the towns for which they act, and shall establish the boundary lines of such channels, and assign suitable portions of their harbors for anchorages.

**Sec. 128. Enforcement of rules.** R. S. c. 4, § 102. Such rules and regulations as may be made by such municipal authorities shall be enforced and carried out by the harbor master of said town, who may appoint a deputy to act in case of his absence or disability.

**Sec. 129. Harbor masters shall indicate location in which vessels shall be moored.** R. S. c. 4, § 103. In all harbors wherein channel lines have been established by the municipal authorities, as provided in section one hundred and twenty-seven, and in all other harbors where mooring rights of individuals are claimed to be invaded and protection is sought of the harbor

master, he shall assign and indicate to the master or owner of boats and vessels the location which they may occupy with or for mooring purposes, the kind of mooring to be used, and shall change the location of said moorings from time to time when the crowded condition of such harbor or other conditions render such change desirable; he shall assign mooring privileges in such waters in all cases where individuals who own the shore rights or have an interest in the same are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently as the case may be, fronting their land, if so requested, but not thereby to encroach upon the natural channel, or channels established by municipal authorities. The municipal officers shall fix the compensation of the harbor master for such services rendered.

**Sec. 130. Penalty for neglecting to remove or replace moorings.** R. S. c. 4, § 104. In case of the neglect or refusal of the master or owner of any boat or vessel, to remove his mooring or to replace it by one of different character, when so directed by the harbor master, said harbor master shall cause said mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner of such boat or vessel the sum of two dollars for either of such services rendered, and also the necessary expenses.

**Sec. 131. Vessels obstructing anchorage shall be removed by harbor master.** R. S. c. 4, § 105. Such harbor master shall, upon complaint to him by the master, owner or agent of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel to remove to a position to be designated by him, and to cause, without any complaint being made to him, any vessels anchoring within the channel lines as established by the municipal authorities as provided in section one hundred and twenty-seven to remove to such anchorage as he may designate.

**Sec. 132. May put crew on board to move vessel to suitable berth.** R. S. c. 4, § 106. If such vessel has no crew on board, or if the master or other person in charge neglects or refuses to move such vessel as directed by the harbor master, then and in that case such harbor master may put a suitable crew on board and move such vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners thereof, and shall charge two dollars, to be paid by the master or owner of such vessel, which charge together with the cost of the crew for removing such vessel the harbor master may collect by suit.

**Sec. 133. Harbor master may arrest for assault.** R. S. c. 4, § 107. Harbor masters may arrest and deliver to the police authorities on shore any person committing an assault upon them or another person acting under their authority.

#### Town Lines.

**Sec. 134. Perambulation of town lines every five years.** R. S. c. 4, § 108. Lines between towns shall be run once every five years, except as mentioned in the two following sections. The municipal officers of the oldest town shall give ten days' notice in writing to such officers of the adjoining towns of the time and place of meeting for perambulation; and each officer who

## CHAP. 4

neglects to notify or attend in person, or by substitute, forfeits ten dollars, two-thirds to the town which complies with its duty, and one-third to any two or more of said officers of the town complying, to be recovered within two years after the forfeiture is incurred; and the proceedings of such officers, after every such renewal of boundaries, shall be recorded in their town books.

56 Me. 30.

**Sec. 135. Monuments may be erected at angles; perambulation every ten years.** R. S. c. 4, § 109. Towns, which have perambulated, or shall perambulate their lines as by law prescribed, and set up stone monuments, at least two feet high, at all the angles, and where the lines cross highways, or on or near the banks of all rivers, bays, lakes or ponds, which said lines cross, or which bound said lines, are exempt from the duty of perambulating said lines, except once every ten years, commencing ten years from the time that the stone monuments were so erected.

**Sec. 136. Disputed town lines; compensation of commissioners.** R. S. c. 4, §§ 110, 111. When a town petitions the supreme judicial court, stating that a controversy exists between it and an adjoining town respecting a town line, and praying that it may be run, the court, after due notice to all parties concerned, may appoint three commissioners, who shall, after giving notice of the time and place of meeting, to all persons interested, ascertain and determine the lines in dispute, and describe them by courses and distances, and make, set and mention in their return, suitable monuments and marks for the permanent establishment thereof, and make duplicate returns of their proceedings; one of which shall be returned to the court, and the other to the office of the secretary of state; and such lines shall be deemed in every court and for every purpose the dividing lines between such towns. The court may allow the commissioners a proper compensation for their services, and issue a warrant of distress for its collection from said towns in equal proportions.

53 Me. 325; 65 Me. 201-3; 66 Me. 354; 70 Me. 179; 76 Me. 30; 79 Me. 172;  
84 Me. 178; 89 Me. 214; 90 Me. 235.

## Plantations.

**Sec. 137. Census of larger unincorporated townships, duty of co. com'rs respecting.** R. S. c. 4, § 113. Commissioners of counties containing unincorporated townships, shall, at the expiration of every period of five years from March, eighteen hundred and sixty-one, determine from the United States census, when taken the preceding year, and by actual enumeration when not so taken, what townships have not less than two hundred inhabitants, and make a suitable description and designation thereof, and return them to the secretary of state, to be by him recorded.

See c. 29, § 31; 56 Me. 31; 64 Me. 267.

**Sec. 138. Organization of such townships.** R. S. c. 4, § 114. Immediately after making such return, said commissioners shall issue their warrant to one of the principal inhabitants of each of such unincorporated townships, commanding him to notify the inhabitants thereof qualified to vote for governor, to assemble on a day and at a place named in the warrant, to

choose a moderator, clerk, three assessors, treasurer, collector of taxes, constable, superintending school committee and other necessary plantation officers. Notice of such meeting shall be given by posting an attested copy of the warrant therefor in two public and conspicuous places in the township fourteen days before the day of meeting. The warrant with such inhabitant's return thereon shall be returned to the meeting, and the above named officers shall be chosen and sworn.

40 Me. 223; 56 Me. 31; 64 Me. 265-6; 76 Me. 453.

**Sec. 139. Organization of less populous townships.** R. S. c. 4, § 115. 1905, c. 2. But any unincorporated or unorganized place containing any number of inhabitants may be organized as follows: one or more of the county commissioners on written application, signed by three or more persons qualified to be voters, inhabitants of any unincorporated or unorganized place in their county, may issue a warrant to one of them, requiring him to warn a meeting of the voters of such place residing within the limits described in the warrant; or, when a state or county tax is laid on such place, the treasurer of state or said commissioners without application therefor, may issue such warrant to one of the principal inhabitants of such place; and in either case the warrant, notice of meeting, and proceedings therein shall be the same as provided in the preceding section.

See c. 10, § 104; 40 Me. 218; 64 Me. 265-6; 83 Me. 367.

**Sec. 140. Proceedings at meeting for organization under the two preceding sections.** R. S. c. 4, § 116. At the time and place appointed for meetings for the organization of plantations under the two preceding sections, a moderator shall be chosen by ballot by the voters present, to preside at such meeting, and the person to whom the warrant was directed shall preside until such moderator is chosen and by such person sworn. A clerk, three assessors, treasurer and superintending school committee, shall be chosen by ballot, and sworn by the moderator or a justice of the peace. Other plantation officers may be chosen by ballot, or other method agreed on by vote of the meeting, and shall be sworn as above named.

76 Me. 458; 93 Me. 493.

**Sec. 141. Copy of proceedings and description of plantation, to be forwarded to sec'y of state; liability for state or county taxes.** R. S. c. 4, § 117. Upon the organization of a plantation, the clerk and assessors shall transmit to the secretary of state, to be by him recorded, a certified copy of all proceedings had in effecting such organization, including the petition, if any, the warrant issued therefor and the return thereon, and the record of the meeting held in pursuance thereof, and a written description of the limits of the plantation; and thereupon all laws applicable to organized plantations shall apply to plantations organized as herein provided; but plantations organized upon applications of three or more citizens as above provided, shall not be required to pay state or county taxes unless by special order of the legislature.

40 Me. 218; 76 Me. 458.

**Sec. 142. Annual meeting.** R. S. c. 4, § 118. Organized plantations shall hold their annual meeting in March, and choose a clerk, three assessors, treasurer, collector of taxes, constable, superintending school committee,

## CHAP. 4

one or more surveyors of lumber, and two or more fence viewers; and when money is raised for repair of ways and bridges, the assessors of such plantation shall choose one or more road commissioners, as selectmen of towns do.

See § 16; c. 10, §§ 101, 107; c. 24, § 48.

**Sec. 143. Plantation officers' names to be returned to secretary of state; otherwise, no election blanks to be forwarded to such plantation and no votes to be counted.** R. S. c. 4, § 119. Clerks of organized plantations shall make return to the secretary of state on blanks by him furnished for that purpose, on or before the first day of September, annually, of the names of the assessors and clerks of their several plantations, and that the same have been sworn. When such return is not made by any such plantation, the secretary of state shall not furnish it with blanks for election returns, and no votes purporting to be cast by such plantation shall be counted or allowed by the governor and council. When a plantation is organized after the first day of July, such return is not required to be made by the clerk thereof during that year; but the votes of such plantations shall not be counted or allowed by the governor and council for any purpose, during the year of its organization, unless it is organized at least sixty days prior to the second Monday in September.

**Sec. 144. Laws for town officers apply to plantation officers.** R. S. c. 4, § 120. Laws relating to calling, notifying and conducting town meetings, and to the election, appointment, qualification, duties, powers, compensation, liabilities and penalties for official neglect and misconduct of town officers, apply to plantations and their officers, so far as applicable thereto, except when specially otherwise provided. Voters in plantations are liable to the same penalties for unlawful voting as voters in towns.

As to calling meetings and choice of officers, see §§ 2 to 37. As to elections in plantations, see c. 6, §§ 3, 12; c. 7, §§ 75-79. As to penalties, see § 32, also c. 7, §§ 99-123, c. 10, §§ 101 to 104; c. 11, §§ 17, 58; 56 Me. 31.

**Sec. 145. Duties of plantation officers.** R. S. c. 4, § 121. Assessors of plantations shall be considered the selectmen thereof, for the purpose of performing such duties as selectmen of towns perform. Treasurers, collectors and constables of plantations, shall give such bond as such officers of towns are required to give, to be approved in like manner. The valuation of property for the assessment of taxes in plantations, as well as the assessment, collection and disposal thereof, shall be the same as in towns.

20 Me. 298.

**Sec. 146. The first assessors to return to county commissioners an inventory of polls and estates; corrected and forwarded to treasurer of state for basis of taxation.** R. S. c. 4, § 122. The assessors first chosen in plantations organized under section one hundred and thirty-eight, shall immediately take an inventory of the polls and valuation of the property therein, as the same are taken in towns, and return them on or before the fifteenth day of May following their election, to the county commissioners of their county, who may examine and correct the same so as to make it conform to the last state valuation, and return a copy of such corrected valuation to the treasurer of state, and thereupon their ratable proportion according to such valuation, of all state and county taxes, shall be assessed on such

plantations in the same manner as on towns; and such plantations, and also such as may by special order of the legislature be required to pay state or county taxes, may raise money by taxation for making and repairing ways in compliance with chapter twenty-four, sections forty-eight and one hundred and eight. Such inventory and valuation in any plantation shall be so taken, corrected and returned to the treasurer of state, whenever required by him.

20 Me. 298.

**Sec. 147. Power to raise and expend money for schools, poor, etc.** R. S. c. 4, § 123. All plantations may raise and expend money for the support of schools, and making and repairing school-houses, as provided in chapter sixteen, sections sixteen, one hundred and thirteen and one hundred and fourteen; for support of the poor, as provided in chapter twenty-nine, section forty-six; and sums necessary for legal plantation expenses.

See c. 10, §§ 101 to 107; 7 Me. 125, 133; 14 Me. 24; 20 Me. 298; 52 Me. 595, 598; 54 Me. 250.

**Sec. 148. Organized plantations to consist of one township.** R. S. c. 4, § 124. Organized plantations shall not be composed of more than one township; and when organized under section one hundred and thirty-eight, former organizations cease.

**Sec. 149. First valuation of towns to be forwarded to co. com'rs, and copy sent to treasurer of state.** R. S. c. 4, § 125. When towns are incorporated, the assessors thereof shall return to the county commissioners of their county the original valuation first taken in their towns, on or before the fifteenth day of May next following their incorporation, and said valuation shall be examined, corrected and a copy thereof returned to the treasurer of state, to become the basis of state and county taxes in the same manner as the valuations of plantations, as provided in section one hundred and forty-six.

**Sec. 150. If assessors neglect, the co. com'rs shall appoint assessors to return the valuation.** R. S. c. 4, § 126. If such valuation is not made and returned by any town or plantation within the time specified, the county commissioners shall appoint three suitable persons of the county to be assessors therein, who shall be sworn and make and return the inventory and valuation required, within the time fixed by said commissioners; and such valuation shall be examined, corrected and a copy thereof returned to the treasurer of state and become a basis for the assessment of state and county taxes, in the same manner as if the valuation had been taken by the assessors chosen by said town or plantation.

**Sec. 151. Such assessors to be paid by the county commissioners.** R. S. c. 4, § 127. Assessors appointed under the preceding section, shall be paid from the county treasury a reasonable compensation for their services, to be determined by the county commissioners, and any sum so paid shall be added to the county tax apportioned to such town or plantation, and shall be collected and paid into the treasury in the same manner as county taxes.

## CHAP. 4

Sec. 152. Plantations may be reorganized. R. S. c. 4, § 128. Plantations organized upon application of three or more inhabitants, may at any time be reorganized under this chapter.

Note. Election of school committee, c. 16, § 32; of superintendent of schools, c. 16, § 37; of fire wards, c. 30, § 6.

Duties of municipal officers as to lists of voters, c. 5, § 35 et seq; as to elections, c. 6, § 35 et seq; as to forest fire wardens, c. 8, § 29; as to armories, drill rooms and target ranges, c. 15, §§ 90-93; as to licensing auctioneers, c. 41, § 1; pawnbrokers, c. 42, § 1; as to intelligence offices, c. 42, §§ 6, 11; innholders and victualers, c. 31, § 1; public exhibitions, c. 32; as to cultivation of clams, c. 46, § 52; sale of fire-works, c. 130, § 16; appointment of inspectors of flour, c. 44, § 1; inspectors of milk, c. 37, § 12; measurers of salt, corn and grain, c. 48, § 23; inspectors of oils, c. 44, § 25; inspectors of leather, c. 44, § 9; sealers of weights and measures, c. 48, § 5; inspectors of meters, c. 60, § 20.

Municipal officers may enlarge burying-grounds, c. 21, § 8; may direct location of certain trades, c. 23, § 7; c. 30, § 12; shall license engineers of steam plants, c. 23, § 28; may examine defective chimneys and dangerous buildings to guard against fire, or other casualty, c. 30, §§ 13, 34; c. 23, §§ 33-37; may make regulations for keeping explosives and illuminating substances, c. 30, § 20; shall appoint inspector of buildings, c. 30, § 25; shall license erection of steam and gasoline engines, c. 23, § 21; shall enforce law as to dairy products, c. 37, § 6.

Duties of municipal officers to maintain highway monuments, c. 24, § 11, and guide-boards, c. 24, § 108; as to railroad bridges and crossings, c. 56, § 66; as to gates at railroad crossings, c. 56, § 73; as to permits for opening streets, c. 60, § 12; as to permits for erection of poles and wires in streets, c. 60, § 27; as to jury list, c. 111, § 1; as to unlawful assemblies, c. 125, § 12; as to gambling houses, c. 127, § 1.

Towns: May make by-laws as to truants, c. 16, § 63; may establish workhouses, c. 143, § 1; town houses of correction, c. 143, § 7; regulations for taking clams, c. 45, § 59; liability of, for neglect to maintain ferries, c. 27, § 2.

Town treasurer: Duties of, as to standard weights and measures, c. 48, § 4; as to jury list, c. 111, § 1.

Town clerk: Shall forward to state library copies of town reports, c. 3, § 15; shall communicate name of town treasurer to state auditor, c. 4, § 47; shall not draft any instrument which he is required by law to record, c. 12, § 14; shall keep record of births, deaths and marriages, c. 64, §§ 27 and 33; shall notify secretary of local board of health, of any death from tuberculosis, c. 64, § 23; duties as to jury list and draft of jurors, c. 111, §§ 1 and 11.

Assessors: Duties of, as to registration of voters in cities, c. 5, § 9 et seq; as to list of voters in towns, c. 5, § 34; to make enumeration of poultry, c. 9, § 16; to make returns of owners of motor vehicles, c. 26, § 40; to keep record of pure blood cattle kept for breeding purposes, and report to live stock sanitary commissioner, c. 35, § 16; to enforce law as to dairy products, c. 37, § 6; as to itinerant vendors, c. 41, §§ 11-27; as to return of births, c. 64, § 32.

Collector: Duty of, as to itinerant vendors, c. 41, §§ 11-27.

Municipal corporations: Provisions for weekly payment of wages apply to, unless otherwise requested, c. 49, § 34.

Accounts against towns, cities or village corporations to be verified by oath, if required, c. 114, § 10.

## CHAPTER 5.

### The Qualification and Registration of Voters.

#### Qualification of Voters.

**Sec. 1. Citizenship.** R. S. c. 5, § 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.

**Sec. 2. Qualification of voters.** R. S. c. 5, § 2. Every male citizen who had the right to vote on the fourth day of January, eighteen hundred and ninety-three, together with those who were sixty years of age and upwards on said day, and every other male citizen, excepting paupers, persons under guardianship, and Indians not taxed, who, not being prevented by physical disability from so doing, is able to read the constitution of the state in the English language, in such manner as to show that he is neither prompted nor reciting from memory, and to write his name, and who is twenty-one years of age or upwards, and shall have his residence established in this state for the term of three months next preceding any national, state, city or town election, shall have the right to vote at every such election in the city, town or plantation where his residence is so established; provided, however, that his name has been properly entered upon the voting list of such city, town or plantation.

See Const. of Me. Amend. xxix. See § 19

**Sec. 3. Voter claiming exemption from educational test shall make declaration under oath.** R. S. c. 5, § 3. Any applicant for registration as a voter, claiming exemption from the educational test recited in the preceding section, except those exempted by the provisions of said section, shall declare under oath, that he was a legal voter in this state on the fourth day of January, eighteen hundred and ninety-three, and, if required so to do, shall furnish such other reasonable evidence of the truthfulness of his statement as may be satisfactory to the officers whose duty it is to prepare voting lists.

#### Boards of Registration.

**Sec. 4. Appearance in person to register; where person qualified shall vote.** R. S. c. 5, § 4. Every person whose name has not been entered upon the voting lists in any city in accordance with the provisions hereof, must, if he desires to vote, appear in person at a place provided for registration and prove that he possesses all the qualifications of a voter. Every person qualified to vote, as hereinbefore provided, shall vote only in the ward of the city, and voting precinct thereof, if any, in which he had his residence on the first day of April preceding, or of his becoming an inhabitant after said day.

113 Me. 489.

## CHAP. 5

**Sec. 5. Boards of registration; municipal officers in small cities shall make list of voters.** R. S. c. 5, § 5. 1913, c. 61. In each city of the state having thirty-five hundred or more inhabitants, a board of registration appointed as provided in the following section shall have exclusive power and authority to make up, correct and revise the list of voters in each of said cities. In all cities having less than thirty-five hundred inhabitants, the municipal officers shall make such list, exercising the same powers and being governed by the same laws as municipal officers of towns having five hundred or more registered voters; provided that no city having a board of registration shall be deprived of said board of registration by reason of the population thereof becoming less than thirty-five hundred.

84 Me. 64.

**Sec. 6. Number, appointment, terms and qualification of members; nominations; vacancies; majority may act.** R. S. c. 5, § 6. Such board shall consist of three members who shall be residents and legal voters of the city where such board is established; they shall not hold or be eligible to any state, county or city office however elected or appointed thereto so long as they shall continue members of said board. One member of said board shall be appointed and commissioned by the governor, by and with the consent of the council, for the term of four years. The other two members of the board shall be chosen one from the political party polling the highest number of votes for governor at the next preceding state election, and one from the political party polling the next highest number of votes for governor at said election; they shall each hold their office for the term of three years; each shall be nominated by the city committee of his own political party, and upon due notice thereof in writing, the several mayors of said cities shall forthwith appoint such persons, so nominated, members of said board. If either or both of said political parties, refuses or neglects to seasonably nominate a member of such board and to notify the mayor of such city, said mayor shall thereupon select and appoint a member of said board from the political party so neglecting and refusing to nominate, and said mayor shall so appoint in all such cases of vacancy, whether caused by death, resignation, declination, neglect or refusal to act after being so appointed, or by election or appointment to any state, county or city office, or however such vacancy may be caused; but in cases of necessity arising from the exigency of the public business, the other two members may proceed therewith as provided by this chapter until such vacancy shall be filled in the manner provided herein. And if any member of said board be absent or disqualified by sickness or otherwise, such mayor shall upon notice thereof forthwith fill his place by the appointment of some qualified elector of said city of the same political party as the absent member represents, to act in his absence.

**Sec. 7. Chairman, powers and duties.** R. S. c. 5, § 7. The person appointed and commissioned by the governor shall preside at all meetings of the board, but shall not vote therein except in case of a tie. He shall give notice of the time and place of the sessions of the board and sign all orders and processes issued by the same. If he is necessarily absent or disqualified by sickness or otherwise during any session of said board, the

mayor of said city shall upon notice thereof, immediately appoint a qualified elector of the city, who shall be of the same political party as said chairman, to act in his absence.

**Sec. 8. Exclusive power to determine qualifications of voters. R. S. c. 5, § 8.** Said board shall have the exclusive power and authority to hear evidence and determine the qualification of voters in the city in which it is established. The presiding officer, at the request of any member shall cause any party or witness appearing before the board to be sworn; any member of the board may administer oaths; and the board shall have power to compel the attendance of witnesses; to punish for contempt; and to issue all processes necessary to the performance of the duties of the board.

**Sec. 9. Assessors required to make true lists of all persons liable to pay poll-tax; corrections. R. S. c. 5, § 9.** The assessors of any city, by one or more of their number or by one or more assistant assessors, shall in the months of April and May in each year, visit every building in their respective cities and make true lists containing as near as can be ascertained from any owner or occupant thereof, the name, age, occupation and residence on the first day of April in the current, and his occupation and residence on the first day of April in the preceding year, or of his becoming an inhabitant after said last named day, of every male person twenty-one years of age and upwards, residing therein and liable to be assessed for a poll-tax; and shall ascertain if any such person has within the year next preceding the first day of April of the current year moved from said building out of said city and taken up his residence elsewhere, and shall make diligent inquiries and true record concerning all matters required of them in this section. They shall make correction of any error in the name or place of residence of a person assessed, on his personal application therefor, and on proof of the same, shall make proper correction thereof on their books.

**Sec. 10. Shall transmit lists to boards of registration; street lists, how arranged. R. S. c. 5, § 10.** The assessors shall promptly on or before the first day of July in each year, transmit to the boards of registration, the lists so made, or certified copies thereof, noting therein every change of name or residence of persons assessed a poll-tax by them, and on or before said first day of July in each year, shall prepare street lists containing the name of every person assessed by them, or who has moved out of said city. Such lists shall be arranged by wards or voting precincts, if any. They shall prepare a copy of said street lists and deliver the same to their respective boards of registration on or before the fifteenth day of said July.

**Sec. 11. Street lists, contents; boards shall enter on voting lists, name of every person assessed a poll-tax; shall notify assessors of errors. R. S. c. 5, § 11.** The assessors shall, in said street lists, arrange all buildings used as residences in the order in which they stand on the street or other place, by giving their number or other definite description; so that each building can be readily identified, and shall place opposite or under each number, as near as can be ascertained, the name, age, occupation and place of occupation of every person residing in said building on the first day of April of the current year and assessed a poll-tax, with his residence on the first day of April of the preceding year or on the day of his becoming an

## CHAP. 5

inhabitant after said last named day. And said board of registration shall enter on the voting lists the name of every person assessed a poll-tax for the current year, as transmitted to them by the assessors, provided, every such name can be identified as having been borne upon the voting lists of the last preceding election. Each board of registration shall promptly transmit to the assessors of its city, notice of any error in the name or residence of a person assessed, together with the name and residence of every male citizen who shall prove for the purposes of registration that he was a resident of the city on the first day of April of said current year, but whose name does not appear on the list transmitted to said board by said assessors.

**Sec. 12. Penalty for wilfully making false entry of name.** R. S. c. 5, § 12. Any assessor or assistant assessor, who shall knowingly or wilfully enter or cause to be entered on any list of assessed polls, the name of any person as a resident of any building, who is not a resident thereof, shall for each such offence be punished by a fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

**Sec. 13. Penalty for refusing or neglecting to give full and true information.** R. S. c. 5, § 13. Any inmate of a building liable to be assessed for a poll-tax, who shall refuse or neglect to give his true name when inquired thereof by any assessor or assistant assessor, and any owner or occupant of a building who shall refuse or neglect to give full and true information within his knowledge relating to all persons residing in such buildings, when inquired thereof by any assessor or assistant assessor, or who shall knowingly or wilfully give to an assessor or assistant assessor for the purpose of the assessment of a poll-tax, the name of any person as a resident of a building, who is not a resident therein, shall be punished for each offence by fine not exceeding one hundred dollars or by imprisonment not exceeding six months.

**Sec. 14. Boards shall keep register of all voters.** R. S. c. 5, § 14. Boards of registration shall keep a general register of voters containing the names and records of all voters entered from year to year on the voting lists under the provisions of this chapter, giving the full christian name and the surname, or the full name or initial or initials of any other name or names he may have, date of registration, residence on the first day of April of the year of registration or on the day of his becoming an inhabitant after said first day of April, age, place of birth, occupation, place of occupation, how long resident of the city, place of casting his last vote, married or single, residence of wife or family, where naturalized, when naturalized, in what court, arranged under the following heads. When registered, ; name, ; residence, street and number, ; residence April first, street and number, ; place of birth, ; age, ; date of birth, ; occupation, ; place of business, ; how long a resident of city, ; where last vote was cast, ; married or single, ; residence of wife or family, ; where naturalized, ; when naturalized, ; by what court, ; remarks.

**Sec. 15. Applicants for registration must be able to read in the English language. R. S. c. 5, § 15.** An applicant under examination for registration shall be required, unless prevented by physical disability from so doing, or unless he had the right to vote, on the fourth day of January, eighteen hundred and ninety-three, or unless he was sixty years of age and upwards on said day, to read in the English language other than the title, so much as may be necessary, from an official edition of the constitution, in such manner as to show that he is neither prompted nor reciting from memory, and to write his name in a book kept for the purpose. The name of the applicant if admitted to registration, shall be announced in a clear, audible and distinct voice before entering his name on the register.

**Sec. 16. Requirements made of applicant, who is a naturalized citizen. R. S. c. 5, § 16.** In making examination of an applicant, who is a naturalized citizen, he shall be required to produce for inspection his papers of naturalization, or a certificate of the same from the court where he was naturalized, and to make oath that he is the identical person mentioned therein, and said board if satisfied that he has been legally naturalized, shall make a record or memorandum upon said paper of the date of such inspection and enter it upon the general register, and also, in a book kept for the purpose, the name and location of the court by which said papers were issued, with the date thereof and the date of said inspection, together with the name of said applicant as it is spelled and recorded in said papers, which need not again be produced before said board for examination after they have once been passed upon and the above minutes thereof recorded on the papers and in the general register.

**Sec. 17. Meetings of board shall be public; record of names added to or stricken from lists. R. S. c. 5, § 17.** All meetings of said board of registration shall be open and public, and shall close on each day at nine o'clock in the afternoon, except as hereinafter provided. A record shall be kept of all names added to or stricken from the voting lists and of all other proceedings of said board. No name shall be added to or stricken from said voting lists except during the open sessions of said boards.

**Sec. 18. Shall prepare lists of voters, thirty days before election; certified copy shall be furnished city clerk, and posted; in case of special election, new lists not required. R. S. c. 5, § 18.** Said boards of registration shall prepare ward lists of voters of such persons as appear to them to be legally qualified voters, at least thirty days before any election to be held for any purpose, by placing upon such lists all the names which appear upon the voting lists for the last preceding election, except the names of such persons as have died or ceased to reside therein, or shall appear to said board to have otherwise become disqualified to vote therein since said preceding election, but no new name shall be added during such preparation; nor any other correction or revision of said list, except the correction of errors discovered to have been of the board's own making. And a certified copy of all such lists made in accordance with this section, shall be furnished to the clerk of such city by said board at least thirty days prior to any such election, and said clerk shall post said certified copies of said lists of voters in their respective wards, at or near the several voting places, customarily

## CHAP. 5

used as such in said cities, at least twenty-seven days prior to any such election, provided, however, that in case of a failure to elect any municipal officer at any election, or any person elected declines to serve, so that a special election is held to fill the vacancy, or in case of a special election to choose representatives to congress or members of the legislature, the board shall not be required to prepare, or the city clerk to post a new list of voters, and for this purpose said board shall be in session the three secular days next preceding said election, the first two thereof to be devoted to registration of voters, and the last of said secular days to enable the board to verify the correctness of said lists and to complete and close up its records of said sessions.

See c. 7, §§ 40, 66, 70.

**Sec. 19. Sessions of boards; names shall be placed upon lists only by personal request; voter who moves into another ward, not required to appear before board to have name transferred; names shall not be added or stricken from lists on election day; voter may be allowed to vote, whose name has been erroneously omitted from list.** R. S. c. 5, § 19. Said boards of registration shall be in session from nine in the forenoon to one o'clock in the afternoon, and from three to five o'clock in the afternoon and from seven to nine o'clock in the afternoon, in cities of not less than nineteen thousand inhabitants, on each of the twelve secular days next prior to any election; on the first nine of said secular days, to receive evidence touching the qualifications of voters therein, and to revise and correct the voting lists, and on the latter three of said secular days, to enable the board to verify the correctness of said lists and to complete and close up its records of said sessions. And in all other cities, for the same purpose, and at the same hours on each of the five secular days next prior to any election, the first four thereof to be devoted to registration as above, and the last one of said secular days to enable the board to verify the correctness of said lists and to complete and close up its records of said sessions. And on the last of said secular days, at five o'clock in the afternoon, certified copies of said voting lists shall be delivered to the clerks of said cities and receipts taken therefor, except that on the last of said days devoted to registration and on the last of said days devoted to the records as above, the sessions of the board shall close at five o'clock in the afternoon, but no name shall be added to or stricken from said lists after five o'clock in the afternoon of the last of said days devoted to registration as above. Said board shall not place upon said lists during said revision of the same, the name of any person who shall not personally appear before said board and request it, and during said time said board shall revise and correct the voting lists. Nothing in this chapter shall be so construed as to require any voter, whose name is already upon any ward list and who afterwards moves from said ward to any other ward in said city, to appear personally before said board during the revision of the list in order to transfer his name from one ward list to another. The wardens of cities shall be governed by said revised and corrected lists; and no names shall be added to or stricken from said lists on the day of election, and no person shall vote at any election whose name is not on said lists. No board of registration shall be answerable for

any omission of a name or residence from the voting lists or for any error in the same, unless such name and residence are correctly entered in the general register of voters; but on the day of election said board shall be in session, and shall give to any registered voter whose name has been omitted from the voting list, or in whose name or residence as placed on said voting list a clerical error has been made, a certificate signed by a majority of the board, giving the corrected name and residence of such person, and directed to the officer presiding over the election; such officer shall on receipt of such certificate, allow the person therein named to vote and shall check his name on the certificate, and securely attach the certificate to the voting list.

**Sec. 20. Proceedings, when any person's right to vote is challenged; when voter changes residence, he shall notify city clerk; record of changes.** **R. S. c. 5, § 20.** When the right of any person to have his name placed upon such list is challenged by any qualified elector, or when the right of any person to have his name remain upon such list is so challenged, before said board shall add to or strike from said list the name of any such person, they shall issue a notice and summons to said person so challenged and allow him a reasonable opportunity to be heard. Such notice and summons shall be served upon such person by an officer selected by the board, by giving him in hand or by leaving at his last and usual place of abode, an attested copy of said notice and summons, at least six hours before the closing of the final session of the board devoted to the revision and correction of the voting lists. Said person and said board may also summon and examine other witnesses before said board concerning his right to vote, and if it appears to said board that such person is not or will not be qualified to vote at such election, they shall cause his name to be erased from said list and not add it thereto. And the list of voters in cities made under this chapter shall state the street, and so far as practicable, the number of the street where each voter resides. The residence of a voter as stated upon the list of voters used at the last preceding election, shall be deemed his last and usual place of abode, unless he shall have given notice in writing, over his own signature, or in person to the city clerk of a change of his residence, which notice, if given after the first day of April, shall entitle him to have his residence so corrected on the voting list to be used at the next subsequent election, but shall not entitle him to have his registration otherwise changed nor to vote in ward or precinct other than that in which he resided on said first day of April. Said clerk shall keep a record of all notices of change of residence, which record shall at all times be open to public inspection.

**Sec. 21. Clerks of cities shall be custodians of records; duties; penalty for neglect.** **R. S. c. 5, § 21.** The clerks of cities shall be custodians of the records of said boards and of the revised and corrected lists of voters prepared by said boards for use at any election, and shall seasonably transmit to the wardens of cities a true and attested copy of such lists for their use on election day; and said clerks shall keep said lists one year and furnish certified copies thereof on application of any person and payment therefor, within ten days thereafter; for failure so to do they shall be pun-

**CHAP. 5**

ished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year. The wardens and ballot clerks shall certify on said voting lists that they are the lists used by them respectively at said elections.

**Sec. 22. Compensation of members of board. R. S. c. 5, § 22.** The president of such board shall receive five dollars for each day that the board shall be in session for the revision and correction of the voting lists and for completing the records thereof, and the other two members of said boards shall receive four dollars a day for such time. They shall also receive compensation not exceeding five dollars a day, to be fixed by the city council for such time as they are necessarily employed in making up and preparing such lists of voters, together with reasonable and necessary expenses including blank books, stationery and the necessary assistance of clerks, all of which shall be paid by the city where such board is established, and each of said cities shall provide a suitable place for holding the sessions of said board, and pay for the services of such officers as said board may employ and have in attendance to preserve order and execute its precepts. All witness fees shall be paid at the established rates of fees before municipal courts.

**Sec. 23. Notice of meetings. R. S. c. 5, § 23.** Notices of the time and place of the sessions of such board to revise and correct said voting lists, shall be given by the president thereof and posted by the clerks of said cities at the same time and place as are the certified copies of the lists of voters; and the voting lists as revised and corrected by said board of registration shall be used at each election held in said cities in the several wards thereof.

**Sec. 24. Right of challenge; person challenged shall state place of birth, occupation, business, etc.; penalty. R. S. c. 5, § 24. 1913, c. 163.** Any qualified elector in said cities may challenge the right of any person to vote in any ward of said cities at any election held therein and shall be given the opportunity by the presiding officer thereof, to make such challenge, and such presiding officer shall note the fact of such challenge upon the voting list used in such ward. But before permitting a person so challenged to vote the warden shall cause him to state his place and date of birth; occupation; place of business; whether married or single; if married, the name and residence of his wife; how long a resident of the city, and where his last vote was cast, which answers shall be reduced to writing on blanks furnished for that purpose by the city clerk, and signed by the voter, whose signature shall be witnessed by two election officers representing two different parties. The warden shall promptly return all such records to the city clerk who shall keep them on file for public inspection for one year. Any failure to comply with the provisions of this section shall be a misdemeanor and be punishable as provided in section twenty-nine of this chapter.

**Sec. 25. Where notices shall be posted. R. S. c. 5, § 25.** All notices of said boards, assessors, city clerks or of any other public officer relating to registration of voters or to elections, shall be posted at or as near as may be to the places designated for receiving votes on election days.

**Sec. 26. Lists of deceased voters shall be furnished board. R. S. c. 5, § 26.** The clerk or register of deaths of each city shall, at least thirty-three days before each election, and on the first day designated by said boards for the revision and correction of the voting lists and also on the last of said days set apart for such revision and correction, transmit to said boards, a certified list of the names of all male persons over twenty-one years of age deceased since the preceding election, or since the date of the preceding list, with the ward, street and number where such person resided at the date of death.

**Sec. 27. Police officers shall attend meetings of board. R. S. c. 5, § 27.** The board, or officer in charge of the police force of any city upon request so to do by said board, shall detail a sufficient number of police officers to attend any meeting held by said boards and preserve order and enforce the orders of said boards.

**Sec. 28. Refusal or neglect to enforce educational test; punishment. R. S. c. 5, § 28.** Any member of said boards who shall refuse or wilfully neglect to require any applicant for registration to whom the same is applicable, to read a portion satisfactorily to a majority of said board, other than the title, from some official edition of the constitution, in such manner as to show that he is neither prompted nor reciting from memory, or to require such applicant to write his name in a book kept for the purpose, unless he is prevented by physical disability from so doing, or who knowingly shall prevent or seek to prevent the registration of any legal voter, or who knowingly shall register the name of any person not qualified to vote or who shall be guilty of any fraud or corrupt conduct in the execution of the duties of his office, shall for each offence be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years.

**Sec. 29. Penalty, if any city officer refuses or neglects to perform duty. R. S. c. 5, § 29.** Any city officer who shall wilfully neglect or refuse to perform any duty required of him by law in matters relating to the registration of voters, shall for each offence be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years.

**Sec. 30. Penalty, if a person registers falsely. R. S. c. 5, § 30.** Whoever causes his name to be placed upon the list of voters of more than one ward in any city for the same election, or causes any such act, or aids or abets any person in such act, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding one year.

**Sec. 31. Penalty, for making false statement regarding the qualification of any person for assessment of tax or for registration, etc. R. S. c. 5, § 31.** Whoever knowingly or wilfully makes a false affidavit, or takes a false oath, or signs a false certificate regarding the qualification of any person for the assessment of a tax or for registration, or injures or defaces any list of voters or any notice relating to the registration of voters in any city, or prevents or interferes with, or aids or abets any person in preventing or interfering with any public officer in the discharge of his duty relating to the registration of voters, shall for each offence be punished by a fine

## CHAP. 5

not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

**Sec. 32. Penalty, for false registration, or attempt to personate another, etc. R. S. c. 5, § 32.** Whoever causes his name to be registered knowing that he is not a qualified voter in the place where so registered, or falsely represents or attempts to represent himself as another person before any board of registration, or gives a false answer to said board concerning any matter relating to the registration of a voter, or the right of any person to vote, or aids or abets any other person in doing either of the acts above mentioned, shall for each offence be punished by a fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

See c. 7, § 108.

**Sec. 33. Penalty, for refusing to obey board, or for obstructing proceedings. R. S. c. 5, § 33.** Whoever refuses to obey the lawful orders or directions of any board of registration, or interrupts or obstructs the proceedings at any meeting for registration, shall be arrested, detained in custody until a warrant can be procured and shall for each offence be punished by a fine not exceeding fifty dollars or imprisonment not exceeding sixty days.

#### Registration by Municipal Officers.

**Sec. 34. Assessors to prepare lists of voters and deliver to selectmen. R. S. c. 5, § 34.** In every town, where the selectmen are not assessors, the assessors on or before the first day of August in each year in which an election of governor, senators and representatives is held, shall prepare a list of the persons whom they judge to be constitutionally qualified to vote therein at such election and deliver it to the selectmen.

113 Me. 546.

**Sec. 35. Selectmen to prepare corrected list. R. S. c. 5, § 35.** The selectmen of every town, on or before the eleventh day of August in every such year, shall prepare a corrected list of persons so qualified.

See c. 7, § 115.

**Sec. 36. Sessions of selectmen to correct lists; notice. R. S. c. 5, § 36.** In every town, having by the census of the United States, then last taken, more than three thousand inhabitants, the selectmen shall be in open session to receive evidence of the qualifications of persons claiming the right to vote at any such election, and for the correction of said list, for a reasonable time, on not more than two days, between the eleventh and eighteenth days of August in every such year, giving previous notice of the time and place of each session, as their town meetings are notified.

76 Me. 160.

**Sec. 37. Lists to be deposited with clerk and posted. R. S. c. 5, § 37.** On or before the twentieth day of August in every such year, the selectmen shall deposit in the office of the town clerk, an alphabetical list of voters thus prepared and revised, and post a similar list in one or more public places in the town.

See c. 7, §§ 104, 115.

**Sec. 38. Names not to be added or stricken out, except as provided herein; names may be added at regular sessions on evidence. R. S. c. 5, § 38.** After such lists are thus prepared, deposited with the clerk, and posted, the selectmen shall not add thereto, nor strike therefrom, the name of any person, except in open session on one of the days prescribed by law for receiving evidence of the qualifications of voters; nor shall they strike from said list the name of any person residing in the town, without notice first given to him that his right to vote is questioned, and an opportunity for a hearing on one of such days. But at any regular session for receiving such evidence, the selectmen shall place on the list of voters, the name of every person known by, or proved to them to be so qualified, whether he applies therefor or not.

See c. 7, §§ 107, 115.

**Sec. 39. Selectmen, duties respecting papers of naturalization; indorsement and registry. R. S. c. 5, § 39.** When a person of foreign birth exhibits to the selectmen of his town papers of naturalization, issued to him in due form by a court having jurisdiction, they shall, if satisfied of their genuineness, and that such person is entitled to vote, approve such papers by a written indorsement thereon, with the date thereof, signed by one of them; register in a book kept for that purpose the name of the person, the date of the papers, the date of approval, and the name of the court by which they were issued; cause the name of such person to be entered on the list of voters; and continue his name on the successive lists so long as he continues to reside there and is in other respects qualified to vote. If they are of opinion, that such papers are not genuine, or were not issued to the person presenting them, or that he is not for other cause a voter, they shall not approve them or perform the other acts required; but he shall not, by their refusal to approve his papers, or to enter his name, be deprived of his right to vote, upon satisfactory proof.

**Sec. 40. Registration in towns having 500 or more voters, and in small cities; changes in list may be made on election day. R. S. c. 5, § 40.** In all towns, cities not included, having five hundred or more registered voters, and in all cities having less than thirty-five hundred inhabitants, the municipal officers shall receive applications of persons claiming a right to vote, on the three secular days next preceding the day of election, and no application shall be received after the hour of five in the afternoon on the secular day next preceding the day of election; and no names shall be added to the list of voters on the day of election, by certificate or otherwise, except such as were upon the list used at the last preceding election, and have been inadvertently omitted by the selectmen; and on that day no change shall be made in names except to correct clerical errors therein.

**Sec. 41. Registration in towns under 500 voters. R. S. c. 5, § 41.** In every town containing less than five hundred voters, the municipal officers shall be in session on the day of any such election to receive and decide on such applications, at some convenient place, for so long a time immediately preceding the opening of the polls as they think necessary, and shall hear and determine any such application at any time before the polls are closed.

## CHAP. 5

**Sec. 42. Notice of sessions. R. S. c. 5, § 42.** The municipal officers shall order notice of the time and place of all their sessions required or authorized in the two preceding sections, to be given in the warrant for calling the meetings for such elections.

3 Me. 310.

**Sec. 43. Lists of voters. R. S. c. 5, § 43.** The selectmen shall make a correct alphabetical list of the inhabitants in their towns qualified to vote in the choice of town officers, and deposit it in the office of the town clerk, and post a copy thereof in one or more public places in such town, on or before the twentieth day of February, annually.

See c. 7, §§ 104, 115; 3 Me. 296.

**Sec. 44. Selectmen's sessions to correct lists held on March election day or the secular day preceding. R. S. c. 5, § 44.** They shall be in session at some convenient time and place to be by them notified in the warrant for calling the meeting in such town, on the secular day next preceding the annual election in March, or on the morning of the day of election, to hear and decide upon the applications of persons claiming to have their names entered upon said list; and such session, when held on a secular day preceding the election, shall continue at least three hours, and when held on the day of election, shall continue until the election of town officers required by law to be elected by ballot, has been completed.

**Sec. 45. Check list to be kept for choice of town officers. R. S. c. 5, § 45.** The town clerk shall have the list of voters provided for by the two preceding sections, at every town meeting held for the choice of town officers required by law to be chosen by ballot, and it shall be kept and used as a check list at the polls by said clerk or moderator at such meeting, in the manner prescribed for selectmen or assessors by section twenty-eight of chapter seven; if demanded by one-third of the voters present.

96 Me. 434.

**Sec. 46. Penalty if clerk or moderator neglects or refuses. R. S. c. 5, § 46.** If the town clerk or moderator presiding at such meeting wilfully neglects or refuses to comply with the preceding section, he forfeits not less than fifty, nor more than one hundred dollars, to be recovered in an action of debt in the name and for the use of the town, to be prosecuted by the treasurer at the request of any voter therein.

See c. 7, §§ 102, 115.

## CHAPTER 6.

**Nominations of Candidates for Office.**

- Sections 1-28 Nominations by Primary Elections.  
 Sections 29-36 Nominations by Conventions, Caucuses and Nomination Papers.  
 Sections 37-48 Political Caucuses.  
 Sections 49-53 Protection of Political Conventions.

**Nominations by Primary Elections.**

**Sec. 1. Nominations shall be made by primary elections; "political parties" defined.** 1913, c. 221, §§ 1, 29. All nominations of candidates for any state or county office, including United States senator, member of congress and member of the state legislature, shall hereafter be made at and by primary elections to be held in accordance with the provisions of this chapter. Every political party entitled by law to representation upon the official ballot at state elections held biennially on the second Monday in September, or at any special election for state or county officers or for members of congress or members of the legislature, shall nominate all its candidates for such offices, to be voted for at such elections, under the provisions of this chapter and not in any other manner. The term "political parties," as used in this chapter, is hereby declared to mean such political parties as at the gubernatorial election next preceding any such primary election polled at least one per cent of the entire vote cast in the state for governor. Nothing in this section shall be construed as preventing the nominations of candidates under section thirty-one of this chapter.

**Sec. 2. State convention; its powers; organization of committees; vacancies.** 1913, c. 221, § 2. Not less than sixty nor more than ninety days before the third Monday in June of each year in which a state election is held biennially, the political parties aforesaid shall each hold a state convention with such basis of representation and at such time and place and with such requisites as to call thereof and notice therefor as the state committee of each such political party may determine. At any such state convention the political party so represented shall formulate and adopt its declaration of principles, or platform, for the state election then next ensuing, elect a state committee, a district committee for each congressional district, and a county committee for each county, severally of such number and to be elected in such manner as the convention may determine. The chairman and secretary shall thereupon forthwith certify to the secretary of state the platform so adopted and the names of the members of the committees so elected. Such committees shall thereafter, as soon as reasonably practicable organize by the choice of a chairman and secretary and certify such organization to the secretary of state; they may elect all other officers deemed needful, hold office until their next state convention hereunder, and perform

**CHAP. 6**

such duties as may be imposed upon them by their respective state conventions. All vacancies for unexpired terms shall be filled by the county committee of the county wherein such vacancy occurs and due certificate thereof made to the secretary of state. All such state conventions may transact such other business as shall not be inconsistent with the provisions of this chapter.

**Sec. 3. City and town committees, election and tenure.** 1913, c. 221, § 3. All the city, ward, town, plantation and representative class committees of the political parties aforesaid shall be elected in such manner and with such tenure of office and duties, as the appropriate political party within such city, ward, town, plantation or representative class may from time to time determine. Each such committee shall fill all vacancies in its membership.

**Sec. 4. Committees shall be deemed regularly elected.** 1913, c. 221, § 4. All committees created, elected or recognized under sections two and three shall be deemed to be regularly elected general or executive committees within the meaning of section thirty-five and of all other provisions of this chapter.

**Sec. 5. Nominations for places on ballot; requirements of nomination papers.** 1913, c. 221, § 5. 1913, c. 127. Nominations for places on the ballots to be used at primary elections shall be made for each of the political parties entitled as aforesaid to representation thereon by nomination papers signed in the aggregate for each candidate of each political party by qualified voters within the electoral division or district, wherein such candidate is to be voted for, in number not less than one per cent nor more than two per cent of the entire vote cast for governor in the last preceding state election in the state at large, if the office for which such candidate is to be voted for is to be filled by the voters of the state at large or is for the office of United States senator, otherwise not less than one per cent nor more than two per cent of such gubernatorial vote within the electoral division or district wherein such proposed candidate is to be voted for. All such nomination papers shall besides containing the names of the proposed candidates specify as to each, first, the name of the office for which he is proposed as a candidate; second, the political party which he represents; third, his place of residence. There shall not be in any nomination paper the name of more than one candidate proposed for nomination. Nomination papers shall be signed by members of the political party named therein for which the nomination is made. Each voter signing a nomination paper shall make his signature in person and add to it his place of residence. Each voter may subscribe his name to one nomination for a candidate for each office to be filled, and no more, except in cases where the office is to be filled by more than one person, and in such cases only to the extent of such number. One of the signers to each such separate paper, or the person circulating the same, shall make oath thereon, or by certificate of oath annexed thereto, that he believes the signatures are genuine and that the persons signing are members of the political party named therein and that they reside within the electoral division or district for which the nomination is proposed. The state at large shall be considered an electoral division within the meaning of this section; provided, that

nothing herein shall make it necessary for nomination papers for any candidate to be signed in the aggregate by qualified voters greater in number than ten per cent of the last gubernatorial vote cast by the party of such candidate within the electoral division or district wherein such candidate is to be voted for.

**Sec. 6. Nomination papers, when to be signed and filed; nomination papers may be amended; vacancies; papers preserved for one year.** 1913, c. 221, § 6. No such nomination papers shall be signed before the first day of January of the year in which such primary election is to be held and all such nomination papers shall be filed with the secretary of state on or before the first Monday of May of said year. With such nomination papers there shall also be filed the consent in writing of the persons so proposed thereby as candidates, agreeing to accept the nomination if nominated at the primary election, not to withdraw, and, if elected at the state election, to qualify as such officer. Such nomination papers so filed, and being in apparent conformity with the provisions hereof, shall be deemed to be valid; and, if not in apparent conformity, they may be seasonably amended under oath. In case any person who has been duly proposed as a candidate under the provisions hereof shall die before the day of the primary election, or shall withdraw in writing, so that the nominations shall be less than the number of the candidates required to be voted for by law, the vacancy may be supplied in the manner herein provided for such original nomination; or, if the time is insufficient therefor, then the vacancy may be supplied by the appropriate committee of the state, district, county, city, town, plantation or representative class by which such candidate is to be elected. Certificates for supplying the vacancy and the manner of placing the name of the nominee upon the ballots shall conform to the provisions of section thirty-five. All nomination papers when filed shall forthwith be opened and kept open under proper regulations to public inspection and the secretary of state shall preserve the same in his office not less than one year.

**Sec. 7. Nominations for United States senators.** 1913, c. 221, § 7. 1915, c. 59. Whenever one or more United States senators are to be elected at the biennial state election held on the second Monday of September, the nominee or nominees for such office or offices, of each political party, shall be chosen at the primary election held on the third Monday in June preceding. Nominations therefor shall be made and filed as hereinbefore provided. Where but one United States senator is so to be elected, the nomination papers and official ballot shall specify simply the office of United States senator. When, however, two United States senators are so to be elected, the nomination papers and ballots shall by apt words designate the respective terms for which they are to be nominated.

**Sec. 8. Ballots, how made up; order of offices; names shall be in alphabetical order; printing, color and size of ballots.** 1913, c. 221, § 8. Every ballot which shall be printed in accordance with the provisions of this chapter shall contain the names and residences of all candidates whose nominations have been duly proposed hereunder for any office specified in the ballot, and not withdrawn in accordance herewith, and the office for which they have been severally proposed through the nomination papers filed as

**CHAP. 6**

aforesaid, and shall contain no other names. The order of offices shall be the same as in the regular September election, except that when nominations for United States senators are to be made, said office of United States senator shall be first on said ballots. The name of each person for whom as a candidate for nomination a valid nomination has been filed shall be printed on the ballot in but one place. The names of the candidates for nomination to each office shall be arranged under the designation of the office in alphabetical order, according to surnames. There shall be left at the end of each list of candidates for nomination to each office a blank space or spaces, in which the voter may write or paste the name or names of any person or persons not printed on the ballot for whom he desires to vote as a nominee or nominees for such office, the number of blank spaces so left to be equal to the number of nominees to be selected for such office. The ballot shall be printed so as to give each voter a clear opportunity to designate his choice for candidates for nomination by making a cross (X) to the right of the name of each candidate he wishes to vote for as a nominee to each office; and on the ballot shall be printed such words as will aid the voters to do this, "Vote for one," "Vote for two," and the like. At the top of the ballot there shall be printed in capital letters, "Make a cross (X) in the square to the right of the name of the person you wish to vote for. Follow directions as to the number of candidates to be marked for each office. Add names by writing or pasting stickers in blank spaces and mark cross (X) to right of such names. Do not erase names." The ballots shall be printed on tinted paper, of a separate tint for each political party, white for the party casting the highest vote for governor at the last preceding state election, yellow for the second highest, blue for the third highest, green for the fourth highest, other colors for others if any, and brown for specimen or sample ballots. They shall be of uniform size for all political parties and folded before distribution in marked creases so as to be of uniform length and width and conceal the interior contents. On the back shall be printed so as to be visible when folded, "Official Nominating Ballot," followed by the designation of the polling place for which the ballot is prepared, the date of the primary election and a fac-simile of the signature of the secretary of state.

**Sec. 9. Ballots shall be furnished by secretary of state; number to be provided for primary elections; clerk of town may apply for larger supply of ballots. 1913, c. 221, § 9; c. 72, § 2.** All ballots, printed notices, sample ballots and cards of instructions shall be furnished by the secretary of state, at the expense of the state, in the same manner as in the case of regular elections. He shall provide and furnish for each voting place or precinct at which an election is to be held, not less than sixty of each party primary nominating ballots for every fifty votes and fraction of fifty votes cast by that party in said voting place or precinct at the next preceding election, city, county, state or national, corresponding to the election for which said primary election is to be held and for which said ballots are provided. All ballots, printed notices, sample ballots and cards of instruction shall be forwarded by the secretary of state to the respective city, town and plantation clerks, a record thereof made and receipts therefor returned, as pro-

vided in section eight of chapter seven; if the city, town or plantation clerk deems that more than the above number of ballots may be required by any party on account of an increased enrolment, he shall so certify, on or before the date for filing primary nomination papers, to the secretary of state, who shall add the number so asked for to the number of primary nominating ballots sent to that city, town or plantation. The expense of the calling and holding of the primary elections and the making and forwarding of the returns thereof shall be paid for by the municipalities. All other expenses hereunder shall be borne by the state.

See c. 7, § 8.

**Sec. 10. Lists of proposed candidates shall be sent to clerks of towns; publication of lists.** 1913, c. 221, § 10. The secretary of state shall fourteen days at least previous to the day of any primary election transmit to the clerks in each city, town and plantation printed lists containing the names, residences and party or political appellations of all candidates proposed for nomination as herein provided for such election and to be voted for at each polling place in each such city, town and plantation respectively substantially in the form of the ballot to be used therein; and the clerks shall immediately cause the lists for each plantation, town or ward, as the case may be, to be conspicuously posted in one or more public places in such plantation, town or ward. The secretary of state shall likewise cause to be published prior to the day of any such election hereunder, in at least two newspapers, if there be so many, printed or published in each county, representing so far as practicable, the political parties which at the preceding gubernatorial election, cast the largest and next largest number of votes, a list of all the nominations proposed, as herein provided and to be voted for hereunder in such county, so far as may be in the form in which they shall appear upon the general ballots. New nominations proposed as hereinbefore provided, to fill vacancies, shall be transmitted, posted and published promptly, and so far as practicable in the manner herein directed, and communications transmitted as herein directed by the secretary of state to any clerk shall be duplicated on the succeeding day.

**Sec. 11. Selectmen shall issue warrants; posting of warrants.** 1913, c. 221, § 11. 1915, c. 33. Not less than seven days before the third Monday of June preceding a biennial state election, the selectmen of every town, by their warrant, shall notify and warn all legally qualified voters to attend at the regular voting places on the third Monday in June for the purpose of voting for persons to be nominated by their respective political parties as candidates to be voted for on the second Monday in September then next ensuing. Said warrant shall be in substance as follows:

PRIMARY ELECTION WARRANT.

State of Maine:

ss.

County of

To the legal voters of the town of

You are hereby notified that the primary election in this town, of all political parties, entitled by law to nominate candidates for the next elec-

CHAP. 6

tion, will be held at ..... on Monday, June ..... next, for the purpose of nominating candidates for the following offices to be voted for at the election to be held on the second Monday in September next, viz:

(Here follow the officers to be nominated.)

The polls will be open at twelve o'clock, noon, and continue open until nine o'clock in the afternoon, when they will close.

Voters not enrolled as members of a political party entitled to nominate candidates will not be permitted to vote. But voters entitled to enrolment may cause themselves to be enrolled at the polling places during the primary election on taking and subscribing the oath required by law.

Enrolment blanks will be furnished by the town clerk on application.

Dated at ....., this ..... day of June, 19 ..

.....  
.....  
.....

Selectmen of .....

Such warrants shall be posted in the manner required by law for warrants for the state election. Like warrants shall be issued by the mayor and aldermen of cities and the assessors of plantations, with appropriate changes and posted in like manner. In plantations and towns of two thousand inhabitants or less the provisions as to enrolled voters and enrolment shall be omitted. The meetings shall be opened and closed as stated in the form of the warrant foregoing. In all such warrants appropriate provisions shall be inserted calling the attention of voters to opportunities for correction of lists of voters by selectmen, municipal officers or boards of registration in the manner required by law.

**Sec. 12. Qualifications of voters, how determined.** 1913, c. 221, § 12. In all such primary elections the qualifications of voters in towns and cities of any size shall be determined by the lists of voters used at the municipal elections in said towns and cities next preceding the primary election corrected as follows: In towns having five hundred or more registered voters and in all cities having less than thirty-five hundred inhabitants, the municipal officers shall exercise the powers enumerated in section forty of chapter five except that applications shall be received only on the two secular days next preceding the day of the primary election; in towns having less than five hundred voters, the municipal officers shall exercise the powers of section forty-one of chapter five. In cities having thirty-five hundred or more inhabitants the correcting of said lists shall be governed by chapter five. In plantations the qualifications of voters, as aforesaid, shall be determined by the lists of voters used therein at the last preceding state election corrected in the manner provided by section forty-one of chapter five.

**Sec. 13. Primary elections, how conducted.** 1913, c. 221, § 13. No person shall vote at any primary election unless a legally qualified voter at such voting place, as required by the preceding section, and, in all cities

and in towns of two thousand inhabitants or more, enrolled as qualified to vote in the caucuses of his political party in the manner provided by the general or special laws applicable to said cities, or any of them, or to said towns. The selectmen of towns and the wardens of wards in cities shall be seasonably furnished by the town or city clerk, or other official charged with the duty of preserving the same, with duly certified copies of all enrolment lists, arranging each political party separately and its names of voters therein alphabetically. If not therein enrolled, any voter qualified by law and this chapter as a legal voter at such voting place, may be enrolled after subscribing and making oath before a ballot clerk to the statement as required by section thirty-nine of this chapter, and the duties imposed upon the secretary of a caucus by said section shall be performed by such ballot clerk. A suitable number of such statements shall be furnished at each voting place by the city or town; if the number be insufficient, or none be furnished, the statement aforesaid may be sworn to as aforesaid and return thereof made in like manner as if the same had been subscribed. At the polling places in the cities and towns aforesaid each person applying to vote shall give his name, residence, party affiliation, and place of last enrolment, if any; if already enrolled in the precinct he shall be given a ballot of his party, his name shall be checked on the enrolment list, and he shall be admitted to the voting booth and vote. If not enrolled and then enrolled as hereinbefore provided, he shall be given a ballot of his party, checked and may vote as aforesaid. In plantations and towns having less than two thousand inhabitants, enrolment shall not be necessary and any voter, legally qualified to vote therein, shall, upon giving his name and party affiliation, be given a ballot of his party, his name checked upon the voting list and he shall be admitted to the voting booth and vote. No ballot shall be received containing any distinguishing mark or figures thereon other than as herein expressly permitted.

**Sec. 14. Certain sections of chapter seven as to voting applicable. 1913, c. 221, § 14.** Except as modified or superseded by the first twenty-eight sections of this chapter, sections fifteen to twenty, both inclusive, of chapter seven, shall apply to primary elections, except, however, that in designating his choice of candidates the voter shall mark a cross (X) in the square to the right of the name of each person that he desires to vote for, and the voter, if desirous of voting for any person whose name is not printed upon the ballot, may do so by writing or pasting such name or names in the blank spaces left therefor and marking a cross (X) to the right of such name or names.

**Sec. 15. Returns of elections, how made. 1913, c. 221, § 15.** The secretary of state shall seasonably furnish blanks for all voting places on which to make the returns required hereunder. The names of the candidates shall be printed thereon substantially as in the nominating ballot and in the space made for the purpose following each name shall be there entered the number of votes received in that polling place by each candidate. The ballots shall be sorted and the result declared in open plantation, town and ward meetings. Such record shall be separately made for the political parties respectively having proposed nominees upon the ballot and shall

**CHAP. 6**

give the number of votes lawfully cast for each of the nominees thereon, following as near as practicable the order of the political parties, officers and nominees thereon, so as to give the detailed result of such voting. Returns thereof shall be attested by the selectmen and town clerk, in towns, and by the assessors and clerk in plantations, in like manner as at the biennial election for governor. Such clerks shall cause the returns aforesaid to be delivered at the office of the secretary of state, by mail or otherwise, within seven days after such primary election and if not so delivered within said seven days like proceedings shall follow as provided by section forty-six and by sections forty-nine to fifty-two, both inclusive, of chapter seven. In cities, the warden shall preside, as required by law at state elections, receive the votes of all qualified voters present, and, as herein required in case of town meetings, sort, count and declare the results in open ward meetings, and in the presence of the ward clerk, who shall make return and a record thereof, as in towns, and a fair copy of the record shall be attested by the warden and the ward clerk, sealed up in open ward meeting and delivered to the city clerk, within twenty-four hours after the closing of the polls. And the aldermen of each city shall be in session within twenty-four hours after the close of the polls in such meetings, and in the presence of the city clerk shall open, examine and compare the copies from the lists of votes given in in the several wards, of which the city clerk shall make a record and a return thereof shall be made into the office of the secretary of state in the same manner as selectmen of towns are required to do hereunder.

**Sec. 16. Governor and council shall tabulate votes returned; corrections may be made; tie vote decided by lot; intention of voter shall be considered.** 1913, c. 221, § 16. 1915, c. 250. The governor and council by the first Tuesday of July in each year in which a primary election is held hereunder, shall open and compare the votes so returned hereunder, and have the same tabulated, and forthwith thereafter have forwarded to each candidate a copy of said tabulations of his precinct or district, and may receive testimony on oath to prove that the return from any city, town or plantation does not agree with the record of the vote of such city, town or plantation, in the number of votes or the names of the persons voted for, and to prove which of them is correct; and the return, when found to be erroneous, may be corrected by the record. No such correction can be made without application within fourteen days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said fourteen days any person voted for may personally, and by or with counsel, examine said returns in the presence of the governor and council, or either of them, or any member of the council, or the secretary of state. The person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office, provided, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the secretary of state shall give notice to the several persons so having the highest and

equal number of votes to attend at the office of the secretary of state at a time to be appointed by said secretary, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared nominated by his party with like effect as if there had been no such tie. To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes appearing by said returns to have been intentionally cast for him, although his name upon the return is misspelled or written with only the initial or initials of his christian name or names, or with wrong initials or otherwise as the case may be; and they may hear testimony upon oath, in relation to such returns, in order to get at the intention of the voters and shall decide accordingly. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

The secretary of state shall enter in a register of nominations, to be kept by him for the purpose, the nominations for each party so ascertained, and shall forthwith notify by registered mail each person who is so nominated.

**Sec. 17. Acceptance of nominee shall be filed.** 1913, c. 221, § 17. Every candidate, so nominated and notified as aforesaid, shall within seven days after the receipt of such notification, send to the secretary of state, by registered mail the following acceptance:

To the Secretary of State:

I, ....., of ....., hereby accept the nomination to the office of ....., made at the primary election June ....., 19 ..

The name of any candidate failing to file such acceptance shall not be printed upon the official ballot to be used at the state election and failure to file such acceptance within said seven days shall be deemed to be a refusal thereof.

**Sec. 18. Return of expenditures; false statements in return, perjury; limitation of miscellaneous expenditures; penalty for failure to make return.** 1913, c. 221, § 18; c. 160, § 1. Each candidate, so nominated, shall, with such acceptance, send to the secretary of state the following return by him subscribed and sworn to:

RETURN OF EXPENDITURES.

To the Secretary of State:

I, ....., of ....., nominated for the office of ....., at the primary election held on June ....., 19 ....., on oath depose and say that the following is a true and perfect return of all expenditures by me made, or liabilities by me incurred for any purpose whatever, except my actual personal expenses for postage, telegrams, telephones, stationery, express and traveling, in connection with my said nomination, or the procurement thereof, before, at, or since said primary election.

The total amount thereof was \$

The aforesaid amount is made up of the following:

Printing \$  
 Clerk hire \$



the time required, shall be fined twenty-five dollars for each day on which he is in default, unless he shall be excused by the court, but such failure shall not avoid nor affect the nomination of the candidate. The returns aforesaid shall be open to public inspection for one year and then be destroyed. The failure of any candidate to file a return within the time required by section seventeen, shall render his nomination void.

**Sec. 19. Penalty for bribery, etc. 1913, c. 221, § 19.** No person, firm or corporation shall directly or indirectly or by any device whatsoever pay any sum, or incur any liability, to procure or to aid in the procurement of the nomination of any candidate so to be voted for as aforesaid at any primary election without the knowledge and consent of such candidate. Whoever violates the provisions of this section forfeits five hundred dollars to be recovered by indictment.

**Sec. 20. Candidates for U. S. senators shall make returns. 1913, c. 221, § 20.** Candidates chosen for United States senators, as aforesaid, shall file like acceptances and make like returns. If any such candidate fails so to do, his nomination at the primary election shall be deemed to be void.

**Sec. 21. Limitations of expenditures. 1913, c. 221, § 21.** The expenditures to be made, and liabilities incurred, for which returns are to be made as hereinbefore provided, shall not exceed in amount for each candidate the following: In case of nominations for any office to be filled by the voters of the state one thousand five hundred dollars, for members of congress five hundred dollars, for state senators and county officers one hundred and fifty dollars for each ten thousand votes cast for governor within the county at the last preceding gubernatorial election or fraction thereof, for members of legislature in representative districts having three representatives or more one hundred dollars, in other representative districts fifty dollars, for United States senator one thousand five hundred dollars. Whenever such expenditures and liabilities exceed the foregoing limitations, upon proof thereof to the satisfaction of the secretary of state, after complaint, notice and hearing, or upon the admission of the fact by the candidate in his return, the finding of such fact by the secretary of state shall be deemed to be a withdrawal by such candidate and the vacancy shall be filled in like manner as if such candidate had filed a withdrawal in writing.

**Sec. 22. Vacancies, how filled. 1913, c. 221, § 22; c. 160, § 2.** In case any candidate, except for the United States senate, who has been duly nominated as the result of any primary election hereunder, shall die before the day of the gubernatorial election, or shall withdraw in writing, or shall forfeit his nomination by failure to accept, or to file return, as provided in sections seventeen and eighteen, the vacancy may be supplied by the political party of such nominee by any convention of delegates or appropriate caucus, under the provisions of sections twenty-nine, thirty and thirty-five of this chapter, or, if the time is insufficient therefor, then the vacancy may be supplied by the regularly elected state, congressional district, county, town, city, plantation or representative class committee, as the case may be, of such political party. Certificates for supplying the vacancy and the manner of placing the name of the nominee upon the ballots shall conform to the provisions of section thirty-five.

## CHAP. 6

**Sec. 23. Filling of vacancies at special primary election. 1913, c. 221, § 23; c. 160, § 3. 1915, c. 47, § 1.** In case any nominee for United States senator, nominated hereunder, shall die before the day of the gubernatorial election at which such office is to be filled, or shall before that time withdraw in writing, or shall forfeit his nomination by failure to accept or to file return, as provided in sections seventeen and eighteen; or in case vacancy occurs in any office which is to be filled at the next biennial state election, for which no nomination has been made at the primary election held on the third Monday in June of the same year, a special primary election shall be ordered by proclamation of the governor, at such date as he deems best, conforming as near as may be practicable to the provisions of this chapter, but in that event the governor in said proclamation shall fix the time within which nomination papers shall be filed and the time for transmitting to town clerks lists of candidates proposed for nomination and the time within which and when the returns shall be received and the result declared. If the time is insufficient therefor, said nomination may be supplied in the manner provided in section twenty-two. Candidates so chosen shall be subject to the provisions of this chapter regulating acceptances and returns by candidates for United States senator.

**Sec. 24. Primary elections for nomination of candidates at special elections. 1913, c. 221, § 24. 1915, c. 47, § 2.** When special elections are to be held for any office as required or permitted by law, primary elections for the nomination of candidates to be voted for thereat shall be held at such time as shall be ordered by the governor by proclamation, and he shall therein fix the time within which nomination papers shall be filed and the time for transmitting to town clerks lists of candidates proposed for nomination and, so far as practicable, all the provisions hereof shall be applicable thereto. If the time is insufficient therefor, said nomination may be supplied in the manner provided in section twenty-two. Candidates so nominated shall file acceptances and returns of expenditures as hereinbefore provided.

**Sec. 25. Chapter 5, made applicable. 1913, c. 221, § 25.** Except as modified or superseded by the first twenty-eight sections of this chapter, and so far as the same may be necessary for the purposes hereof, and where not inconsistent herewith, chapter five is hereby made applicable to primary elections.

**Sec. 26. Certain sections of chapter seven made applicable. 1913, c. 221, § 26; c. 72, § 1.** So far as necessary for the purposes of the first twenty-eight sections of this chapter, and where not inconsistent therewith, the following sections of chapter seven are hereby made applicable to primary elections and all doings, therefor, thereat, or thereafter, and for the purposes thereof; sections three, five, ten to fourteen, both inclusive, twenty-three to twenty-eight, both inclusive, thirty-one, thirty-two, sixty-six to sixty-nine, both inclusive, seventy-four to seventy-nine, both inclusive, eighty-one to eighty-four, both inclusive, and ninety-two to one hundred and twenty-three, both inclusive.

**Sec. 27. Primary election to be considered as a separate election for each political party. 1913, c. 221, § 27.** In construing the provisions of this

chapter and of all sections of the revised statutes, hereby made applicable as aforesaid to the primary elections to be held hereunder, and to all matters herein contained before and after such primary election, material to the purposes thereof, they shall, as to the duties of officers, forms, blanks, ballots, elections, warrants, returns, and all other matters, so far as necessary for accomplishing the purposes of this chapter, be understood and interpreted as though said primary election is a separate election for each political party making its nominations hereunder, and to be conducted as to that party as nearly as practicable the same as the regular biennial state elections in September are conducted for all the electors, except in so far as the manner of proceeding before, at and after said September election may be modified or changed by this chapter for the purposes of said primary elections. The provisions of the twenty-six preceding sections do not modify or in any manner control the proceedings at the regular biennial state elections except in so far as they may be herein expressly and directly amended.

**Sec. 28. State expenditures, how approved and paid. 1913, c. 221, § 30.** All accounts for expenditures by the state hereunder shall be approved in the manner required by law and after approval the governor and council shall draw their warrant against any money in the treasury, not otherwise appropriated, in payment thereof.

#### **Nominations by Conventions, Caucuses, and Nomination Papers.**

**Sec. 29. Nominations by conventions and caucuses. R. S. c. 6, § 2.** For the purpose of filling vacancies as provided in section twenty-two of this chapter, and for nominating candidates not included in section one of this chapter, any convention of delegates, and any caucus or meeting of qualified voters, as hereinafter defined, may nominate candidates for public office in the manner provided in the following section, whose names shall be placed upon the ballots to be furnished as herein provided.

**Sec. 30. Certificates of nomination shall be duly filed and sworn to. R. S. c. 6, § 3.** Any convention of delegates representing a political party which, at the gubernatorial election next preceding, polled at least one per cent of the entire vote cast in the state for governor, or in the electoral district or division thereof for which the nomination is made, and any caucus held by such a political party in any such electoral district or division, may for the state, or for the district or division for which the convention or caucus is held, as the case may be, by causing a certificate of nomination to be duly filed, make one such nomination for each office therein to be filled at the election. Every such certificate of nomination shall state such facts as may be required as above for its acceptance, and as are required in section thirty-two of this chapter; shall be signed by the presiding officer or by the secretary of the convention or caucus; and shall be sworn by the party signing, to be true, and a certificate of the oath shall be annexed to or made on the certificate of nomination.

**Sec. 31. How nomination papers shall be signed; certificate by town clerk. R. S. c. 6, § 4.** Nominations of candidates for any offices to be filled by the voters of the state at large, may be made by nomination papers signed

**CHAP. 6**

in the aggregate for each candidate by not less than one thousand qualified voters of the state. Nominations of candidates for electoral districts or divisions of the state, or for municipal or ward officers, may be made by nomination papers signed in the aggregate for each candidate, by qualified voters of such district or division not less in number than one for every one hundred persons who voted at the next preceding gubernatorial election in such district or division, but in no case less than twenty-five. In the case of a first election to be held in a plantation, town or ward newly established, the number of twenty-five shall be sufficient for the nomination of a candidate who is to be voted for only in such plantation, town or ward; and in the case of a first election in a district or division newly established, other than a plantation, town or ward, the number of twenty-five shall be sufficient. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to one nomination for each office to be filled, and no more. The nomination papers shall before being filed, be respectively submitted to the clerks of the cities, towns or plantations in which the signers purport to be qualified voters, and each clerk to whom the same is submitted shall forthwith certify thereon what number of the signatures are names of qualified voters both in the city, town or plantation for which he is a clerk and in the district or division for which the nomination is made; one of the signers to each such separate paper shall swear to the truth thereof, and the certificate of such oath shall be annexed to or made upon the nomination papers.

**Sec. 32. Contents of certificates and nomination papers. R. S. c. 6, § 5.** All certificates of nomination under section thirty, and nomination papers shall, besides containing the names of candidates, specify as to each, first, the office for which he is nominated; second, the party or political principle which he represents, expressed in not more than three words; third, his place of residence. In the case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the party or political appellation.

**Sec. 33. Filing of certificates of nomination and nomination papers. R. S. c. 6, § 6.** Certificates of nomination under section thirty, and nomination papers for the nomination of candidates for state and county officers and representatives to the legislature, shall be filed with the secretary of state on or before the tenth day of August of each year in which such election is held, and for candidates for electors of president and vice-president on or before the tenth day of October in each year when such election is held. Such certificates and papers for the nomination of candidates for the office of mayor and all other offices in cities shall be filed with the city clerks of the respective cities at least seven days, exclusive of Sundays, previous to the day of such election. Such certificates and papers for the nomination of candidates to be voted for at any special election to be held for choice of United States senators, representatives to congress or members of the legislature shall be filed with the secretary of state at least seven days, exclusive of Sundays, previous to the day of election. With nomination papers and certificates shall also be filed the consent in writing of the person nominated.

**Sec. 34. Certificates, if in apparent conformity to law shall be deemed valid.** R. S. c. 6, § 7. The certificates of nomination and nomination papers being filed, and being in apparent conformity with the provisions hereof, shall be deemed to be valid; and if not in apparent conformity, they may be seasonably amended under oath.

**Sec. 35. Vacancies; contents of certificates; name placed on ballot.** R. S. c. 6, § 8. In case a candidate who has been duly nominated under the provisions of sections thirty and thirty-one shall die before the day of election, or shall withdraw in writing, the vacancy may be supplied by the political party or other persons making the original nomination, in the manner herein provided for such nomination; or, if the time is insufficient therefor, then the vacancy may be supplied, if the nomination was made by a convention or caucus in such manner as the convention or caucus has previously provided for the purpose, or in case of no such previous provision, then by a regularly elected general or executive committee representing the political party or persons holding such convention or caucus. The certificates of nomination made for supplying any vacancy, shall state, in addition to the other facts required by this chapter the name of the original candidate proposed or the original nominee, the facts causing the vacancy, and the measures taken in accordance with the above requirements for filling the vacancy; said certificate shall be accompanied by the withdrawal, if any, and shall be signed and sworn to by the presiding officer or secretary of the convention or caucus, or by the chairman or secretary of the duly authorized committee, as the case may be. The name so supplied for the vacancy shall, if the ballots have not been printed for the office already, be placed on the ballots, instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, whenever practicable, be furnished, or, slips containing the new nomination shall be printed under the direction of the secretary of state, which may be pasted in proper place upon the ballots and thereafter shall become part and parcel of said ballots as if originally printed thereon.

**Sec. 36. Nomination papers shall be open to public inspection.** R. S. c. 6, § 9. All certificates of nomination and nomination papers when filed shall forthwith be opened and kept open under proper regulations to public inspection, and the secretary of state and the several city clerks shall preserve the same in their respective offices not less than one year.

#### Political Caucuses.

**Sec. 37. Enrolment required.** R. S. c. 6, § 101. No person shall take part or vote in any caucus of any political party unless qualified therefor by enrolment as hereinafter provided.

**Sec. 38. Enrolment; new enrolment.** R. S. c. 6, § 102. Any person who is a legal voter may enroll himself as a member of any political party by filing with the clerk of the town of which he is a legal voter a declaration in writing, signed by him, substantially as follows: "I, \_\_\_\_\_, being a legal voter of \_\_\_\_\_, hereby elect to be enrolled as a member of the \_\_\_\_\_ party. The following statement of name, residence, place of last enrolment if any, and party of last enrolment if any, is true." A new enrol-

**CHAP. 6**

ment may be made at any time, but the person making such new enrolment shall not vote in any political caucus within six months thereafter if he designates a different political party from that named by him in the preceding enrolment.

**Sec. 39. Clerk shall record enrolment; records shall be open to public; enrolment, made during caucus; duty of secretary of caucus. R. S. c. 6, § 103.** The clerk of the town where the enrolment is made, as above provided, shall receive and file the same, indorsing thereon the date of filing, and shall record the name, residence, place of last enrolment and date of filing, in a separate book for the enrolment of members of each political party, entering the names alphabetically. Suitable blanks for such enrolment shall be provided by the town clerks and in addition thereto they shall provide books with proper headings, embodying the enrolment statements above provided, which the person desiring to enroll may fill out and sign, thereby enrolling himself with the same effect as by filing such enrolment paper. Such books shall be public records and shall at all times be open to public inspection. Any voter not previously enrolled may enroll as aforesaid up to the day of holding any caucus and may enroll himself during said caucus by subscribing and making oath to the following statement before the chairman of the caucus. "I, \_\_\_\_\_, do solemnly swear that I am a qualified voter in this town, or ward, and have the legal right to vote in the caucus of the \_\_\_\_\_ party. I am a member of that political party and intend to vote for its candidates at the election next ensuing. I have not taken part or voted at the caucus of any other political party in the six months last past."

The secretary of the caucus shall indorse thereon whether the person subscribing and swearing to the same voted in said caucus, and within one week thereafter the secretary shall return said statement with the indorsement thereon to the clerk of the town wherein such caucus is held, and said clerk shall thereupon enroll said voter in the enrolment list of the party designated by him. Said statement shall be preserved as public records and shall be prima facie evidence in any court that said person took said oath and voted in said caucus.

**Sec. 40. Caucuses must be held under §§ 37-48. R. S. c. 6, § 104.** Caucuses and meetings of political parties held for the purpose of nominating candidates or choosing delegates to assemble in convention to nominate any person to any public office whose name shall be placed on the final ballot, unless held under the provisions of sections thirty-seven to forty-eight inclusive are hereby declared to be unlawful, provided that this shall not be construed as preventing citizens' caucuses.

**Sec. 41. Votes shall be by ballot. R. S. c. 6, § 105.** All votes for the election of delegates to any political convention for the nomination of a candidate for any public office shall be by ballot, written or printed, on plain paper.

**Sec. 42. Restrictions on voting. R. S. c. 6, § 106.** No person shall vote or offer to vote more than once for any candidate or delegate or set of delegates in any one caucus, nor shall he vote or offer to vote in any one caucus held in any caucus district in which he shall not at the same time be a legal

voter. No person shall vote or offer to vote in any caucus where candidates or delegates are to be chosen, if he has already voted at the caucus of any other political party in the past six months.

**Sec. 43. Oath to be taken by challenged voters. R. S. c. 6, § 107.** No person whose right to vote is challenged shall be allowed to vote until he shall have taken the following oath, which shall be administered by the chairman of the caucus: "You do solemnly swear that you are a qualified voter in this town or ward, and have the legal right to vote in this caucus; that you are a member of the political party holding the same and intend to vote for its candidates at the election next ensuing, and that you have not taken part or voted at the caucus of any other political party in the six months last past." The secretary of the caucus shall make a record of the administration of such oath, as provided in section thirty-nine and with the same effect.

**Sec. 44. Notices of caucuses shall be issued seven days prior to caucuses. R. S. c. 6, § 108. 1907, c. 98.** Notice of caucuses, signed by the chairman and secretary, or by a majority of the committee, shall be issued by each town committee not less than seven days prior to the day on which the caucuses are to be held. They shall be conspicuously posted in at least five places on the highways of each voting precinct, and shall state the place, day and hour of holding such caucuses. In case voting is by check list a sufficient time shall be allowed for all to vote, and the call for the caucus shall state the hours fixed by the committee for the opening and closing of the polls.

**Sec. 45. Bribery forbidden. R. S. c. 6, § 109.** No person shall pay or offer to pay to any voter any pecuniary compensation for the vote of such voter, or to influence his action at any caucus held under the provisions of the eight preceding sections.

**Sec. 46. Check lists, use of. R. S. c. 6, § 110.** Voting lists as used in the election next preceding any caucus, shall be used as check lists, at such caucuses, if the town committee shall so determine and provide in the call, and such committee shall be required to provide for the use of such list upon written request, filed with the chairman or clerk of the committee, at any time before the call is posted, of voters of the party, to the number of not less than twenty in towns of two thousand and not exceeding five thousand inhabitants; and of not less than fifty in towns of five thousand or more inhabitants, according to the last official census of the United States. The officials having charge of such voting lists shall furnish certified copies thereof for use in caucuses, upon application of such party committee, the expense thereof to be paid as other expenses of registration are now paid. No person shall be deprived of his right to vote in such caucus by reason of the fact that his name does not appear on such lists if he shall have become a legally qualified voter of such precinct subsequent to the last election, and shall be otherwise qualified to vote as provided in the nine preceding sections.

**Sec. 47. Penalty for violations of §§ 37-46. R. S. c. 6, § 111.** Whoever violates any provision of the ten preceding sections, or refuses to perform any duty required thereunder, or wilfully makes a false statement of fact

**CHAP. 6**

in his declaration of enrolment, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months.

**Sec. 48. Exceptions. R. S. c. 6, § 112.** The provisions of the eleven preceding sections shall not apply to towns of less than two thousand inhabitants, nor to cities of more than thirty-five thousand inhabitants, nor to cities wherein the calling and holding of caucuses, is regulated by special law until such special law is repealed.

Political caucuses in Bangor, P. & S. L., 1901, c. 497; 1905, c. 295; 1907, c. 407; 1909, c. 136. In Old Town, P. & S. L., 1909, c. 293.

### Protection of Political Conventions.

**Sec. 49. Penalty for disturbing primary political meetings. R. S. c. 6, § 113.** Whoever, by rude or indecent behavior, or in any way wilfully or unlawfully disturbs or interrupts any public primary political meeting or caucus or public convention, lawfully assembled in any hall or other place of meeting, for the purpose of nominating, or proposing candidates for any public office, or for the choice of delegates to conventions or other meetings called for such purpose, or creates a disturbance in any hall, walk or corridor adjacent or leading to the room where such caucus or convention is held, shall be punished by imprisonment for not more than thirty days, or by fine of not less than five, nor more than ten dollars.

**Sec. 50. Penalty for unlawfully voting in meetings. R. S. c. 6, § 114.** Whoever, not being a voter in the ward, to voters of which such meeting or caucus by the call therefor is limited, or whoever, being a voter in such ward, but not included in the description of those persons invited to such meeting or caucus by the call therefor, shall vote, or attempt to vote, or otherwise wilfully or unlawfully participate in such meeting or caucus, or whoever shall wilfully and knowingly give in, or attempt to give in, more than one vote or ballot upon any question submitted to said meeting or caucus, or in any balloting that may be taken therein, shall be punished by imprisonment for not more than thirty days, or by fine of not less than five, nor more than ten dollars.

**Sec. 51. Penalty for preventing legal voting, permitting illegal voting, or allowing a false count. R. S. c. 6, § 115.** Any officer of any such caucus or of any public convention so assembled for the purpose aforesaid, or any person selected thereby or under the authority thereof, or any person assuming to act therein for the purpose of ascertaining or declaring the result of any vote or balloting that may there be had, who shall wilfully and knowingly prevent any person from voting therein, having a right under the law and the terms of the call for such meeting so to do, or who shall wilfully authorize or permit any person to vote therein, not entitled by law or the terms of the call to participate in such meeting, or who shall knowingly and wilfully receive from any person more than one vote upon any question or in any single balloting therein, or who shall participate in, or wilfully and knowingly permit any false counting or declaring of any vote or balloting in said meeting, shall for such offence be punished by imprisonment for not more than thirty days or by fine of not less than ten, nor more than twenty dollars.

**Sec. 52. Challenge, how determined.** R. S. c. 6, § 116. 1905, c. 149, § 1. The city committees may in their discretion determine in their call for a caucus or convention the persons who are entitled to participate in said caucus or convention. Whenever the right of any person to vote in any such primary meeting or caucus or convention, is challenged for reasonable cause by three or more persons present in such meeting, of whose right to participate therein the presiding officer has no doubt, such challenged person shall not vote unless the presiding officer shall, notwithstanding such challenge, be satisfied of his right and shall authorize him so to do, until all present, whose right to vote in such meeting is unchallenged, have had an opportunity to vote; after which, and prior to the declaration of such vote, the question of the right of any person or persons so challenged to vote, shall be submitted by the presiding officer to such meeting, and the challenged vote or votes shall then be received, if such meeting shall so determine, and not otherwise. And if any person whose right to vote in such meeting has been thus challenged, shall, after such challenge and prior to such determination of his right so to do, vote upon the question of receiving his own vote or upon any other question in said meeting or caucus, he shall be punished as prescribed in the preceding section.

**Sec. 53. Exceptions.** R. S. c. 6, § 117. 1905, c. 149, § 2. The provisions of the four preceding sections shall be applicable only to cities of more than thirty-five thousand inhabitants.

## CHAPTER 7.

### Elections.

- Sections 1-11 Preparation and Distribution of Ballots.
- Sections 12-14 Duties of Municipal and Election Officers.
- Sections 15-21 Manner of Voting.
- Sections 22-56 Notifying Meetings, Proceedings and Returns.
- Sections 57-65 Choice of Presidential Electors.
- Sections 66-71 Elections in Cities.
- Sections 72-73 Representative Districts.
- Section 74 Voters in Unincorporated Places and on Islands.
- Sections 75-79 Plantations.
- Sections 80-84 Soldiers Authorized to Vote.
- Sections 85-91 Contested Elections.
- Sections 92-123 Regulations Affecting Purity of Elections. Penalties.
- Sections 124-132 The Corrupt Practices Law.

### Preparation and Distribution of Ballots.

**Sec. 1. Ballots used in elections shall be furnished at public expense.**  
**R. S. c. 6, § 1.** All ballots cast in elections for national, state, district and county officers in cities, towns and plantations, and all ballots cast in municipal elections in cities, shall be printed and distributed at public expense, as hereinafter provided. The printing of the ballots and cards of instructions to voters, shall in municipal elections in cities be paid for by the several cities respectively, and in all other elections the printing of the ballots and cards of instructions, and the delivery of them to the several cities and towns, shall be paid for by the state. The distribution of the ballots to the voters shall be paid for by the cities, towns and plantations respectively. The term state election, as used in this chapter shall apply to any election held for the choice of a national, state, district or county officer, whether for a full term or for the filling of a vacancy, and the term state officer shall apply to any person to be chosen by the qualified voters at such an election. The term city election shall apply to any municipal election so held in a city, and the term city officer shall apply to any person to be chosen by the qualified voters at such an election.

86 Me. 42; 107 Me. 516; 108 Me. 170.

**Sec. 2. What the ballots shall contain and how printed; size of ballot.**  
**R. S. c. 6, § 10.** 1905, c. 135. Every general ballot, or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of this chapter, shall contain the names and residences, ward residences in city elections, of all candidates whose nominations for any office specified in the ballot have been duly made and not withdrawn in accordance herewith, and the office for which they have been severally nominated, and shall contain no other names except that in case of electors of president and vice-president of the United States, the names of the candidates for president

and vice-president may be added to the party or political designation. The names of candidates nominated by any party shall be grouped together upon the ballot. Above each group shall be placed the name of the political party by which the candidates comprising such group were placed in nomination, or by the political designation as described in the certificate of nomination, or nomination papers, under a square. If only one person be nominated by any party, or under any political designation, his name with the office for which he is a candidate shall be printed by itself under the name of such party or political designation. A blank space shall be left after the name of the candidates for each different office in which the voter may insert the name of any person for whom he desires to vote as candidate for such office. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people such question or questions shall be printed upon a separate ballot. The ballots shall be so printed as to leave a blank space, above such amendment or question so as to give each voter a clear opportunity to designate by a cross mark, (X), therein, his answers to the questions submitted and on the ballot may be printed such words as will aid the voter to do this as "yes," "no," and the like. The ballot shall be not less than four inches in width and not less than six inches in length. Before distribution the ballots shall be so folded in marked creases that their width and length when folded shall be uniform. On the back and outside, when folded, shall be printed "Official ballot for," followed by the designation of the polling place for which the ballot is prepared, the date of the election and a facsimile of the signature of the secretary of state or city clerk who has caused the ballot to be printed. Except as otherwise herein provided, ballots shall be printed upon clean white paper without any distinguishing mark or figures thereon.

86 Me. 50; 89 Me. 297; 107 Me. 516.

**Sec. 3. Ballots shall be folded and fastened in blocks; record kept of number furnished each polling place.** R. S. c. 6, § 11. All ballots when printed shall be folded as hereinbefore provided, and fastened together in convenient numbers in packages, books or blocks, in such manner that each ballot may be detached and removed separately. A record of the number of ballots, printed and furnished to each polling place shall be kept and preserved by the secretary of state and the several city clerks for the term of one year.

**Sec. 4. Number of ballots to be provided.** R. S. c. 6, § 12. 1905, c. 135. There shall be provided for each voting place, at which an election is to be held, two sets of such general ballots and two sets of ballots containing any constitutional amendment or other question submitted to the vote of the people, each of not less than sixty for every fifty and fraction of fifty votes cast in said voting place at the next preceding election, city, state or national, corresponding to the election for which said ballots are to be provided.

**Sec. 5. Instructions for guidance of voters; specimen ballots.** R. S. c. 6, § 13. The secretary of state in case of a state election, and the several city clerks, in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, as to the manner of marking them, and the method of gaining assistance, and as to obtaining new ballots in place of those accidentally spoiled, and they shall respectively

**CHAP. 7**

cause the same, together with copies of sections ninety-two to ninety-five, both inclusive, of this chapter to be printed in large, clear type, on separate cards, to be called cards of instructions; and they shall respectively furnish the same and the ballots for use in each such election. They shall also cause to be printed on tinted paper, and without the facsimile indorsements, ten or more copies of the form of the ballot provided for each voting place at each election therein, which shall be called specimen ballots and shall be furnished with the other ballots provided for each such voting place.

**Sec. 6. Printed lists of nominations shall be transmitted to clerks of cities, towns and plantations, seven days before any election, and published.** R. S. c. 6, § 14. 1907, c. 142, § 1. The secretary of state shall, seven days at least, previous to the day of any election of state or county officers, transmit to the clerks in each city, town and plantation in which such election is to be held, printed lists containing the names, residences and party or political appellations of all candidates nominated as herein provided for such election and to be voted for at each polling place in each such city, town and plantation respectively, substantially in the form of the general ballot to be so used therein; and the clerks shall immediately cause the lists for each plantation, town or ward, as the case may be, to be conspicuously posted in one or more public places in such plantation, town or ward. The secretary of state shall likewise cause to be published prior to the day of any such election, in at least two newspapers, if there be so many, printed or published in each county, representing so far as practicable, the political parties which, at the preceding election, cast the largest and next largest number of votes, a list of all the nominations made as herein provided and to be voted for in such county, so far as may be, in the form in which they shall appear upon the general ballots. New nominations made or authorized shall be transmitted, posted and published promptly, and so far as practicable in the manner herein directed, and communications transmitted as herein directed by the secretary of state to any clerk, shall be duplicated on the succeeding day.

Note. As to official ballots for municipal elections in town of Eden, P. & S. L., 1913, c. 215; 1915, c. 204.

**Sec. 7. Printed lists shall be posted four days before city election; publication.** R. S. c. 6, § 15. 1907, c. 142, § 2. The city clerk of each city shall four days at least prior to the day of any city election therein, cause to be conspicuously posted in one or more public places in each ward of such city, a printed list containing the names, residences and party or political appellations of all candidates nominated as herein provided, and to be voted for in such ward, substantially in the form of the general ballot to be so used therein; and he shall likewise cause to be published, prior to the day of such election, in at least two newspapers, if there be so many, printed or published in such city, representing the political parties which cast at the preceding election the largest and next largest number of votes, a list of all the nominations made, as herein provided, and to be voted for in such city, so far as may be, in the form in which they shall appear upon the general ballots.

**Sec. 8. Two sets of ballots shall be sent to city, town and plantation clerks; record.** R. S. c. 6, § 16. The secretary of state shall send, sepa-

rately and at different times or by different methods, the two sets of general and special ballots, together with the specimen ballots, and cards of instructions, printed by him, as herein provided, to the several city, town and plantation clerks, so as to be received by them, one set seventy-two hours at least previous to the day of election, and the other set forty-eight hours at least previous thereto. The same shall be sent in sealed packages, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots of each kind enclosed; and the respective city, town and plantations clerks shall on delivery to them of such packages, return receipts therefor to the secretary. The secretary shall keep a record of the time when, and the manner in which the several packages are sent, and shall preserve for the period of one year the receipts of the city, town and plantation clerks.

**Sec. 9. Two sets of ballots, etc., to be provided by city clerks. R. S. c. 6, § 17.** The two sets of ballots together with the specimen ballots and cards of instructions printed by the city clerks, as herein provided, shall be packed by them in separate sealed packages, with marks on the outside clearly designating the polling places for which they are intended, and the number of ballots of each kind enclosed.

**Sec. 10. One set of ballots shall be sent to presiding election officers, on day of election; cards of instructions and specimen ballots shall be posted at each compartment; second set of ballots, shall be retained by clerk until needed. R. S. c. 6, § 18.** The several city, town and plantation clerks, or municipal officers, shall send to the presiding election officer or officers of such voting place before the opening of the polls on the day of election one set of ballots so prepared, sealed and marked for such voting place, and a receipt of such delivery shall be returned to them from the presiding election officer or officers present, which receipt, with a record of the number of ballots sent, shall be kept in the clerk's office for one year. At the opening of the polls in each polling place the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding election officer or officers, and the packages, books or blocks of ballots shall be delivered to the ballot clerks hereinafter provided for. The cards of instructions shall be immediately posted at or in each voting shelf or compartment provided in accordance with this chapter for the marking of ballots, and not less than three such cards and not less than five specimen ballots shall be immediately posted in or about the polling rooms outside the guard rails. The second set of ballots shall be retained by the respective city, town and plantation clerks until they are called for or needed for the purposes of voting, and upon the requisition in writing of the presiding election officer or officers of any voting place, the second set of ballots shall be furnished to such voting place in the manner above provided as to the first set.

**Sec. 11. In case of the loss of ballots other ballots shall be prepared and furnished. R. S. c. 6, § 19.** In case the ballots to be furnished to any city, town or plantation, or voting place therein, in accordance with the provisions hereof, shall fail for any reason to be duly delivered, or in case after delivery they shall be destroyed, lost or stolen, it shall be the duty of

## CHAP. 7

the clerk or municipal officers of such city, town or plantation to cause other ballots to be prepared substantially in the form of the ballots so wanting and to be furnished; and upon receipt of other such ballots from him or them, accompanied by a statement under oath that the same have been so prepared and furnished by him, and that the original ballots have so failed to be received or have been so destroyed, lost or stolen, the election officers shall cause the ballots so substituted to be used in lieu of the ballots wanting as above.

### Duties of Municipal and Election Officers.

**Sec. 12. Division of towns and wards of cities into convenient polling districts; warden and clerk shall be appointed for each polling place; check lists shall be prepared. R. S. c. 6, § 20. 1911, c. 94.** The municipal officers, sixty days before any election, may divide towns of more than four thousand inhabitants and wards of cities into convenient polling districts, which shall contain not less than three hundred voters in each, and on application of not less than twenty-five voters all of whom reside not less than six miles by road from the usual polling place, nor more than eight miles in an air line from each other, may establish in a town of less than four thousand inhabitants a separate polling district, which shall include the territory in which said petitioners reside, defining the limits thereof by a writing under their hands to be filed with and recorded by the city or town clerks; and attested copies thereof shall forthwith be posted by said clerks in not less than six public and conspicuous places in said town or ward, and the same shall be published in one or more of the newspapers, if any, printed in said city or town, thirty days at least before such election. They shall also ten days before any such election, appoint a warden and ward clerk for each polling place other than the one in which the wardens duly elected for such ward shall preside, who shall perform the same duties at elections as presiding officers and clerks of towns and wards now perform. Any vacancy occurring after appointment may be filled by the voters of said polling district as similar vacancies are now filled. All such officers shall be sworn. The board of registration of voters for any city in which a ward has been so divided, and the municipal officers of any town which has been so divided, shall in the manner now provided for by law, prepare check lists of the qualified voters for each of said polling districts, in lieu of the check lists now provided by law for the entire town or ward, to be used as hereinafter provided, and all provisions of law applicable to check lists for towns and wards shall apply to check lists for such polling district.

By P. L., 1889, c. 240, the town of Fairfield was divided into two voting precincts. By P. & S. L. 1907, c. 40, certain islands in the town of Harpswell were created a voting district.

**Sec. 13. Clerks shall be appointed for each polling place; number, and duties. R. S. c. 6, § 21. 1907, c. 61. 1909, c. 17.** The municipal officers of cities, towns and plantations voting in accordance with the provisions of this chapter, shall biennially in the month of May appoint clerks for each polling place; and such municipal officers shall appoint as such clerks such persons as shall be recommended for such appointment by the several political party committees of the several cities, towns or plantations, represent-

ing the two political parties, which at the gubernatorial election next preceding such appointment, cast the greatest number of votes. For each polling place in cities and towns four clerks, and for each polling place in plantations, and for each island ward of the city of Portland and for the island district of the town of Cumberland two clerks shall be appointed. Said clerks shall equally represent each of the political parties which cast the largest number of votes in the state election next preceding their appointment. Each of said clerks shall be sworn to the faithful performance of his duties, and shall hold office for two years from the date of his appointment, and until a successor is appointed, and qualified, or he vacates the office. Vacancies occurring in the office of election or ballot clerks shall be forthwith filled by the municipal officers in towns and plantations and by the mayors of cities in manner hereinbefore provided. Such election clerks shall attend at the times and places designated for meetings in their respective wards, towns or plantations for the election of any national, state, county, city or ward officers, and for the determination of any question submitted to the qualified voters of any city by lawful authority, shall be present at and witness the counting by the presiding election officer or officers of all votes cast in such meetings, and shall receive such reasonable compensation for each day's actual service as the municipal officers of their respective cities, towns and plantations may determine. And on the recommendation of the political party committee of any other party represented on the official ballot, said municipal officers shall appoint one such election clerk in each polling place, for such political party, who shall be qualified for the performance of his duties, in like manner as the clerks of the two before mentioned parties, shall hold office for a like term, or for such part thereof as the party for which he is appointed maintains its right to be represented upon the official ballot, and who during said term shall have like rights and duties with the before mentioned clerks to be present at and witness the counting of votes, and shall serve with or without compensation as the municipal officers in any case may deem advisable, vacancies occurring in case of said clerks to be filled as in case of other clerks herein mentioned. No person shall be eligible to the position of election clerk in any ward, town or plantation where he is a candidate to be voted for. Two of the clerks in each polling place, one from each political party shall be detailed by the municipal officers to act as ballot clerks. The two ballot clerks thus detailed and appointed in each polling place shall have the charge of the ballots therein and shall furnish them to the voters in the manner hereinafter set forth. A duplicate list of the qualified voters in each ward, town or plantation shall be prepared for the use of the ballot clerks, and all the provisions of law relative to the preparation, furnishing and preservation of check lists shall apply to such duplicate lists. Provisions in the charter of any city for the election of two persons to assist the warden in receiving, sorting and counting the ballots, are not affected by the provisions hereof; but persons so elected shall be deemed election clerks for that purpose; they shall equally represent the two political parties which, at the state election next preceding cast the greatest number of votes.

By P. L., 1887, c. 36, as amended by P. L., 1889, c. 169 and P. L., 1893, c. 190, certain islands in the town of Cumberland were created a voting district,

## CHAP. 7

**Sec. 14. Voting compartments shall be provided for use of voters while marking their ballots.** R. S. c. 6, § 22. 1905, c. 148. 1911, c. 20. The municipal officers in each city, town or plantation, as aforesaid, shall cause the polling places therein to be suitably provided with a sufficient number of voting shelves and compartments, at or in which voters may conveniently mark their ballots so that in the marking thereof they shall be screened from the observation of others, and each voting shelf and compartment shall have a wooden swing door so arranged that the top thereof shall be not less than six feet from the floor and the bottom of the door shall be at least two feet and six inches from the floor. And such door shall be shut while the voter is within the compartment and no one shall be allowed therein with him, unless he calls for assistance in the marking of his ballot and such assistance shall be so furnished according to the provisions of this chapter, and a guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes and of such voting shelves and compartments. The arrangement shall be such that the ballot boxes shall not be hidden from the view of persons present and the voting shelves and compartments shall be so arranged that the door of each compartment shall be next to the guard rail, so as to admit to full view of the persons just outside of the guard rail those who enter and leave each compartment. The number of such voting shelves and compartments shall not be less than one for every one hundred voters qualified to vote at such polling place, and not less than three in any town, and not less than five in any ward of a city. No persons other than the election officers, election clerks and voters admitted as hereinafter provided, shall be permitted within said rail, except by authority of the presiding election officer or officers for the purpose of keeping order and enforcing the law. Each voting shelf and compartment shall be kept provided with proper supplies and conveniences for marking the ballots.

**Manner of Voting.**

**Sec. 15. Voter shall give his name to ballot clerk and if on check list he may enter within guard rail; distribution of ballots.** R. S. c. 6, § 23. Any person desiring to vote shall give his name, and if requested so to do, his residence, to one of the ballot clerks, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found upon the check list by the ballot clerk having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard rail, as above provided. The ballot clerk shall give him one, and only one ballot, and his name shall be immediately checked on said list. Besides the election officers and election clerks, not more than two voters in excess of the number of voting shelves or compartments provided, shall be allowed in said enclosed space at one time.

**Sec. 16. How voter shall prepare ballot; manner of voting.** R. S. c. 6, § 24. On receipt of his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided and shall prepare his ballot by marking in the appropriate place, a cross (X) as follows: He shall place such mark within the

square above the name of the party group or ticket, in which case he shall be deemed to have voted for all the persons named in the group under such party or designation. And if the voter shall desire to vote for any person or persons, whose name or names are not printed as candidates on the party group or ticket, he may erase any name or names which are printed on the party group or ticket, and under the name or names so erased he may fill in the name or names of the candidates of his choice. Or if the voter places and sticks on and over the name or names of any candidate or candidates for any office or offices, a small strip or strips of paper, commonly known as a sticker or stickers, bearing thereon a name or names other than the name or names of the candidate or candidates so erased or covered up, the name or names of such candidate or candidates so covered shall be considered to be erased from the ballot, and the person or persons whose name or names shall so appear on such strip or strips of paper so placed and stuck on the ballot, shall be deemed to be voted for by the voter as candidate or candidates for such office or offices. Or if the voter does not desire to vote for a person or persons whose name or names are printed upon the party group or ticket, he may erase such name or names with the effect that the ballot shall not be counted for the candidate or candidates whose names are so erased. In case of a question submitted to the vote of the people he shall place such mark in the appropriate margin above the answer which he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, and he shall keep the same so folded until he has voted. He shall vote in the manner provided by law before leaving the enclosed space, and shall deposit his ballot in the box with the official indorsement uppermost. He shall mark and deposit his ballot without undue delay and shall quit said enclosed space as soon as he has voted. No such voter shall be allowed to occupy a voting shelf or compartment already occupied by another, or to remain within said enclosed space more than ten minutes, or to occupy a voting shelf or compartment for more than five minutes in case all of such shelves or compartments are in use; and other voters are waiting to occupy the same. No voter not an election officer or an election clerk, whose name has been checked on the list of the ballot clerks, shall be allowed to re-enter said enclosed space during said election. The presiding election officer or officers, for the time being, shall secure the observance of the provisions of this section.

86 Me. 50; 89 Me. 298; 108 Me. 167; 110 Me. 453.

**Sec. 17. If voter spoils ballot he may obtain others, not exceeding three.**  
**R. S. c. 6, § 25. 1907, c. 149. 1912, c. 1, § 4.** No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately canceled, and together with those not distributed to the voters, and with the check lists used, which shall be certified by the ballot clerks, to be such, shall be secured, sealed, and sent to the several city, town and plantation clerks.

92 Me. 158.

## CHAP. 7

**Sec. 18. Counting and sealing of ballots.** R. S. c. 6, § 25. 1912, c. 1, § 4. The ballots shall be sorted and counted in open town or ward meeting in such manner as to afford the electors present ample opportunity to observe the sorting and counting and the result shall be declared and recorded in open town or ward meeting. When the ballots have been so sorted and counted and the result so declared and recorded all the ballots shall in open meeting be sealed in a package, which said package with the check lists sealed in the same manner as the ballots, shall forthwith be returned to the city, town or plantation clerk. In case two or more kinds of official ballots are used at any election, each kind shall be sealed in a separate package. All ballots and check lists shall be so sealed that the packages and check lists cannot be opened or examined without first breaking the seal; and the sealed packages of ballots cast at any state election or at any election of electors of president and vice-president of the United States shall have an indorsement of substantially the following tenor indorsed thereon or securely affixed thereon: 'This package contains the ballots cast at an election for held in the                    of                    (or in ward                    of the city of                    ) on the                    day of                    191                    ; said ballots were sorted, counted, the result declared and recorded, and this package sealed in open meeting in accordance with section eighteen of chapter seven of the Revised Statutes.' Such indorsement shall be signed by the town, plantation or ward clerk and by a majority of the selectmen of towns and the assessors of plantations, or by the wardens in cities or voting precincts. The ballots and check lists returned to the city clerk after any city election and all other ballots returned to him, which he is not required to forward to the secretary of state according to the provisions of section forty-five, shall be preserved by him as a public record for six months.

**Sec. 19. Voter unable from any cause to mark ballot, may receive assistance of election clerks.** R. S. c. 6, § 26. Any voter who shall declare to the presiding election officer or officers that he cannot mark his ballot by reason of physical disability, or from inability to read the same, shall receive the assistance in the marking of his ballot, of two of the election clerks; such clerks shall not both represent one and the same political party, and they shall certify on the outside of such ballot that the same was marked by them, or by the voter with their assistance, and thereafter shall give no information concerning the same. The presiding election officer or officers may require every voter, who applies for such assistance, to make oath to his inability to mark his ballot, before such clerks shall be directed to assist as aforesaid, and such officer or officers are hereby qualified to administer such oath, and no clerk shall assist or offer to assist any voter in marking his ballot until directed so to do by the presiding election officer or officers.

**Sec. 20. When ballot shall not be counted.** R. S. c. 6, § 27. 1911, c. 71. If a voter marks more names for any one office than there are persons to be elected to such office, or if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office. No ballot without the official indorsement shall, except as herein otherwise provided, be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this

chapter shall be counted. Ballots not counted shall be marked defective on the back thereof, and shall be preserved, as required by section eighteen. No marks, other than those authorized by law, shall be placed upon the ballot by the voter; but no ballot, after having been received by the election officers, shall be rejected as defective because of marks, other than those authorized by law, having been placed upon it by the voter, unless such marks are deemed to have been made with fraudulent intent, and no ballot shall be rejected as defective because of any irregularity in the form of the cross in the square at the head of the party column unless such irregularity is deemed to have been intentional and made with a fraudulent purpose.

86 Me. 50; 110 Me. 453; 113 Me. 488.

**Sec. 21. Time of opening and closing of polls.** R. S. c. 6, § 28. 1911, c. 98. 1915, c. 243, § 1. Meetings for the election of state and county officers, and for the election of municipal officers in cities, may be opened at six o'clock in the forenoon, and shall be opened not later than ten o'clock in the forenoon; the polls shall be kept open until five o'clock in the afternoon and shall then be closed. Notice of the time of opening and closing shall be given in the warrant calling the meeting.

#### Notifying Meetings, Proceedings and Returns.

**Sec. 22. Call of meeting for election of state officers.** R. S. c. 6, § 34. The selectmen of every town, by their warrant shall cause the inhabitants thereof, qualified according to the constitution, to be notified and warned seven days at least before the second Monday of September biennially, to meet at some suitable place designated in said warrant to give in their votes for governor, senators and representatives, as the constitution requires; and such meeting shall be warned like other town meetings.

**Sec. 23. Officers presiding have powers of moderator.** R. S. c. 6, § 36. The selectmen or other officers, required by the constitution and laws to preside at any such meeting, shall have all the powers of moderators of town meetings, as provided in chapter four; and they shall refuse the vote of any person not qualified to vote.

See c. 4, § 35.

**Sec. 24. Selectmen absent, others may be chosen pro tempore.** R. S. c. 6, § 37. If a majority of the selectmen are absent from any such meeting duly warned, or being present, neglect or refuse to act as such and to do all their duties, the voters may choose so many selectmen pro tempore, as are necessary to constitute or to complete the number competent to act.

70 Me. 565.

**Sec. 25. Presiding officer at such choice.** R. S. c. 6, § 38. During the choice of selectmen pro tempore any selectman present may act as moderator; if no selectmen are present, or if those present neglect or refuse to act as such, the town clerk shall preside; and the person so presiding shall have all the powers and discharge the duties of moderator.

**Sec. 26. Duties and powers of selectmen pro tempore.** R. S. c. 6, § 39. Selectmen pro tempore accepting the trust, shall be sworn faithfully to discharge the duties of said office, so far as relates to such meeting and election; and in making a record and return of the votes, as the constitution

## CHAP. 7

or laws require, and in all matters incidental to the trust, they shall have the powers of permanent selectmen, and be subject to the same duties and liabilities.

**Sec. 27. In case of division of a town, where electors may vote. R. S. c. 6, § 40.** Whenever any territory is set off from one town and annexed to another, the inhabitants of the territory set off, otherwise qualified, may vote for representative to congress, senators or representatives to the legislature, in the town to which they are annexed, if said town is within the congressional, senatorial or representative district' as the case may be, to which they previously belonged; otherwise, such inhabitants may vote for said officers in the town from which they were set off, until the next congressional, senatorial or representative apportionment has been made.

**Sec. 28. Check list required; rules as to voting. R. S. c. 6, § 41.** The officers presiding at any election, except for the choice of town officers, shall use the check list herein required at the polls during the election of governor, senators, representatives, and other public officers requiring like qualifications in the electors, and use but one ballot box; and no votes shall be received unless delivered by the voter in person after he has audibly announced his name to the presiding officers, unless physically unable to do so, and they have had opportunity to be satisfied of his identity and find his name on the list and mark it, and ascertain that his vote is single.

See c. 5, § 45; 82 Me. 531; 96 Me. 434.

**Sec. 29. Clerks shall preserve check lists, and furnish certified copies thereof. R. S. c. 6, § 42. 1912, c. 1, § 12.** Clerks of towns shall preserve the check lists used at any election at which the ballots cast are to be returned to the secretary of state under the provisions of this chapter, for one year without alteration, and shall furnish to any person a certified copy thereof within the twenty days after demand and payment or tender of the legal charges therefor, and shall without charge furnish the governor and council with a certified copy thereof within twenty days after demand, under the penalty provided in section ninety-nine.

See c. 5, § 45; 92 Me. 158.

**Sec. 30. Votes to be on white paper without marks or figures. R. S. c. 6, § 43.** No ballot shall be received at any election of state or town officers, unless in writing or printing upon clean white paper without any distinguishing mark or figures thereon, besides the official indorsement, the names of the persons to be voted for and the offices to be filled; but no vote shall be rejected on this account after it has been received into the ballot box.

See §§ 105, 115; 54 Me. 604; 70 Me. 566; 106 Me. 517; 108 Me. 169.

**Sec. 31. State ballot boxes to be of uniform design and furnished by the secretary of state. 1912, c. 1, § 1.** Ballot boxes used for the reception of official ballots shall be of uniform design; they shall be provided for each polling place by the secretary of state at the expense of the state, and shall be known as state ballot boxes; each box shall be equipped with a suitable lock and key; in the top of each box there shall be an opening through which each ballot shall be put into the box: such opening shall be large enough and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box, and shall be covered

with a slide which shall be kept shut except when opened to receive a ballot. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election.

**Sec. 32. State ballot boxes shall be used for receiving all official ballots; regulations as their use.** 1912, c. 1, § 2. State ballot boxes shall be used for receiving all official ballots cast at elections. The election officers at each polling place shall at the opening of the polls and before any ballots are received publicly open the ballot box, and ascertain by personal examination, and publicly show that the same is empty, and shall immediately thereafter lock the box and deliver the key thereof to the town, plantation, ward, district or precinct clerk, to be retained by him until the polls are closed. The ballot box shall not, after it has been shown to be empty and has been locked, be removed from public view nor opened nor any ballot removed therefrom until the polls are closed. If it becomes impossible to use the state ballot box the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot box is not used, and shall enclose an attested copy of such record in the package with the ballots cast.

See § 115.

**Sec. 33. Presiding officer shall have charge of ballot box; custody of ballot boxes; defective or lost ballot boxes.** 1912, c. 1, § 3. The presiding officer at each polling place shall have charge of the state ballot box, and shall at the close of each election return the same to the city, town or plantation clerk. The clerk of each city, town or plantation shall have the custody of the state ballot boxes provided for the town, and shall at the expense of the town provide for their safe keeping and for keeping them in good order and repair, subject to the supervision and control of the secretary of state.

If a state ballot box becomes defective or is lost or destroyed, the town clerk shall seasonably make written application to the secretary of state for another ballot box, and the same shall be supplied at the expense of the town.

See § 115.

**Sec. 34. Ballot boxes, how constructed and used.** R. S. c. 6, § 44. Ballot boxes used at elections for which official ballots are not provided, shall be covered at the top with a slide only, which shall be kept shut, except when opened to receive a ballot; but such boxes may contain mechanical devices which tend to prevent fraud in elections and do not materially abridge the rights of voters; and if the presiding officers do not comply with the requirements of this chapter, or attempt to evade the same, they shall be subject to the penalties provided in section ninety-nine of this chapter.

**Sec. 35. Commission to examine and approve voting and counting machines; secrecy essential.** R. S. c. 6, § 45. The secretary of state, the attorney general and one member of the governor's council to be designated by the governor, shall, at such times, under such conditions, and after such public notice as they see fit to give, examine voting and counting machines and apparatus; and they shall certify their approval of such machines as, in their judgment, furnish convenient, simple and satisfactory means of

**CHAP. 7**

voting and of ascertaining the true result thereof with facility and accuracy, special regard being had to preventing and detecting double voting; but no machine shall be approved which does not secure to the voter a degree of secrecy in voting equal to that afforded by the use of the official ballot as provided by law. No machine except such as is approved by said officers and used in accordance with this and the three following sections shall be used in this state.

**Sec. 36. Cities and towns authorized to purchase and use machines. R. S. c. 6, § 46.** A city or town may, at a legal meeting held not less than ten days before any regular election; determine upon and purchase or accept for trial, and order the use of one or more voting and counting machines for the then ensuing election in said city or town and thereafter in case said machine or machines are purchased, at all elections in cities and at state and presidential elections in towns, until otherwise voted at a legal meeting, said machines shall be used for the purpose of voting for the officers to be elected at such elections and for taking the vote upon constitutional amendments and all other questions submitted to vote at such elections.

**Sec. 37. Bond shall be given to keep machines in good order. R. S. c. 6, § 47.** When voting and counting machines are approved and purchased, the persons of whom such machines are purchased shall give to the secretary of state a suitable bond with sufficient sureties, conditioned to keep each machine in good working order for five years at their own expense.

**Sec. 38. Regulations and instructions for use of voters shall be furnished. R. S. c. 6, § 48.** The secretary of state shall make regulations for the use of machines approved, and before each state and presidential election shall furnish appropriate instructions for the voters in cities and towns where such machines are used, and like appropriate instructions shall be furnished by clerks of cities before each city election.

**Sec. 39. In case of no choice of representatives in an unclassified town, meeting to be adjourned. R. S. c. 6, § 49.** When at a town meeting held for election of representatives to the legislature, in a town not classed with other towns as a representative district, by reason of persons having an equal number of votes, a full choice of representatives is not effected, the meeting shall be adjourned to the same day of the week following, and to the same hour and place at which the first meeting was called; and at such adjourned meeting, the voters shall give in their votes for so many representatives as are necessary to make up the number to which said town is entitled; and like adjournments shall be had until the full number is elected.

**Sec. 40. Meetings for choice of certain officers, and to determine certain questions. R. S. c. 6, § 50.** All town meetings required for election of county officers, state auditor, United States senator, representatives to congress, or of electors of president and vice-president of the United States, or for the determination of questions submitted to the people by the legislature, shall, as to calling, notifying and conducting them, be subject to the regulations made in this chapter for election of governor, senators and representatives, unless otherwise provided by law.

**Sec. 41. Result of any election by ballot, how determined. R. S. c. 6, § 51.** To determine the result of any election by ballot, the number of

persons who voted shall first be ascertained by counting the whole number of separate ballots given in, which shall be distinctly stated, recorded and returned. No person ineligible to the office shall be declared elected; but such votes shall be counted, to determine whether any person has received the necessary number of all votes cast. In case of United States senators, representatives to congress, members of the legislature, and county and state officers, except where a different rule is prescribed in the constitution, the person or persons, not exceeding the number to be voted for at any one time for any such office, having the highest number of votes given at such election shall be declared elected, and the governor shall issue a certificate thereof. If, by reason of two or more persons receiving an equal number of votes, the election of the requisite number of officers cannot be declared without declaring more than the requisite number elected, no one of those having an equal number of votes shall be declared elected. In all other cases no person shall be declared elected, who has not received a majority of the whole number of votes counted as aforesaid; and if a number greater than is required to be chosen receive a majority of said whole number, the number so required, of those who have the greatest excess in votes over such majority, shall be declared elected. If the number to be elected cannot be so completed by reason of any two or more of such persons having received an equal number of votes, the persons having such equal numbers shall be declared not elected. In all cases not otherwise provided for, if no person eligible to the office receives the requisite number of votes to elect him, then the governor shall order a new election; provided, however, that nothing in this section shall give the governor and council authority to determine questions of eligibility in cases of senators and representatives to the legislature.

See Constitution, Art. iv, part 1, § 5; part 2, § 3; Art. vi, § 7; Art. ix, § 10; Am'd't xxiv, Act of Congress of June 4, 1914; 71 Me. 373.

**Sec. 42. Governor to issue proclamation for election to fill congressional vacancy. R. S. c. 6, § 52. 1915, c. 55.** Whenever a vacancy occurs in the representation of the state in the senate of the United States or in the national house of representatives, the governor, in any manner having knowledge thereof, shall issue his proclamation for an election to fill the same. If congress is in session when such vacancy occurs, the proclamation shall issue forthwith; otherwise, in season to secure representation at the next called or regular session of congress.

See U. S. Const., Art. i, § 2, ¶ 4.

**Sec. 43. Clerks of towns to mail returns to secretary of state; canvass of returns, declaration of result and issue of certificate of election. R. S. c. 6, § 53.** The clerk of each town, within twenty-four hours after the close of the polls, shall deposit in some post-office the returns of the votes cast at such special election post-paid, directed to the secretary of state, to be transmitted by mail. The governor and council shall meet seven days after such election, and open and canvass such returns, and declare the result. They shall receive certified copies of the record of any town if the return from such town is lost, or is not received by the secretary of state. The governor shall immediately issue a certificate of election to the person thus declared to have received a plurality of votes.

## CHAP. 7

**Sec. 44. Clerk to transmit returns of votes to secretary of state. R. S. c. 6, § 54. 1912, c. 1, § 5.** The clerk of each town shall cause to be delivered at the office of the secretary of state, the returns of votes given in his town, for governor, state auditor, senators, representatives to the legislature, United States senators, representatives to congress, electors of president and vice-president of the United States, and for county officers, within three days next succeeding any meeting for their election, or shall deposit them, post-paid, in some post-office, directed to the secretary of state, within twenty-four hours after such meeting, to be transmitted by mail; and shall also forward to such office, as soon as practicable, a statement attested by him of the number of votes for said several officers, given at such election in his town, which shall be opened and filed by the secretary, and kept for public examination.

64 Me. 598. See § 115; c. 2, § 56.

**Sec. 45. Clerk to transmit all ballots to secretary of state; secretary of state shall preserve ballots for six months. 1912, c. 1, § 6.** Within twenty-four hours after the close of any election for governor, state auditor, senators, representatives to the legislature, United States senator, representatives to congress, electors of president and vice-president of the United States, and for county officers, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him under the provisions of section eighteen of this chapter, without breaking the seal of the packages of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each polling place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said twenty-four hours shall deliver said box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor; or within three days after the close of such election the clerk of each town shall deliver said ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of six months all such ballots so received by him as a public record.

See § 115.

**Sec. 46. Secretary of state shall send messenger for returns of ballots; expense of messenger, how paid. 1912, c. 1, § 7.** At the expiration of fourteen days after any election specified in the preceding section, the secretary of state shall forthwith send a messenger to every town from which returns of votes have not been received as provided in section forty-four of this chapter, or from which the sealed packages of ballots have not been received as provided in the preceding section; and the expense of each messenger shall be audited and paid, and added to the next state tax assessed on the town, as provided in section fifty-nine of this chapter.

**Sec. 47. Secretary of state shall permit interested persons to inspect ballots. 1912, c. 1, § 8.** The secretary of state shall permit any candidate or other interested person to inspect the ballots so returned to him, in his presence or in the presence of any clerk of his office designated by him, or in the presence of the deputy secretary of state, under such reasonable

regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury or change in any respect. After each inspection the packages shall be again sealed and the fact and date of inspection noted on the package. Whenever required so to do the secretary of state or the deputy secretary of state shall produce any package of ballots in his custody before the governor and council, the legislature or either branch thereof, or any committee thereof or before any court or magistrate having jurisdiction of any proceeding relating to said election.

**Sec. 48. Secretary of state shall provide suitable seals, printed forms of indorsements, blanks, returns, and letters of instructions.** 1912, c. 1, § 9. The secretary of state shall at the expense of the state provide and seasonably send to the several city, town and plantation clerks suitable seals for use as required by the provisions of this chapter, and printed forms of indorsements, and suitable blanks for all certificates, copies of records and returns required to be made to his office, by this chapter; and shall also prepare and send in the same package with said seals a letter of instructions especially calling the attention of each clerk to the provisions of sections seventeen, eighteen, thirty-two, thirty-three and forty-five of this chapter.

**Sec. 49. County attorney, to be notified if return is not received; duty.** R. S. c. 6, § 55. If any such return is not received by the secretary of state within thirty days next after such meeting, he shall forthwith notify the county attorney of the county in which such town is situated, who shall give immediate notice thereof to the clerk of such town, and unless he receives satisfactory evidence that said clerk has complied with the requirements of the preceding section, he shall prosecute for the penalty hereinafter provided.

See § 99.

**Sec. 50. Loss of returns to be supplied by copy of record.** R. S. c. 6, § 56. When such original return is lost or destroyed, the selectmen and clerk of such town, on receiving information of such loss or destruction, shall forthwith cause a copy of the record of the meeting at which such vote was given, to be made with their certificate upon the same sheet, that it is a true copy of the record, that it truly exhibits the names of all persons voted for, for the offices designated, and the number of votes given for each at such meeting, and that said copy contains all the facts stated in the original return.

See §§ 109, 115.

**Sec. 51. Oaths to be made to copy.** R. S. c. 6, § 57. The selectmen and town clerk, who were present at the meeting and signed the original return, shall sign the certificate mentioned in the preceding section, designating their office against their names as in the original return, and make oath that said copy and certificate are true, before some justice of the peace of the county, who shall make certificate of such oath on the same paper.

See §§ 110, 113, 116.

**Sec. 52. Certificates, how sealed and returned.** R. S. c. 6, § 58. Such copy and certificates shall then be sealed up, and directed to the secretary of state, with the nature of the contents written on the outside; and the

## CHAP. 7

clerk of such town shall cause the same to be delivered into the office of the secretary of state, as soon as may be.

See §§ 109, 110, 115.

**Sec. 53. Mode of determining who are elected; proceedings for correcting returns; notice of election; rule for canvassing returns and determining election.** R. S. c. 6, § 59. 1912, c. 1, § 10. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, may personally, and by or with counsel, examine said returns in presence of the governor and council, or either of them, or any member of the council. Upon written application filed with the secretary of state within twenty days after the returns are opened and tabulated, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town, and specifying the offices as to which such errors are believed to have occurred, the governor and council in open meeting shall examine the ballots cast in said town, and returned to the secretary of state, and if such return or record is found to be erroneous the return shall be corrected in accordance with the number of ballots found to have been actually cast in said town; but no such examination of the ballots shall be made without reasonable notice to all candidates for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made and affording such candidates a reasonable opportunity to be present in person or by counsel at such examination and be heard in relation thereto. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of state, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected.

To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes appearing by said returns to have been intentionally cast for him, although his name upon the return is misspelled or written with only the initial or initials of his christian name or names; and they may hear testimony upon oath, in relation to such returns, in order to get at the intention of the electors, and shall decide accordingly. This section shall be applied in determining the election of all county officers, and, so far as it relates to the examination and correction of returns, it shall be applied in determining the election of state auditor, United States senator, representatives to con-

gress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

26 Me. 498; 54 Me. 603, 605; 64 Me. 590, 598; 70 Me. 561, 571, 587; 71 Me. 370, 384; 79 Me. 561, 587.

**Sec. 54. Application in determining certain questions. 1912, c. 1, § 11.** This chapter shall be applied in determining the results of voting upon any resolve of the legislature submitting a constitutional amendment to the people, and the results of voting upon any measures submitted to the determination of the people under the amendment to the constitution of the state adopted September fourteen, nineteen hundred and eight, except questions relating to municipal affairs submitted under section twenty-one of part three of article four of the constitution; provided, however, that the governor and council may without the application mentioned in the preceding section, examine in open meeting the ballots cast on any such resolve or measure; and when such examination is made with or without application, in lieu of the notice prescribed by the preceding section, a notice thereof and of the time and place fixed therefor shall be given by publishing such notice at least twice in some newspaper, if any, published in the town where the ballots to be examined were cast, and if there is no such newspaper then in a newspaper published in the town in the same county nearest the town where the ballots to be examined were cast; the first publication of such notice shall be at least seven days before the time fixed for such examination.

**Sec. 55. Jurisdiction of supreme judicial court not affected. 1912, c. 1, § 13.** Nothing contained in the preceding sections shall affect the jurisdiction of the supreme judicial court or any justice thereof to entertain proceedings under sections eighty-seven to ninety-one, both inclusive, of this chapter.

**Sec. 56. Vacancies, how filled in towns not classed for representatives. R. S. c. 6, § 60.** When the selectmen of any town not classed with others as a representative district, have knowledge that the seat of a representative thereof has been vacated, they shall forthwith issue their warrant, giving at least seven days' notice, for a meeting of the electors of said town to fill such vacancy; and at such meeting like proceedings shall be had, as at any meeting held on the second Monday in September for the like purpose.

See §§ 70, 72; 70 Me. 560, 571.

#### Choice of Electors of President and Vice-President.

**Sec. 57. Electors of president and vice-president to be chosen; meetings, when and how called. R. S. c. 6, § 123.** Whenever the election of president and vice-president of the United States is to take place, there shall be chosen from the inhabitants of the state, as many electors of president and vice-president as the state is entitled to; and on the Tuesday next after the first Monday in November of such year, the people qualified to vote for senators, shall assemble in town, plantation, city or ward meetings, to be notified, held and regulated as prescribed by the constitution and laws for the election of such senators.

See U. S. Constitution, Art. ii, § 1, ¶ 2.

## CHAP. 7

**Sec. 58. Votes, how received and returned, and counted; secretary to send for delinquent returns; notice to persons elected.** R. S. c. 6, § 124. 1913, c. 105. The votes shall be sorted, counted, declared and recorded; and the returns of the number of ballots, and of the votes given for each elector, shall be made according to the constitution and laws, to the secretary of state, on or before the second Tuesday after such meeting; on the third Tuesday after such meeting, the governor and council shall be in session, and shall open, examine and count the returns of votes so made, and the secretary of state shall forthwith send a messenger to every city and town from which a return has not been received at his office; and the governor and council shall again meet on the Tuesday next before the first Wednesday in December, and examine and count all the votes received from the several cities, towns and plantations, and the votes of citizens in the military service lawfully returned into the secretary's office; and they shall forthwith send a certificate of election to each person who has received the greatest number of all the votes returned to said office, not exceeding the number to be chosen.

**Sec. 59. Expense of sending for returns to be paid by state, and added to state tax of delinquent towns.** R. S. c. 6, § 125. The expense of each messenger sent as required in the preceding section shall be audited and allowed by the governor and council, and paid out of the state treasury; and unless they think that the officers of any delinquent town have fully performed their duties in making the required returns, the amount so paid shall be added to the next state tax assessed on such town; but if the same messenger is sent to two or more towns on the same route, the amount to be paid by each of them, shall be apportioned by the governor and council according to their relative distances and the expense of traveling.

**Sec. 60. In case of no choice of majority of electors, governor to assemble legislature.** R. S. c. 6, § 126. If, on such examination it appears that there has not been a choice of a majority of the whole number of electors, the governor, by proclamation, shall convene the legislature forthwith; and the legislature by joint ballot of the senators and representatives assembled in one room shall choose as many electors, as are necessary to complete the number to which the state is entitled.

**Sec. 61. Meeting of electors; vacancies, how filled.** R. S. c. 6, § 127. The electors shall convene in the senate chamber at Augusta on the Saturday preceding the second Monday of January next after their election, at two o'clock in the afternoon; and if any elector so chosen is not present, the electors then present, by a majority of votes, shall forthwith elect the requisite number of persons qualified to supply such deficiency.

**Sec. 62. Proceedings of presidential electors.** R. S. c. 6, § 128. Said electors, on said second Monday of January, shall vote by ballot for one person for president and one person for vice-president of the United States; one of whom, at least, shall not be an inhabitant of this state; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; they shall make and subscribe three certificates of all the votes by them given, each of which shall contain two distinct lists, one of the votes given for president, and the other

of the votes given for vice-president; they shall seal them up and certify on each certificate, that a list of votes of the State of Maine for president and vice-president of the United States is contained therein. They or a majority of them shall, under their hands, appoint a person to take charge of one of said certificates, and deliver it at the seat of government of the United States, to the president of the senate of the United States, before the fourth Monday of the month of January in which their meeting shall have been held; they shall forthwith forward by the post-office, another of said certificates, directed to the president of the same senate, at the same seat of government; and they shall forthwith cause the other certificate to be delivered to the judge of the district court of the United States for the district of Maine.

See U. S. Constitution, amendment xii and acts of Congress of Feb. 3, 1887, and Oct. 19, 1888.

**Sec. 63. Compensation.** R. S. c. 6, § 129. Electors shall receive as compensation ten dollars a day and such travel as members of the legislature receive. They may appoint a secretary and such other officers as they deem proper who shall receive such reasonable compensation for their services as the electors shall allow them.

**Sec. 64. Secretary of state to furnish blanks.** R. S. c. 6, § 130. The secretary of state shall procure blank returns of the proper form for such cities, towns and plantations, and furnish them to the several clerks thereof at least thirty days before the day of election of electors as aforesaid.

See c. 2, § 56.

**Sec. 65. Town officers to proceed as in other meetings.** R. S. c. 6, § 131. All laws in relation to the duties of city, town and plantation officers, and of voters in the election of governor, senators and representatives to the legislature, and to the penalties incurred for their violation, apply, so far as applicable, to meetings held for the election of such electors, and to returns thereof.

#### Elections in Cities.

**Sec. 66. Electors in cities to meet in wards; warden to preside.** R. S. c. 6, § 61. For all purposes mentioned in sections twenty-two and forty, the inhabitants of cities shall meet as the constitution requires, in ward meetings, to be notified and warned, as town meetings for similar purposes are. The warden shall preside; the clerk shall make such record as the constitution requires, and the city constables shall preserve order.

**Sec. 67. Warden pro tem. may be chosen.** R. S. c. 6, § 62. If the warden is absent from any such meeting, or refuses or neglects to preside, a warden pro tempore shall be chosen, and during such choice the ward clerk shall preside; and the warden pro tempore accepting the trust, shall be sworn, and have the power and perform the duties of warden of such meeting, and shall be liable to like penalties.

**Sec. 68. Portland islands constitute two wards for certain purposes.** R. S. c. 6, § 63. The several islands within the city of Portland, so far constitute two separate wards as to entitle the voters of each of said wards

## CHAP. 7

to choose a warden, ward clerk and one constable, who shall be residents of said islands and of their respective wards. The first of said wards comprises Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward shall be held on Long Island. The second of said wards comprises the remaining islands within the city of Portland, and the ward meetings of said second ward shall be held on Peak's Island. The electors of each of said wards may meet as provided in section sixty-six, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

**Sec. 69. Proceedings at such meetings.** R. S. c. 6, § 64. The warden shall preside impartially at such meetings, receive the votes of all electors present, sort, count and declare them in open meeting and in presence of the clerk, who shall make a list of the persons voted for with the number of votes for each person against his name, and the offices respectively, and in open ward meeting and in presence of the warden, shall make a fair record thereof; a fair copy of this list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one in Portland within eighteen hours after closing the polls, and the votes thus thrown shall belong to the last mentioned ward.

**Sec. 70. If no choice, new meetings; vacancies.** R. S. c. 6, § 65. When a choice of any representative to the legislature is not effected, the aldermen shall call new meetings of the wards for the purpose, to be held at the same time, within two weeks after any former meeting; and like proceedings shall be had at such meetings, as at the first, until a choice is effected; and when the aldermen of any city have knowledge that the seat of a representative therein has been vacated, they shall call meetings of the wards for the purpose of filling such vacancy; and like proceedings shall be had at such meetings as at other meetings for the election of representatives.

See §§ 56, 72; 70 Me. 560, 570.

**Sec. 71. In cities, election by plurality.** 1913, c. 184. In all elections in cities by the people, the candidate receiving the greatest number of votes for any municipal office, although such number is not a majority of all the votes cast, shall be deemed elected to such office, provided that the provisions of this section have been adopted in the city where the election is held, by a majority vote, at a regular or special election.

### Representative Districts.

**Sec. 72. Vacancies in representative districts.** R. S. c. 6, § 66. When the selectmen of the oldest town in a district are notified or otherwise satisfied, that at the last meeting of the district for the election of a representative no choice was effected, or that the seat of their representative has been vacated, they shall, as soon as may be, leaving a convenient time for calling meetings in the several towns, appoint a day of election to fill such vacancy, and notify the selectmen of the other towns accordingly.

See §§ 56, 70; 70 Me. 560, 570.

**Sec. 73. Meetings and proceedings.** R. S. c. 6, § 67. The selectmen of the several towns shall call meetings upon the day appointed, and proceedings shall then be had, as required by the constitution and laws for the election of representatives on the second Monday of September.

#### Voters in Unincorporated Places and on Islands.

**Sec. 74. Electors on unincorporated islands and places, may vote in adjacent towns, and be taxed there for state and county taxes.** R. S. c. 6, § 75. Electors living on islands adjacent to the mainland along the coast of the state and within the jurisdiction thereof, but not incorporated with any town, and all such electors living in other unorganized places may furnish lists of their polls and estates to the assessors of any adjacent town, on or before the first day of each April, and said assessors shall assess state and county taxes upon all such persons, and they shall be collected in the same manner and by the same officers as if such electors were inhabitants of such town. And such electors so presenting their polls and estates may vote in such town in all elections for governor, senators, representatives and county officers.

See Const., Art. iv, Part 1, § 5; Part 2, § 3; 90 Me. 374.

#### Plantations.

**Sec. 75. List of voters prepared, posted and corrected.** R. S. c. 6, § 118. The assessors of each plantation shall on or before the eleventh day of August in each year in which an election for governor, senators and representatives is held, prepare a list of such inhabitants within its limits, as they judge to be constitutionally qualified to vote in the election of such state officers; deposit it in the office of the plantation clerk; and post and correct it in the manner required in case of towns.

**Sec. 76. State officers, meetings to be called for their choice.** R. S. c. 6, § 119. They shall call a meeting of such voters, to be held on the second Monday of September in every such year, at some convenient and central place in the plantation, for the election of governor, senators and representatives to the legislature, by a warrant in due form by them signed, in which the time, place and purposes of the meeting shall be set forth; and notice shall be given by posting a copy thereof in one or more public places in the plantation at least seven days before the day of meeting. Similar notice shall be given of all meetings for choice of United States senators, representatives to the legislature, or to congress, of state and county officers, and of electors of president and vice-president.

**Sec. 77. Votes, how received; list of votes and voters to be returned to the secretary of state.** R. S. c. 6, § 120. Such assessors shall preside impartially at all such meetings, receive the votes of all voters present, sort, count and declare them in open plantation meeting and in presence of the clerk, who shall form a list of the persons voted for, with the number of votes for each person written out in words against his name, and make a full record thereof in presence of the assessors and in open plantation meeting. The clerk shall make fair copies of the list of voters so posted as corrected, and of the names of all voters on said list who were present and

## CHAP. 7

voted at said election, which shall be attested by the assessors and the clerk in open plantation meeting, and he shall cause the record of said votes to be delivered, within the time required by the constitution and the laws, to the person appointed to receive them, and shall cause the copy of the list of voters and of the names of the persons present and voting to be transmitted to the secretary of state with the record of votes aforesaid.

**Sec. 78. Votes to be allowed in elections, as in towns. R. S. c. 6, § 121.** Votes so thrown shall be received and allowed for electors of president and vice-president of the United States, for governor, state auditor, senators, and representatives to the legislature, and to congress, United States senators, and for county officers, the same as votes thrown in a town in said county.

**Sec. 79. Votes to be rejected on failure of plantation to comply with legal provisions; secretary of state to furnish blanks. R. S. c. 6, § 122.** If it does not appear by the return of the lists of voters so posted, and of the names of the voters on said list who were present and voted at such election, and by the return of its organization duly signed and made to the office of the secretary of state within the time required by law, that the plantation has been duly organized and that section seventy-seven has been fully complied with, such votes shall be rejected. The secretary of state shall furnish to the clerks of such plantations suitable blanks for the returns herein required.

#### Soldiers Authorized to Vote.

**Sec. 80. Inmates of National Home, residence of, and right to vote, established. R. S. c. 6, § 132.** All persons who now are, or may hereafter become inmates of the National Home for disabled volunteer soldiers at Togus, in the county of Kennebec, or subject to the rules and regulations thereof, or shall receive rations therefrom, shall be deemed citizens of the respective towns in which they had a legal residence when their connection with said National Home commenced, so long as such connection shall continue therewith, but any person connected with the National Home as aforesaid, but having a domicile in a town, in this state, outside of said Home and a voting residence therein, shall not be disqualified from voting in the town in which he has such residence, on account of his connection with said Home.

**Sec. 81. Citizens absent in military service (if not in regular army) may vote for presidential electors. R. S. c. 6, § 133.** All citizens of the state absent therefrom in the military service of the United States or of this state, and not in the regular army of the United States, may vote for electors of president and vice-president of the United States on the day designated by law for the election of those officers, in the manner authorized by, and in conformity with section four of article two of the constitution as amended. The names of the voters shall be entered on the poll lists by counties, and the returns of said elections, with the poll lists, shall be delivered into the office of the secretary of state on or before the Thursday next before the first Wednesday of December in each year when a presidential election occurs.

**Sec. 82. Citizens absent in military service (if not in regular army) allowed to vote for congressmen, and for state and county officers.** R. S. c. 6, § 134. All citizens of the state absent therefrom in the military service of the United States or of this state, and not in the regular army of the United States, may vote for governor, state auditor, senators and representatives to the legislature, county officers, United States senator and representatives to congress on the day designated by law for the election of such officers. Such elections shall be held and conducted in the same manner and under the same regulations as those provided for allowing citizens absent from the state in the military service to vote for electors of president and vice-president, and returns thereof shall be made in the same manner to the office of the secretary of state. Such citizens shall present but one ballot, upon which shall be printed the names of all candidates voted for, and the offices which they are intended to fill, and one poll list and one return of votes only is necessary.

**Sec. 83. Secretary of state to prepare poll lists, etc.** R. S. c. 6, § 135. The secretary of state shall seasonably prepare and cause to be delivered to each regiment and battery without the state, a sufficient number of blank poll lists, and forms for returns of votes in conformity with the provisions hereof, and with article two, section four of the constitution; and said section of the constitution and sections eighty-one to eighty-four inclusive, of this chapter, shall be printed in each poll list so delivered.

**Sec. 84. Governor and council may correct errors and frauds in returns of soldiers' votes.** R. S. c. 6, § 136. The governor and council may correct errors and frauds, if any, in all returns of votes given by soldiers in the army for county officers. But no informality, merely, shall authorize the rejection of such return, if it appears on its face, or otherwise, that the provisions of the constitution, and of this chapter, were substantially complied with.

### Contested Elections.

**Sec. 85. Notice of intention to contest seat in house of representatives; testimony, how taken and presented; neglecting party denied postponement.** R. S. c. 6, § 68. Notice of intention to contest the right of any person claiming to be elected to the house of representatives, with a statement of the reasons for so doing, may be served on such person by the contestant at any time after the election, and shall be served at least fifteen days prior to the organization of the house; and all testimony on either side shall be by depositions taken in accordance with the statute or by parol evidence, and presented to said body within three days from the commencement of the session. If this law is not strictly complied with, except in extreme cases where injustice would be done if a continuance was not allowed, the party neglecting shall be denied a postponement, and the committee on elections shall proceed to determine the case by the testimony before them.

**Sec. 86. Petition of contestant, when to be presented to house of representatives; depositions.** R. S. c. 6, § 69. When any person intends to contest, before the house of representatives, the right of any other person to his seat therein, he shall present his petition to said house within three days

**CHAP. 7**

after its organization, stating the grounds upon which he proposes to contest such seat. Depositions may be taken in the manner authorized by chapter one hundred and twelve in cases of contested senatorial elections.

**Sec. 87. Claimant of county or municipal office shall proceed as in equity.**

**R. S. c. 6, § 70.** Any person claiming to be elected to any county or municipal office, or to the office of county attorney, may proceed as in equity against the person holding or claiming to hold such office, or holding a certificate of election to such office, or who has been declared elected thereto by any returning board or officer, or who has been notified of such election, by petition returnable before any justice of the supreme judicial court, in term time or vacation, in the county where either party resides, or where the duties of such office are to be performed, and said court shall have jurisdiction thereof.

86 Me. 43; 98 Me. 90; 106 Me. 510; 108 Me. 164, 178; 110 Me. 205, 450; 111 Me. 45, 328; 113 Me. 486.

**Sec. 88. Petition of claimant to be filed in clerk of court's office; proceedings; judgment. R. S. c. 6, § 71.** The petition shall state the names and residences of the several parties, and the facts upon which the claimant relies to maintain his suit, and shall be signed by him and verified by his oath. Such petition shall be filed in the office of the clerk of courts in the county where it is returnable, and the time of hearing thereon shall be appointed by said justice, and indorsed upon said petition. Notice of pendency of said suit, and the time and place of hearing upon said petition shall be served on the adverse party, by giving him in hand, or leaving at his last and usual place of abode, a copy of said petition and order of the court thereon, or in such other manner as the court directs, and such notice shall be given at least seven days before such hearing. The parties, or their counsel, shall be heard upon written or oral testimony, according to the practice in like procedure, and in such manner as the justice directs; and if it appears upon such trial or hearing that the petitioner has been elected, and is entitled by law to the office claimed by him, or if such adverse party fails to appear, such justice shall render judgment in favor of such petitioner, if he is found, upon hearing, to be entitled thereto.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 51, 324.

**Sec. 89. Appeal. R. S. c. 6, § 72.** Either party may, within ten days after rendition of said judgment, enter an appeal therefrom in the office of the clerk in the county where said judgment is rendered, which appeal shall briefly set forth the reasons therefor, and an attested copy of said appeal shall be served upon the appellee or his attorney within ten days after the same has been filed, in such manner as the justice orders. The appellant shall cause copies of the petition, pleadings, findings and testimony upon which such judgment is rendered, approved by the justice before whom the hearing is had, to be printed and transmitted to the chief justice within twenty days after such appeal is taken, with written argument thereon. A copy of such argument shall, within said twenty days, be served upon the adverse party, or his attorney, who may forward within ten days thereafter an argument in reply, and thereupon the justices of said court shall

consider said cause immediately, and decide thereon and transmit their decision to the clerk of the county where the suit is pending, and final judgment shall be entered accordingly.

86 Me. 54; 88 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 47, 328.

**Sec. 90. Court may issue order where final judgment has been rendered. R. S. c. 6, § 73.** Where final judgment has been rendered, any justice of said court may issue an order to the party unlawfully claiming or holding said office, commanding him to yield up to the officer who has been adjudged to be lawfully entitled thereto, said office, and all papers, records, moneys and property connected therewith or belonging thereto, and may enforce said order by fine or imprisonment, or both, and thereupon said party in whose favor such judgment is rendered, shall be qualified and enter upon the duties of such office, and hold the same until the expiration of the term for which he has been elected.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 204, 450; 111 Me. 47, 328.

**Sec. 91. Costs. R. S. c. 6, § 74.** The prevailing party shall recover costs, and double or treble costs may be awarded in the discretion of the justice.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 328; 113 Me. 492.

#### Regulations Affecting Purity of Elections. Penalties.

**Sec. 92. Penalty, if voter allows his ballot to be seen, or makes false statements as to inability to mark ballot, or for interfering with voter when marking ballot. R. S. c. 6, § 29.** A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or who shall make a false statement as to his inability, to mark his ballot, or any person who shall interfere, or attempt to interfere with any voter when inside said enclosed space, or when marking his ballot, or who shall endeavor to induce any voter before voting to show how he marks or has marked his ballot, shall be punished by fine of not less than five, nor more than one hundred dollars; and election officers shall report any person so doing to a police officer or constable, whose duty it shall be to see that the offender is duly brought before the proper court.

106 Me. 516.

**Sec. 93. Penalty for destroying nomination lists, cards of instructions, specimen ballots posted for instruction. R. S. c. 6, § 30.** Any person who shall, prior to an election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this chapter, or who, during an election, shall wilfully deface, tear down, remove or destroy any card of instructions or specimen ballot printed or posted for the instruction of voters, or who shall, during an election, wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or shall wilfully hinder the voting of others, shall be punished by fine of not less than five, nor more than one hundred dollars.

**Sec. 94. Penalty for destroying any nomination paper or letter of withdrawal; or falsely filing same, etc. R. S. c. 6, § 31.** Any person who shall

## CHAP. 7

falsely make or wilfully deface or destroy any certificate of nomination or nomination paper, or any part thereof or any letter of withdrawal; or file any certificate of nomination or nomination paper, or letter of withdrawal, knowing the same or any part thereof to be falsely made; or suppress any certificate of nomination or nomination paper, or any part thereof which has been duly filed, or forge or falsely make the official indorsement on any ballot; or wilfully destroy or deface any ballot, or wilfully delay the delivery of any ballots, or shall take or remove any ballot outside of the enclosure provided for voting before the close of the polls, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the jail not more than one year, or by both such fine and imprisonment.

**Sec. 95. Penalty for neglect of duty by public officer. R. S. c. 6, § 32.** Any public officer upon whom a duty is imposed by sections twenty-nine to thirty-six both inclusive, of chapter six, and by sections one to twenty-one, both inclusive, of this chapter, who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder any object of said sections, shall be punished by a fine of not less than five, nor more than one thousand dollars, or by imprisonment in jail for not more than one year, or by both such fine and imprisonment.

**Sec. 96. Penalty if election clerk offers to assist voter before being directed to do so. R. S. c. 6, § 33.** Any election or ballot clerk who shall assist, or offer to assist any voter, before such clerk shall have been directed by the presiding officer or officers to so assist such voter, shall be punished by a fine of not less than twenty-five, nor more than one hundred dollars or by imprisonment not exceeding sixty days for each offense, and thereafter shall be disqualified from holding the office of election or ballot clerk.

**Sec. 97. Penalty, if any person shall sell his vote. R. S. c. 6, § 76.** Whoever shall offer, or promise, or agree to receive any money or other valuable consideration for giving in his vote at any election held under the provisions of the constitution or of this chapter, and shall in accordance with such offer, promise or agreement, give in his vote at such election, shall be fined not more than one hundred dollars, or imprisoned not more than one year, and shall be excluded from the right of suffrage for a term of ten years.

**Sec. 98. Copies of § 97 shall be furnished, and posted in voting precincts. R. S. c. 6, § 77.** The secretary of state shall furnish the mayors of cities, the selectmen of towns and assessors of plantations with copies of the preceding section in a printed form suitable to be posted in conspicuous places in the voting precincts of every city, town or plantation, and said officers shall cause such copies to be so posted.

**Sec. 99. Penalty for neglect, misfeasance of selectmen or other officers. R. S. c. 6, § 78.** If any town officer, or such officer chosen pro tempore, wilfully neglects or refuses to perform any duty required of him, or wilfully does, authorizes, or permits to be done, anything prohibited by the constitution or by this chapter, he shall for each offense, forfeit not less than fifty, nor more than five hundred dollars, and be imprisoned not more than nine, nor less than three months, except where otherwise expressly provided in this chapter.

**Sec. 100. Penalty for not complying with the provisions of § 32. 1912, c. 1, § 2.** Any presiding officer or town, plantation, ward, district or precinct clerk who does not comply with the requirements of section thirty-two or evades or attempts to evade the same and any person who violates any provision of said section, or hinders or attempts to hinder any election officer or any town, plantation, ward, district or precinct clerk in the performance of his duties under said section, shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars, and by imprisonment for not less than three, nor more than nine months.

See § 115.

**Sec. 101. Penalty for neglect to issue warrants for state or national elections. R. S. c. 6, § 79.** If aldermen of cities, selectmen of towns, or assessors of plantations neglect to issue their warrant as required by law for a meeting for choice of state or county officers, representatives to the legislature, or to congress, United States senators, or of electors of president and vice-president of the United States, they each forfeit fifty dollars to their city, town or plantation, to be recovered in action of debt by the treasurer, or by any citizen thereof when said treasurer is a member of the delinquent board.

See § 115.

**Sec. 102. Penalties, how recovered. R. S. c. 6, § 80.** Any penalty provided in this chapter, which may be recovered by the treasurer, may, if the treasurer refuses or neglects for ten days after written request of any voter to commence suit therefor, be recovered by said voter in a suit in his own name, to the same uses as if recovered by said treasurer.

**Sec. 103. Penalty for neglect of constable to summon voters; for wilful neglect to be recovered by indictment. R. S. c. 6, § 81.** If any person required to summon the voters of a city, town or plantation to assemble at any meeting for choice of any officers mentioned in section one hundred and one, neglects to do so, or to make due return of the warrant therefor, he forfeits twenty-five dollars to his city, town or plantation for each offense, to be recovered as provided in said section; but if he wilfully neglects or refuses, he forfeits not less than fifty, nor more than two hundred dollars, half to the state and half to the prosecutor, to be recovered by indictment.

See § 115.

**Sec. 104. Penalty for neglect of selectmen to deposit and post lists. R. S. c. 6, § 82.** If selectmen of a town or assessors of a plantation wilfully neglect to deposit a list of voters with the town or plantation clerk, or to post such lists, as are hereinbefore required, they each forfeit not less than fifty, nor more than one hundred dollars; and for each day's neglect after the twentieth day of August, and until the state election next ensuing, they each forfeit thirty dollars.

**Sec. 105. Penalty for their neglect to keep check lists or to reject illegal votes. R. S. c. 6, § 83.** If such selectmen or assessors wilfully neglect or refuse to keep and use a check list, as provided in section twenty-eight, or wilfully receive any vote prohibited by section thirty, or fraudulently receive the vote of any person not qualified to be an elector, as provided by the constitution, they each forfeit not less than fifty, nor more than one hundred dollars.

See § 115.

## CHAP. 7

**Sec. 106. Penalties, of two preceding sections, how recoverable.** R. S. c. 6, § 84. The penalties in the two preceding sections may be recovered in an action of debt, in the name and to the use of the town or plantation, where the offence is committed, to be prosecuted to final judgment at the request of any voter therein, by the treasurer, unless he is one of the delinquent officers, and in that case, by one of the constables.

**Sec. 107. Penalty for striking names from list without notice.** R. S. c. 6, § 85. Any municipal officer who strikes from the list of voters, after it has been prepared and posted, the name of any person residing in the town, without the notice and opportunity for hearing provided in section thirty-eight of chapter five, forfeits not less than twenty, nor more than one hundred dollars, to be recovered in an action on the case by the person whose name was struck out.

**Sec. 108. Altering, erasing, etc., names, or voting in another's name.** R. S. c. 6, § 86. Whoever wrongfully alters, erases or mutilates any name on a list of voters, or fraudulently votes in the name of another, or under an assumed name, shall for each offence be punished by fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding one year.

See c. 5, § 32.

**Sec. 109. Neglect to supply lost return.** R. S. c. 6, § 87. If any town officer, or any such officer chosen pro tempore, wilfully neglects or refuses to perform the duties required by sections fifty, fifty-one and fifty-two, on notice of the loss and destruction of any return therein described, he forfeits not less than one hundred, nor more than five hundred dollars.

**Sec. 110. Making false certificate.** R. S. c. 6, § 88. Any such officer, permanent or pro tempore, who in such case makes a false certificate and makes oath to its truth, shall be punished for perjury, and be disqualified from holding any office under the constitution and laws of the state for ten years.

See c. 124, § 1.

**Sec. 111. Penalty for neglect of duty under § 33.** 1912, c. 1, § 3. Any presiding officer or any city, town or plantation clerk who shall neglect to perform any duty imposed by section thirty-three shall be punished as provided in section ninety-five of this chapter.

See § 115.

**Sec. 112. Penalty for neglect of duty under §§ 17, 18, 45.** 1912, c. 1, §§ 4, 6. Any election officer, selectman, warden, election clerk, ballot clerk, town clerk, or other officer however designated, who shall neglect to perform any duty imposed by section seventeen, or by section eighteen, or by section forty-five, and any person who shall abstract from or in any manner tamper with packages of ballots, or shall break any seal affixed to any package of ballots or to any box containing packages of ballots before such package of ballots or such box is delivered at the office of the secretary of state, or shall in any manner abstract from or tamper with unused ballots, shall be punished as provided in section one hundred of this chapter.

See § 115.

**Sec. 113. Neglect of persons to whom returns are entrusted for delivery.** R. S. c. 6, § 89. If a person, to whom returns of votes of any city, town or plantation, for governor, senators or representatives in congress, are entrusted by the clerk thereof to be forwarded to the office of the secretary of state, wilfully neglects to use all proper means for their delivery, within the time required, he shall forfeit not less than one hundred, nor more than five hundred dollars, or be imprisoned not less than two, nor more than six months.

**Sec. 114. County attorneys to prosecute for wilful negligence in not delivering returns.** R. S. c. 6, § 90. Every county attorney, who receives from the secretary of state a certificate that the return of votes of any town, in his county, for governor, senators or representatives in congress, has not been duly received at the secretary's office, shall immediately ascertain, so far as he can, by the default of what officer or person such neglect happened, and demand of him, if he finds such default wilful or caused by culpable negligence, the sum thereby forfeited; and if it is not immediately paid he shall prosecute such delinquent.

**Sec. 115. Liability of town officers limited; neglect deemed wilful, unless contrary is shown.** R. S. c. 6, § 91. 1912, c. 1, § 14. In no case, except as in sections one hundred and one and one hundred and three, shall an officer of a town incur any punishment, or be liable in damages by reason of his official acts or neglects, unless they are unreasonable, corrupt or wilfully oppressive; but the neglect to prepare the lists of voters; to deposit it in the town clerk's office; to post it, as required herein; to call town meetings for elections; to comply with the requirements of, or to perform any duty imposed by sections seventeen, eighteen, thirty-two, thirty-three, and forty-five, or either of them; to cause returns of votes, or copies thereof to be delivered into the office of the secretary of state, as required by the constitution and laws; or to make the records by law required, shall be deemed wilful and unreasonable, unless the contrary is shown.

See c. 5, §§ 37, 38, 43, 46; see §§ 22, 28, 30, 43, 44, 50, 52, 101, 103, 105; 76 Me. 162, 217; 102 Me. 437; 111 Me. 47.

**Sec. 116. Punishment for misconduct of electors at elections.** R. S. c. 6, § 92. At any meeting for the election of any officer, where a list of voters is necessary, whoever wilfully votes before the presiding officer has had opportunity to find his name on said list, or knowing that it is not on it, or wilfully gives any false answer or statement to the municipal officers of towns, cities or plantations when they shall be previously preparing such list, or presiding at such meeting, in order that his name or the name of any other person may be entered on such list, or his vote or that of another be received; or casts more than one vote at one balloting; or is disorderly at such meeting, forfeits for each offence, not exceeding one hundred, nor cepted, forfeits for each offence not less than ten, nor more than three hundred Me. 513; 96 Me. 433.

**Sec. 117. Punishment for military parades on election days.** R. S. c. 6, § 93. Any officer of the militia who, except in time of war or public danger, parades his men, or exercises any military command on a day of election,

**CHAP. 7**

as described in section seventy-six of chapter fifteen, and not thereby excepted, forfeits for each offence not less than ten, nor more than three hundred dollars.

**Sec. 118. Penalties in §§ 116, 117, how recovered.** R. S. c. 6, § 94. The penalties, provided in the two preceding sections, may be recovered by indictment, half to the state, and half to the prosecutor.

**Sec. 119. Punishment for bribery and corruption at elections.** R. S. c. 6, § 95. Whoever by bribery, menace, wilful falsehood or other corrupt means, directly or indirectly attempts to influence any voter in giving his vote or ballot, or to induce him to withhold it, or disturbs or hinders him in the free exercise of his right of suffrage at any election held under the provisions of the constitution or of this chapter, and whoever receives or offers to receive a bribe for his vote as aforesaid, shall be fined not more than five hundred dollars, or imprisoned not more than one year, and be ineligible to any office for ten years.

73 Me. 94.

**Sec. 120. Punishment for knowingly voting where not entitled.** R. S. c. 6, § 96. Whoever, at an election of state and county or municipal officers, or of electors of president and vice-president, knowingly votes in any city, town or plantation, where he has no legal right to vote, shall be imprisoned in the county jail not less than three months, nor more than one year.

57 Me. 149.

**Sec. 121. Betting on elections punished; wager forfeited to town; recovery.** R. S. c. 6, §§ 97, 98. No person shall make a bet or wager upon the result of any election in the state, in money or in any kind of property, real or personal, under penalty of forfeiting the money or property so bet or wagered, to the town in which he resides, or if he does not reside in the state, then to the town in which the bet or wager is made, to be recovered in an action on the case. The mayor of the city, or the treasurer of the town or plantation entitled to such forfeiture shall forthwith proceed to sue for it, as soon as he has proper evidence of such betting or wagering.

69 Me. 121; 70 Me. 496.

**Sec. 122. Money paid on bet may be recovered.** R. S. c. 6, § 99. Any party to such bet or wager, who has paid or conveyed to the winning party the money or property so bet or wagered, may recover it, or its value, in an action on the case.

68 Me. 531.

**Sec. 123. Conveyances for such purposes void; forfeit to town.** R. S. c. 6, § 100. All conveyances, by deed or otherwise, of any interest in real estate, made by reason of any such bet or wager, are void; the person making them, forfeits the full value of the interest so conveyed, to the town entitled to the forfeiture for such betting or wagering, to be recovered as aforesaid.

### The Corrupt Practices Law.

**Sec. 124. Application to caucuses, primaries and to elections.** 1911, c. 122, § 1. 1913, c. 153, § 1. The provisions of this section and the eight following sections shall apply to the election of all officers for whom ballots shall be cast pursuant to the provisions of this chapter, and to the elections of all officers to be voted for by the legislature or either branch thereof, the board of aldermen, municipal officers, common council or city council of any city, to all caucuses and primary elections preliminary to any such other elections and to all candidates to be voted for at such elections, caucuses and primary elections. The term "caucuses and primary elections" shall include: (a) all meetings held to nominate a candidate for office or to elect delegates to a nominating convention; (b) nominating conventions of such delegates; and (c) caucuses of members of the legislature or either branch thereof, of the board of aldermen, common council, or city council of any city.

**Sec. 125. Definitions; appointment of treasurer or political agent shall be filed with secretary of state.** 1911, c. 122, § 2. 1913, c. 153, § 2. The term "political committee" shall include every committee or combination of three or more persons to aid or promote the success or defeat of any political party or principle in any such election, or to aid or take part in the nomination or election of any candidate for public office. The term "treasurer" shall include all persons appointed by any political committee to receive or disburse moneys to aid or promote the success or defeat of any such party, principle, or candidate. The term "political agent" shall include all persons appointed by any candidate before any such election, caucus, or primary election to assist him in his candidacy. No person shall act as any such treasurer or political agent unless, after his appointment and before the election for which he is appointed, a writing designating him as such treasurer or political agent shall be filed with the secretary of state, except that, in case the duties of such treasurer or political agent shall relate to any town, city or ward election exclusively, or to any caucus or primary election preliminary thereto, such writing shall be filed with the town clerk of the town within which such candidate resides instead of with the secretary of state. The treasurer of a representative-class committee shall file such writing with the town clerk of the town within which he resides. Every such writing shall designate the particular period, election, caucus, or primary election during which such treasurership or political agency shall continue. The treasurer or political agent of any organization or candidate may be the treasurer or political agent of any other organization or candidate, and any candidate for public office may designate himself as his own political agent.

**Sec. 126. Contribution of money for election or nomination purposes regulated.** 1911, c. 122, § 3. 1913, c. 153, § 3. Any person nominated as a candidate for public office, or a candidate for such nomination, may make a voluntary payment of money to any treasurer or political agent for any of the purposes permitted by this chapter; provided, however, that no person other than such a candidate shall, to aid or promote the success or de-

## CHAP. 7

feat of any political party or principle, or of any candidate for public office, within six months prior to any such election make a contribution of money or property to any person other than to a treasurer or political agent. Nothing contained herein shall limit or affect the right of any person to expend money for proper legal expenses in maintaining or contesting the results of any such election.

**Sec. 127. Only political agents or treasurer may make payments for expenses.** 1911, c. 122, § 4. 1913, c. 153, § 4. No person other than a treasurer or political agent shall pay any of the expenses of any election, caucus, or primary election, except that a candidate may pay his actual personal expenses for postage, telegrams, telephones, stationery, express, and traveling; but the provisions of this section shall not apply to non-partisan election and ante-election expenses paid for out of the public moneys of the state, or of any town, city or other municipality.

**Sec. 128. Treasurer or political agents may pay certain expenses.** 1911, c. 122, § 5. 1913, c. 153, § 5. Subject to the foregoing limitations, it shall be lawful for any treasurer or political agent, in connection with any election, caucus, or primary election, to pay the following expenses: (a) of hiring public halls and music for conventions, public meetings, and public primaries, and for advertising the same by posters or otherwise; (b) of printing and circulating political newspapers, pamphlets, and books; (c) of printing and distributing ballots and pasters; (d) of renting and furnishing rooms to be used by political committees, and for the reasonable entertainment and refreshment, exclusive of alcoholic beverages, of the members of such committee; (e) of compensating clerks and other persons employed in committee rooms and at the polls; (f) of traveling expenses of political agents, committees and public speakers, and reasonable compensation to public speakers; (g) of necessary postage, telegrams, telephones, printing, newspaper advertising, express and conveyance charges. The term "conveyance charges" shall include the conveyance of electors to the polls. No treasurer or political agent shall incur any expense for any purpose not authorized by this section.

As applied to primary elections, see c. 6, § 18.

**Sec. 129. Treasurer or political agent shall file statement of money expended or promised; penalty for failure.** 1911, c. 122, § 6. 1913, c. 153, § 6. Within fifteen days after any such election, every treasurer and every political agent shall file an itemized sworn statement with the officer with whom his designation was filed as aforesaid, which statement shall include the amount of money or property in each case received or promised, the name of the person from whom it was received or by whom it was promised, the amount of every expenditure made or liability incurred, (other than the actual personal expenses of candidates enumerated in section one hundred and twenty-seven, which need not be returned), the name of the person to whom such expenditure or promise was made, and shall clearly state the purpose for which such money or property was so expended or promised. Any treasurer or political agent who shall fail to file such a statement within the time required, shall be fined twenty-five dollars for each day on which he is in default, unless he shall be excused by the court. This section shall

not apply to primary elections held under the provisions of the first twenty-eight sections of chapter six, nor shall it apply to candidates who are their own political agents, the return required of such candidates under the provisions of the following section being sufficient.

**Sec. 130. After election candidates shall file statement of contributions, and expenses; statement shall be made if no money was expended; penalty for failure; forfeiture of salary.** 1911, c. 122, §§ 7, 10. 1913, c. 153, § 7. Every candidate for public office, including candidates for the office of senator of the United States, shall, within fifteen days after the election at which he was a candidate, file with the secretary of state, if a candidate for a senator of the United States, representative in congress, or for any state or county office, state senator or representative in the legislature, but with the town clerk of the town in which he resides, if he was a candidate for a town, city, or ward office, an itemized, sworn statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be, and all existing unfulfilled promises, or liabilities remaining uncanceled and in force at the time such statement is made, whether such expenditures, promises, and liabilities were made or incurred before, during or after such election, excepting, however, his actual personal expenses enumerated in section one hundred and twenty-seven, which he need not return. If no money or other valuable thing was given, paid, expended, contributed, or promised, and no unfulfilled liabilities were incurred by a candidate for public office to aid or promote his nomination or election, (other than said actual personal expenses), he shall file a statement to that effect within fifteen days after the election at which he was a candidate. Any candidate who shall fail to file such a statement shall be fined twenty-five dollars for every day on which he is in default, unless he shall be excused by the court. Fifteen days after any such election the secretary of state or the town clerk, as the case may be, shall notify the proper prosecuting officer of any failure to file such a statement on the part of any candidate, and within ten days thereafter such prosecuting officer shall proceed to prosecute such candidate for such offence. This section shall not apply to primary elections held under the provisions of the first twenty-eight sections of chapter six. No person elected to any office established by the constitution or laws of this state shall receive any salary or emolument for the period during which he shall have failed to file such statement.

**Sec. 131. Statements shall be preserved and open to inspection.** 1911, c. 122, § 8. 1911, c. 122, § 9. 1913, c. 153, § 8. All statements filed in accordance with the provisions of the two preceding sections shall be preserved for fifteen months after the election to which they relate, and shall, during said period, be open to public inspection. The secretary of state shall, at the expense of the state, provide every town clerk with blank forms suitable for the statements required to be returned to the secretary of state.

**Sec. 132. Persons who shall be deemed guilty of corrupt practices and penalty.** 1911, c. 122, § 11. 1913, c. 153, § 9. The following persons shall be guilty of corrupt practices and shall be punished by a fine of not less than fifty, nor more than two thousand dollars or by imprisonment for not less

## CHAP. 7

than thirty days, nor more than two years, or by both: (a) every person who shall directly or indirectly receive, accept, request, or solicit from any person, committee, association, organization or corporation any money, gift, advantage, preferment, aid, emolument, or any valuable thing whatsoever, for the purpose of inducing or procuring any person to vote or refrain from voting for or against any person, or for or against any measure at any such election, caucus, or primary election; (b) every person who, in consideration of any money, gift, advantage, preferment, aid, emolument, or any valuable thing whatsoever, paid, received, accepted, or promised to the advantage of himself or any other person, shall vote or refrain from voting for or against any person, or for or against any measure at any such election, caucus, or primary election; (c) every person, other than political committees, treasurers, and political agents, as defined in section one hundred and twenty-five, who shall solicit from any candidate for the office of elector of president and vice-president of the United States, of senator of the United States, or representative in congress, or of any state, county, town, city, or ward office, any money, gift, contribution, emolument, or other valuable thing for the purpose of using the same for the support, assistance, benefit, or expenses of any club, company, or organization, or for the purpose of defraying the cost or expenses of any political campaign or election; but this subsection shall not be construed to permit political agents of candidates for the legislature to solicit contributions from candidates for the office of United States senator; (d) every person who shall, directly or indirectly, pay, give, contribute, or promise any money or other valuable thing, to defray, or towards defraying, the cost or expenses of any campaign or election to any person, committee, company, club, organization, or association other than to a treasurer or political agent; but this subsection shall not apply to the actual personal expenses for postage, telegrams, telephones, stationery, express, or traveling incurred by any candidate for office or for nomination thereto; (e) every person who, in order to secure or promote his own nomination or election as a candidate for public office, shall, directly or indirectly, promise to appoint or promise to secure or assist in securing the appointment, nomination, or election of any other person to any public position, or to any position of honor, trust, or emolument, provided, however, that any person may publicly announce his own choice or purpose in relation to any appointment, nomination, or election in which he may be called to take part, if he shall be nominated for or elected to any public office; (f) every person who shall, directly or indirectly by himself or through another person, make a payment or promise of payment to a treasurer or political agent, in any other name than his own, and every treasurer or political agent who shall knowingly receive a payment or promise of payment, or enter or cause the same to be entered in his accounts, in any other name than that of the person by whom such payment or promise of payment is made.

## CHAPTER 8.

**The Public Lands. Land Agent. Location and Care of Lots for Public Uses. Forest Commissioner and Preservation of Forests. Maine Forestry District.**

Sections 1-14 The Land Agent, his Appointment, Powers and Duties.  
 Sections 15-27 Lands Reserved for Public Uses.  
 Sections 28-59 The Forest Commissioner and Preservation of Forests.  
 Sections 60-73 The Maine Forestry District.

**The Land Agent.**

**Sec. 1. Appointment of land agent; bond; duties and restrictions of land agent. R. S. c. 7, § 1.** The governor with the advice and consent of council shall appoint a land agent, who shall hold his office during their pleasure, and shall give bond to the state in the sum of fifty thousand dollars with sufficient sureties or with one or more surety companies authorized to do business in the state, as surety or sureties, satisfactory to the governor and council for the faithful performance of the duties of his office. The land agent shall superintend and manage the sale and settlement of the public lands. He shall not when appointed, or while in office, be directly or indirectly concerned in the lumber business on the state lands, or in the purchase thereof, or of any timber or grass growing or cut thereon.

**Sec. 2. To receive moneys arising from land and attend personally to the duties of his office; no commission allowed; traveling expenses to be paid; number of his clerks and their pay. R. S. c. 7, § 2.** He shall receive all moneys and securities accruing to the state from the sale of lands, timber and grass, or in payment for timber or grass cut by trespassers, and shall pay to the treasurer of state all moneys so received and found due from him on settlement. All securities shall be made payable to said treasurer. He shall personally attend to the duties of his office, so far as practicable; no commission shall be allowed him for his disbursements or collections, and nothing shall be allowed him for traveling expenses from his home to the land office, unless on official business, nor for transportation of the official records, unless money is paid out specifically therefor. All persons employed by him shall be sworn to the faithful discharge of their duties, and they shall not be concerned directly or indirectly, in the purchase of lands, or of timber or grass on lands belonging to the state. The number of his clerks shall be determined by the governor and council, who shall fix their compensation.

**Sec. 3. Land agent to execute deeds, collect notes, and account monthly to treasurer of state. R. S. c. 7, § 3.** He shall execute deeds in behalf of the state, conveying lands which have been granted by the legislature or sold by lawful authority, as soon as the grantees have complied with the conditions of their respective grants; collect all sums due the state by note

## CHAP. 8

or from any source mentioned in this chapter; collect the interest on all notes at least annually, and pay at the expiration of every month into the state treasury all moneys so collected or received by him, after deducting all such payments as devolve upon him to make.

69 Me. 78.

**Sec. 4. Certified copies of records of deeds in land office recorded in registry of deeds, legal evidence.** R. S. c. 7, § 4. A copy from the records in the land office of a deed from the state of the land of the state, or of a deed from the state and from the commonwealth of Massachusetts of the undivided lands of the state and of said commonwealth, or a deed from said commonwealth of the lands of said commonwealth in Maine, certified by the land agent or other legal custodian of such records as a true copy thereof, may be filed and recorded in the registry of deeds in the county or registry district where the land lies, with the same effect as if the deed itself had been recorded, whether said deed shall or not have been acknowledged by the agent or other person making the same; and such record shall have all the force and effect of a record of deeds duly acknowledged, and certified copies thereof from such registry shall be evidence when the original would be.

77 Me. 76.

Note. Tax deeds from treasurer of state, and releases and certificates to be recorded in land office, c. 10, § 46.

**Sec. 5. Board for surveys of lands; plans and field notes to be kept at land office.** R. S. c. 7, § 5. The governor and council and land agent constitute a board under whose direction all surveys of land shall be made. An accurate plan or map of all lands surveyed shall be returned to the land office and entered upon the plan-books within three months after the survey is completed, on which shall be laid down all lakes, ponds, rivers, streams, falls, mill sites and roads. The field notes of such surveys shall be deposited in the land office within three months and shall contain a description of the growth, soil and general character of the township, and of every lot, if surveyed into lots. Said plans and field notes shall be kept at the office in Augusta, open for inspection at all times when the land agent or his assistant is there; he shall aid in furnishing information about the public lands to all who seek for it at his office.

**Sec. 6. Land agent authorized to sell lands, and rights to cut timber belonging to the state.** R. S. c. 7, § 6. 1915, c. 306, § 1. The land agent, under direction of the governor and council, shall sell at public or private sale and grant rights to cut timber and grass belonging to the state and may lease camp sites on lands belonging to the state, on such terms as they direct; also the right to cut timber and grass and lease camp sites on lots reserved for public uses in any township or tract of land until the same is incorporated. Preference in such sales or leases shall be given to citizens of the State of Maine.

Note. License required for maintaining sporting camp within Maine forestry district, c. 33, § 15.

**Sec. 7. Agent may grant permits; bond; timber held for payment.** R. S. c. 7, §§ 40, 41, 42. The land agent may grant permits to individuals, to cut and haul timber of all kinds upon lands owned by the state, on such terms

and conditions as he thinks proper. Persons obtaining such permits shall give bond to the land agent with satisfactory sureties for payment of stumpage and the performance of all conditions of the permit. All timber cut under permits is the property of the state until the stumpage is paid in full.

47 Me. 23.

**Sec. 8. Surveyors, their appointment, oath and duty.** R. S. c. 7, § 44. Surveyors or scalers shall be appointed by the land agent, and sworn; they shall scale all timber cut under permits, superintend the cutting thereof, and make return to the land agent of the number and quality of the logs cut, whether hauled or not, and the number of feet board measure, and shall see that the timber is cut clean and without strip or waste.

**Sec. 9. Land agent's report.** R. S. c. 7, § 50. 1915, c. 306, § 3. The land agent shall on the first secular day of December biennially report to the governor a particular account of all the doings of his office for the two preceding years; the state auditor shall audit and settle his accounts at the close of each year, and at such other times as the governor and council may designate.

**Sec. 10. All deeds made absolute; state lands to be sold at option of land agent in No. 4, R. 4, W. E. L. S., and in No. 14, R. 4, W. E. L. S.** R. S. c. 7, § 35. All deeds given by the land agent, providing in substance, "that if the grantee has failed to perform all the duties required of a settler, in conformity to chapter five of the revised statutes, approved April seventeen, eighteen hundred and fifty-seven, and all other acts, additional or amendatory thereto, the deed shall be void," convey as absolute and complete a title as if such condition or reservation was not contained in said deed. Lots or sections of land in township number four, range four, W. E. L. S., and lots of land in township number fourteen, range four, W. E. L. S., exceeding the quantity allowed to be sold to settlers, may be sold if, in the judgment of the land agent, such lots or sections are not valuable for lumber growth, but are found to be better adapted for settlement than for other purposes.

**Sec. 11. Settler's lot to the value of \$1,000, exempt from attachment.** R. S. c. 7, § 38. Whoever purchases a lot of wild land of the state for settlement, and complies with the condition of purchase, may hold it with the improvements thereon, free from attachment and levy on execution, while he remains in actual possession thereof. The value so exempted, shall not exceed one thousand dollars, to be set off to the owner in such portions of the lot as he directs, by the appraisers appointed to levy an execution, as real estate is set off and appraised on execution.

**Sec. 12. Descends to children free from debts of deceased, until youngest is 18 years old.** R. S. c. 7, § 39. On the death of such purchaser, such lot and the improvements shall descend to his children, subject to the right and interest of his widow by descent, and are not liable for payment of his debts, unless his other property is insufficient therefor; and, in that case, his children shall have the occupancy and improvement thereof, subject to the right and interest of the widow by descent, until the youngest surviving child attains the age of eighteen years. The remainder, after the estate of the widow, and after the youngest surviving child attains said age, may be sold

## CHAP. 8

as other estates of deceased persons for payment of such debts, if the other estate of the deceased is not sufficient. If he dies without issue, such lot shall descend and be disposed of like other property.

**Sec. 13. Trespasses, prosecutions for them; measure of damages. R. S. c. 7, § 9.** If any person unlawfully enters and trespasses upon the public lands, or upon any lands reserved for public uses, while under care of the agent, and cuts, takes or carries away, any trees or grass upon said lands, he and all persons who furnish teams, implements, apparatus or supplies of provisions, or of other articles, used in committing and carrying on such trespasses, are trespassers, jointly and severally liable in damages for such trespasses, and they may be sued therefor in any county. The measure of damages is the highest price which such timber, logs or other lumber, or hay, would bring at the usual place of sale thereof. Nothing in this section affects the right of the state to seize and sell any timber, logs, lumber or hay, cut as aforesaid. At such sale no person, who was in any way concerned in committing such trespass, or in supplying or aiding those who committed it, shall become a purchaser directly or indirectly.

45 Me. 69; 49 Me. 390; 78 Me. 264.

**Sec. 14. Damages, if suit is for benefit of an individual. R. S. c. 7, § 10.** When an action for such trespass is prosecuted in the name of the state for the benefit of an individual, the principles of decision and the measure of damages shall be the same as in like actions between individuals.

See c. 100, § 9.

### Lands Reserved for Public Uses.

**Sec. 15. Reservation for public uses; may be located by agreement. R. S. c. 7, § 11.** In every township there shall be reserved, as the legislature may direct, one thousand acres of land, and at the same rate in all tracts less than a township, for the exclusive benefit of such town or tract, to average in quality, situation and value as to timber, with the other lands therein. In townships or tracts sold and not incorporated, the lands reserved for public uses may be selected and located by the land agent and the proprietors, by a written agreement, describing the reserved lands by metes and bounds, signed by said parties, and recorded in the land office. The plan or outline of the lands so selected shall be entered on the plan of the township or tract in the land office, which shall be a sufficient location thereof.

See Articles of separation, condition 7. See c. 17, §§ 61-63; 26 Me. 205; 30 Me. 377; 97 Me. 336; 112 Me. 424.

**Sec. 16. Location without agreement. R. S. c. 7, § 12.** When the land agent and proprietors of such township or tract cannot agree on such location, if the right to cut the timber and grass thereon until the town is incorporated or organized as a plantation has not been sold, the land agent may petition the supreme judicial court for the appointment of commissioners to make the location as hereinafter provided. The petition may be filed, and the proceedings under it had in any county.

97 Me. 336.

**Sec. 17. Land agent to have care of lots located; may sell timber and grass.** R. S. c. 7, § 14. The land agent shall have the care of the reserved lands in all townships or tracts, until they are incorporated, and the fee becomes vested in the town. He may, from time to time, sell for cash for such sum as he thinks just and reasonable, the timber and grass thereon, or the right to cut the same, until incorporated into a town, except the grass growing on improvements made by an actual settler. When so sold, he shall give the purchaser a permit under his hand and seal, setting forth the terms of the contract, which permit shall be recorded in the office.

See c. 17, §§ 50-60; 30 Me. 381; 45 Me. 69; 49 Me. 390; 61 Me. 446; 78 Me. 264; 97 Me. 336.

**Sec. 18. Land agent to keep an account with lots.** R. S. c. 7, § 15. The land agent shall keep an account with each such township and tract, in which shall be entered all expenditures made on account thereof, and all sums received therefrom. He shall settle his account of such receipts and expenditures annually with the state auditor and pay to the treasurer of state the balance in his hands, specifying each township and tract from which it was received.

61 Me. 447, 448; 97 Me. 336.

**Sec. 19. Treasurer also to keep account.** R. S. c. 7, § 16. The treasurer shall keep a separate account with the reserved land in each such township, in which account he shall enter all sums by him received and paid on account thereof; and the balance shall remain in the treasury until such township or tract is by law authorized to receive it; and thereupon it shall be paid to the proper officers thereof.

61 Me. 447, 448; 97 Me. 336.

**Sec. 20. Money to constitute school fund.** R. S. c. 7, § 17. The money arising from the sale of timber and grass or from trespasses on reserved lands, paid into the treasury of the county in which the township is situated, or into the state treasury, constitutes funds for school purposes, of which the income only shall be expended and applied as is by law provided.

61 Me. 447, 448; 97 Me. 336.

**Sec. 21. Management of fund.** R. S. c. 7, § 18. 1915, c. 114. The interest shall be added to the principal of such fund, until the inhabitants of such township or tract are incorporated into a town or organized as a plantation, and establish in such plantation one or more schools, and until the first day of January next preceding the date upon which the treasurer of said plantation shall call for such interest, unless previously expended according to law. When any such township is incorporated as a town, said funds belonging to it shall be paid by the treasurer of state to the treasurer of the trustees of the ministerial and school funds therein, to be added to the funds of that corporation, and held and managed as other school funds of that town are required to be held and managed. If such township or tract is organized as a plantation, the interest of said fund shall be paid annually by the treasurer of state to the treasurer of such plantation to be applied toward the support of schools according to the number of scholars in each school. Said interest shall be cast up to the first day of each January, by the treasurer of state. The state superintendent of public schools

**CHAP. 8**

shall file a list of such plantations with the amount due for interest for the preceding year according to a record of such amounts to be furnished to him by the treasurer of state, in the office of the state auditor, who shall thereupon insert the name and amount due such plantations in the first warrant drawn in that year. The state superintendent of public schools shall be satisfied that all such plantations are organized, and that schools have been established therein according to law, that assessors are sworn and qualified, and that the treasurers of such plantations have given bonds as required by law.

61 Me. 447; 97 Me. 336.

**Sec. 22. When school lands revert to state, land agent shall exercise control of lands and fund. R. S. c. 7, § 19.** When the incorporation of a town is repealed, the care and custody of the school lands therein reverts to the land agent and he has the same powers in relation thereto which he would have if such town had never been incorporated; and the school funds of such town shall be collected and transmitted to the treasurer of state and by him made a part of the permanent school fund belonging to such township or tract. The land agent is charged with the duty of enforcing the provisions of this section and is authorized to commence and maintain suits in the name of the state for this purpose.

**Sec. 23. Locations of land where portions are reserved on grant, how made. R. S. c. 7, § 20.** When in the grant of townships or parts thereof, certain portions of them are reserved for such townships, or for public uses, and they have not been lawfully located in severalty by the grantee for the purposes expressed in the grant, the supreme judicial court in the county where the land lies, on application of the land agent, may appoint three disinterested persons, and issue to them a warrant, under the seal of the court, requiring them, as soon as may be, to locate in separate lots, the portions reserved for such purposes, and to designate the use for which each lot is so reserved and located, such lots to be of average quality with the residue of lands therein.

See c. 93, § 29; 17 Me. 426; 26 Me. 205; 29 Me. 42; 30 Me. 219; 33 Me. 304; 104 Me. 551; 112 Me. 423.

**Sec. 24. Proceedings by committee; record. R. S. c. 7, §§ 21, 22, 23.** Said committee, before acting, shall be sworn before a justice of the peace; and a certificate thereof shall be indorsed on the warrant. They shall also give notice of their appointment, and of the time and place of their meeting to execute it, by publishing it in some newspaper in the state, to be designated by the court, and by posting written notifications in two or more public places in the same plantation or town, if so ordered by the court, at least thirty days next prior to their meeting. They shall make return of said warrant and their doings thereon, under their hands, to the next supreme judicial court in the county after having completed the service; which, being accepted by the court, and recorded in the registry of deeds in the county or registry district where the land is situated within six months, shall be a legal assignment and location of such reserved portions for the uses designated.

8 Me. 135; 26 Me. 205.

**Sec. 25. Location by grantee, how made.** R. S. c. 7, § 24. When the grantee of any such lands severs and locates such reserved portions thereof for the purposes mentioned in the grant, designating the use for which each lot is located, and presents it to said court, the court may confirm it and such location shall then be legal and conclusive, being recorded as before mentioned.

**Sec. 26. Location on partition.** R. S. c. 7, § 25. Such severance and location may also be made and completed in the manner prescribed in section twenty-nine of chapter ninety-three.

**Sec. 27. Exceptions may be filed.** R. S. c. 7, § 26. Any person aggrieved by the opinion, direction or judgment of said court in matter of law, in a proceeding for the location of such public lots, may allege exceptions thereto as in other actions.

Note. Review of proceedings for location of lands reserved for public uses, c. 94, § 1. In cases of inquests of office, plan to be filed in land office, c. 98, § 8. Duties of land agent as to timber and grass on reserved lands forfeited for taxes, c. 10, §§ 55-6.

### Forest Commissioner and Preservation of Forests.

**Sec. 28. Land agent made forest commissioner; duties; report; deputy forest commissioner; tenure.** R. S. c. 7, § 51. 1909, c. 193, § 12. The land agent shall be forest commissioner of the state. He shall make a collection and classification of statistics relating to the forests and connected interests of the state, and institute an inquiry into the extent to which the forests of the state are being destroyed by fires and by wasteful cutting, and ascertain so far as he can as to the diminution of the wooded surface of the land upon the watersheds of the lakes, rivers and water powers of the state and the effect of such diminution upon the water powers and on the natural conditions of the climate. The information so gathered by him, together with his suggestions relative thereto shall be included in the report to be made by him biennially to the governor on or before the first day of December. The chief clerk to the land agent shall be deputy forest commissioner. He shall hold office during the pleasure of the forest commissioner and perform such duties as the latter may prescribe.

**Sec. 29. Selectmen shall be fire wardens; duties and authority; compensation; penalty for refusing to assist; damages in case of neglect of selectmen; application to cities.** R. S. c. 7, § 52. 1909, c. 164, § 1. The selectmen of towns shall be forest fire wardens therein, and the services of such selectmen acting as said fire wardens, shall be paid for at the same rate as is paid for their other official services. Whenever a fire is discovered, fire wardens shall take such measures as may be necessary for its control and extinguishment. For this purpose they may call upon any persons in the town for assistance, and such persons shall receive such compensation, not exceeding twenty cents per hour, as said selectmen may determine, the same to be paid by the town; provided that no town shall be holden to pay for extinguishing forest fires in any year an amount greater than two per cent upon its valuation for purposes of taxation. If any person so ordered to assist and not excused from said service by said forest fire wardens on account of sickness, disability, or some important business or engagement,

**CHAP. 8**

shall neglect to comply with any such order he shall forfeit the sum of ten dollars, to be recovered in action of debt in the name and to the use of the town, by the treasurer thereof. If any person shall suffer damage from fire in consequence of the negligence or neglect of the selectmen of any town to perform the duties required by this section, such person shall have an action on the case to recover from the town where the fire occurs to the amount of his damages so sustained not to exceed two per cent of the valuation of said town. This section shall also apply to cities. The chief engineers of the fire departments of cities shall be forest fire wardens and shall have the same powers and duties in carrying out the provisions hereof as selectmen of towns.

**Sec. 30. Forest districts to be established; chief forest fire warden, and deputies; tenure of office.** 1905, c. 44, §§ 1, 2. The forest commissioner shall take measures for the prevention, control and extinguishment of forest fires in all plantations and unorganized townships, not included in Maine Forestry District, and to this end he shall establish such forest districts as he may deem necessary for effective protection against loss or damage by such fires. He shall appoint in and for each of said districts, so established, a chief forest fire warden, and he shall also appoint within such districts such number of deputy forest fire wardens as in his judgment may be required to carry out the provisions of the two following sections, assigning to each of the latter the territory over and within which he shall have jurisdiction. All chief and deputy forest fire wardens, so appointed, shall hold office during the pleasure of said commissioner, be sworn to the faithful discharge of their duties by any officer authorized to administer oaths, and a certificate thereof shall be returned to the office of such commissioner.

**Sec. 31. Duties of chief forest fire wardens; compensation; duties of deputies; compensation.** 1905, c. 44, § 3. The said chief forest fire wardens, under the direction of said commissioner, shall have general supervision of their respective districts and of the deputy forest fire wardens therein. Each chief forest fire warden, when directed by the said commissioner, shall patrol the forests of his district for the purpose of searching out, extinguishing and guarding against forest fires. He shall investigate and gather evidence regarding the causes of forest fires, enforce all laws relating to forests and forest preservation, arrest all violators thereof, prosecute all offenses against the same and in this connection shall have the same power to serve criminal processes against such offenders and shall be allowed the same fees as a sheriff, or his deputy, for like services, and shall have and enjoy the same right as a sheriff to require aid in executing the duties of his office. The chief forest fire wardens shall perform such other duties, at such times, and under such rules and regulations, as the said commissioner may prescribe, and each shall receive as compensation two dollars and fifty cents for each and every day of actual service, with an allowance for expenses of travel and subsistence not to exceed two dollars daily for such period. The commissioner may authorize the employment of suitable persons to assist said chief forest fire wardens in patrolling their respective districts and every person so employed shall be paid fifteen cents for each hour of service so rendered by him and be provided with

subsistence during such period. Deputy forest fire wardens shall perform such duties, at such times and under such rules and regulations, as the chief fire warden of the district, with the approval of said commissioner, may prescribe and they shall receive as compensation two dollars for each and every day of actual service.

**Sec. 32. Duties when fire occurs within district; assistance; statement of expenses.** 1905, c. 44, § 4. Whenever a fire occurs on, or is likely to do damage to forest lands within the district of any chief forest fire warden, he shall take immediate action to control and extinguish the same. If such fire occurs upon or is likely to do damage to forest lands within the territory of a deputy forest fire warden and the chief fire warden of the district is not present, the deputy forest fire warden, having jurisdiction of the territory, shall forthwith proceed to control and extinguish the same, and he shall meanwhile, with all consistent dispatch, cause the said chief fire warden of the district to be notified of the occurrence of such fire. Until the arrival of the chief warden at the place of fire the deputy warden shall be in charge of the control and extinguishment of the same. For the purpose of controlling and extinguishing fires as aforesaid, chief forest fire wardens, and deputy forest fire wardens when in charge of the control and extinguishment of forest fires or when so directed by the chief warden, may summon to their assistance citizens of any county, and each person so summoned and assisting shall be paid fifteen cents for each hour of service rendered by him. Immediately after the extinguishment of a fire the deputy forest fire warden who for any time may have been in charge of the same shall make return to the chief warden of the district of the expense thereof during the period of his being in charge, including the names of the persons so summoned and assisting, with their post-office addresses and the hours of labor actually performed by each under his direction. The return shall be made upon oath and the said chief warden is hereby authorized and empowered to administer such oath. Upon receipt of such return the said chief fire warden shall carefully examine and audit the same and he may direct the deputy to amend and correct any return found to be incomplete, incorrect or insufficient in form. If upon examination and auditing of said return, and investigation of the subject matter thereof, said chief fire warden believes said return to be just and correct, he shall indorse his written approval thereon and forward the same so approved to said forest commissioner. The chief fire warden of every district burned by a forest fire shall, upon the extinguishment of such fire, promptly forward an exact and detailed statement of the expense, if any, which said chief fire warden may have incurred in connection with the extinguishment of such fire, to the said forest commissioner, who may confirm, reject or recommit either or both said approved return of said deputy or said detailed statement of said chief fire warden if justice so requires.

**Sec. 33. Expenses, from what fund paid.** 1905, c. 44, § 5. All expense incurred under the provisions of the three preceding sections shall be paid from the funds appropriated to and for the use of the forest commissioner.

**Sec. 34. State fire wardens, and their duties.** R. S. c. 7, § 54. Fish and game wardens are hereby made state fire wardens; they shall, while in and

## CHAP. 8

about the woods, caution all sportsmen of the danger from fires in the woods, and extinguish all fires left burning by any one, if within their power; and shall give notice to any and all parties interested when possible, of fires raging and beyond their control, to the end that the same may be controlled and extinguished.

**Sec. 35. Penalty for not extinguishing camp, cooking or other fires; exceptions; fines, how disposed of.** R. S. c. 7, § 55. Whoever by himself, or by his servant, agent or guide, or as the servant, agent or guide of any other person, shall build a camp, cooking or other fire, or use an abandoned camp, cooking or other fire in or adjacent to any woods in this state, shall, before leaving such fire, totally extinguish the same, and upon failure to do so such person shall be punished by a fine of fifty dollars, provided that such fires built upon the sea beach in such situation that they cannot spread into forest land, woodland, or cultivated lands or meadows, shall not be construed as prohibited by this section. One-half of any fine imposed and collected under this section shall be paid to the complainant.

**Sec. 36. Notices shall be erected, that all fires must be extinguished.** R. S. c. 7, § 56. Selectmen shall erect in a conspicuous place at the side of every highway as they may deem proper, and at suitable distances alongside the rivers and lakes of the state frequented by camping parties, tourists, hunters and fishermen, in their respective towns, notices in large letters to be furnished by the forest commissioner, substantially in the following form: "Camp fires must be totally extinguished before breaking camp, under penalty of not to exceed one month's imprisonment or one hundred dollars fine, or both as provided by law. ———, Forest Commissioner." The forest commissioner shall furnish owners of woodlands situated within this state when called upon so to do, notices of similar tenor to be posted at the expense of said owners upon their respective lands.

**Sec. 37. Hunters required to use non-combustible wads.** R. S. c. 7, § 57. All persons engaged in hunting game on any of the woodlands within any town or unincorporated place in this state, shall use non-combustible wads in the loading of firearms used by them.

**Sec. 38. Governor may suspend open season for hunting.** 1909, c. 52, § 1. Whenever, during an open season for the hunting of any kind of game or game birds in this state, it shall appear to the governor that, by reason of drought, the possession of firearms in the forests is liable to cause forest fires, he may, by proclamation suspend the open season and make it a close season for such time as he may designate.

**Sec. 39. All laws relating to close season shall be in force during suspended season.** 1909, c. 52, § 2. During the time which shall by such proclamation be made a close season, all provisions of law covering and relating to the close season shall be in force, and a person violating a provision of the same shall be subject to the penalty therein prescribed. Whoever enters upon the wild lands of the state carrying or having in his possession any firearms, or shoots during the close season fixed by proclamation of the governor, as provided in the preceding section, any wild animal or bird for the hunting of which there is no close season otherwise provided by law, shall be punished by a fine of one hundred dollars and costs.

**Sec. 40. Proclamation shall be published and posted; copy filed with secretary of state.** 1909, c. 52, § 3. Such proclamation shall be published in such newspapers of the state and posted in such places and in such manner as the governor may order in writing. A copy of such proclamation and order, shall be filed with the secretary of state. A like attested copy shall be furnished to the forest commissioner, who shall attend to the posting and publication of the proclamation. All expense thereof and all the expense of enforcing the provisions of the proclamation shall be paid by said commissioner, after allowance by the state auditor, from any funds in the state treasury not otherwise appropriated.

**Sec. 41. When proclamation may be annulled.** 1909, c. 52, § 4. If after the issuing of the proclamation as provided in section thirty-eight, by reason of rains or otherwise, the governor is satisfied that the occasion has passed for the issuance of the proclamation, he may annul it by another proclamation issued as provided for the issuance of the first proclamation.

**Sec. 42. Inquiry shall be made into origin of woodland fires.** R. S. c. 7, § 58. 1909, c. 164, § 2. Municipal officers in towns shall proceed immediately to a strict inquiry into the cause and origin of fires within woodlands; and in all cases where such fires are found to have originated from the unlawful act of any person, to cause the offender to be prosecuted without delay.

**Sec. 43. Selectmen shall make report of any forest fire.** R. S. c. 7, § 59. 1909, c. 164, § 3. The selectmen of towns in which a forest fire of more than one acre in extent has occurred, within a month shall report to the forest commissioner the extent of area burned over to the best of their information, together with the probable amount of property destroyed, specifying the value of timber as near as may be, and the amount of cord wood, logs, bark or other forest product, fencing, bridges and buildings that have been burned. They shall also report the causes of these fires if they can be ascertained, and the measures employed and found effective in checking their progress. Blanks for such reports shall be furnished by the forest commissioner at the expense of the state.

**Sec. 44. Forest commissioner shall maintain fire patrol, along railroads.** 1911, c. 35, § 1. 1915, c. 68. Whenever in the judgment of the forest commissioner, the woodlands along the railroads traversing the forest lands of the state, are in a dry and dangerous condition, he shall maintain a competent and efficient fire patrol along the right of way or lands of such railroads.

**Sec. 45. Fires shall be reported to forest commissioner.** 1911, c. 35, § 3. All fires started upon the right of way of any railroad or lands adjacent thereto shall be immediately reported to the commissioner upon blanks to be furnished by him, by the patrolman within whose limits the fire originated, setting forth the origin of such fire, the quantity and quality of the land burned over, and, if the fire was started by a locomotive, he shall give the number thereof.

**Sec. 46. Expense of fire patrol shall be paid by railroad company.** 1911, c. 35, § 2. The forest commissioner shall keep, or cause to be kept, an account of the cost of maintaining such fire patrol along the line of such

## CHAP. 8

railroad, including therein the wages and expenses of the employees engaged in maintaining such fire patrol, and the total cost thereof shall be paid to the forest commissioner, by the railroad company along whose land or right of way such patrol is maintained, such payment to be made monthly or on the presentation of the bills therefor. All such funds received by said commissioner shall be credited to the fund for the protection of the forests against fire from which it was drawn.

**Sec. 47. Railroad company not released from damages.** 1911, c. 35, § 5. Nothing in the three preceding sections shall be construed as releasing any railroad company from any damage caused by fires set by their locomotives or employees.

**Sec. 48. Railroad companies shall remove all inflammable material from right of way.** R. S. c. 7, § 60. 1911, c. 35, § 4. Every railroad company whose road passes through waste or forest lands, shall during each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care and at times when fires are not liable to spread beyond control; but no railroad employee shall build a fire to burn rubbish along the right of way through forest lands when forbidden to do so by the forest commissioner, or his wardens.

**Sec. 49. Locomotives shall be provided with spark arresters.** R. S. c. 7, § 61. 1913, c. 177. All locomotives which shall be run through forest lands, shall be provided with approved and efficient arrangements for preventing the escape of fire and sparks. The forest commissioner may petition the public utilities commission, setting forth that there is danger of fire to lands within the Maine forestry district from the operation of locomotives on any railroad; and said commission may, after notice and hearing thereon, make such orders and regulations relating to the equipment and operation of locomotives, during times of drought or danger of forest fires, as they deem necessary for the prevention of fires on said lands.

**Sec. 50. Railroad companies liable for damages caused by employees; smoking car windows shall be screened.** R. S. c. 7, § 62. 1913, c. 86. No railroad company shall permit its employees to deposit fire, live coals or ashes, upon its track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and any railroad company operating a railroad running through the Maine forestry district shall between the first day of May and the tenth day of November following in each year, fasten down or secure screens or other obstructions in the windows of all cars or apartments of cars in which smoking is allowed, to prevent the throwing of burning matches, burning cigars, burning cigarettes or parts thereof from the windows of such cars. When engineers, conductors or trainmen discover that fences along the right of way or woodlands adjacent to the railroads, are burning or in danger from fire, they shall report the same at their next stopping place which shall be a telegraph station.

**Sec. 51. Railroads under construction, liable for all damages to forest growth caused by employees; penalty, if employees fail to extinguish fires set along line; persons in charge of men, required to see that the provisions of this section are complied with.** R. S. c. 7, § 63. For all damages caused to forest growth by any person employed in the construction of any railroad

## CHAP. 8

built in this state after the third day of May, eighteen hundred and ninety-one, the company owning such road shall be primarily liable to the person or persons so damaged. During the construction of such roads through woodland, there shall be kept posted in conspicuous places on each line of the roadways at distances of two hundred feet, abstracts of the laws relating to forest fires. Any person employed in the construction of such railroads, who shall set or cause to be set any fire along the line of said roads, shall, before leaving the same, totally extinguish said fires, and upon failure to do so, such person shall be punished by a fine of not exceeding five hundred dollars or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment. All persons having charge of men in the construction of such railroads shall see that the provisions of this section are carefully complied with, and for any negligence or want of ordinary care on their part in relation to the same, they shall be liable to the penalties imposed by this section.

**Sec. 52. Penalty for violation of §§ 48-50. R. S. c. 7, § 64.** Any railroad company violating the requirements of sections forty-eight, forty-nine and fifty, shall be liable to a fine of one hundred dollars for each offence.

**Sec. 53. Inflammable material along railroads and ways shall be removed. 1915, c. 196, § 1.** Any person, firm, corporation or agent, cutting any forest growth on property adjacent to the right of way of any railroad or highway within the state, shall leave the growth uncut on the land within fifty feet of the limit of the right of way of a railroad or center of the wrought portion of any plantation, town, city, county or state road; or shall dispose of slash and debris caused by cutting in such a manner that inflammable material shall not remain on the ground within fifty feet of the limit of the right of way of a railroad or center of the wrought portion of any plantation, town, city, county or state road.

**Sec. 54. Slash and debris, how to be disposed of. 1915, c. 196, § 2.** Slash and debris accumulating by the construction and maintenance of railroads, highways or telegraph or telephone lines, shall be disposed of in such a manner that inflammable material shall not be left on the ground.

**Sec. 55. Forest commissioner may dispose of slash and debris and recover double the cost in action of debt; attorney-general shall prosecute; lien on land enforced by attachment. 1915, c. 196, § 3.** When any person, firm, corporation or agent shall have failed to dispose of slash and debris as provided by the two preceding sections, the forest commissioner shall cause such slash and debris to be so disposed of. He shall pay the expense of so disposing of such slash and debris from any funds at his disposal, legally applicable to such purpose; and he or his successor in office shall be entitled to recover double the amount of such expenditures in an action of debt, to be prosecuted by the attorney-general in the supreme judicial court in the county of Kennebec, against the person, firm, corporation or agent whose duty it was to dispose of such slash or debris; and there shall be a lien on the land on which the cutting of the forest growth took place, to secure any judgment recovered in such action, to be enforced by attachment in said action, made within six months after such expenditures were made. The sum recovered and collected in such action shall be returned

**CHAP. 8**

to and become a part of the fund from which the expenditures were made. Provided, however, that any person, firm, corporation or agent cutting wood or timber during the winter, after November first, shall have until May first following in the Maine forestry district, and until April first in the remainder of the state, to remove such slash and debris. If such slash and debris are destroyed by burning, such burning shall be done with the permission of the forest commissioner.

**Sec. 56. Elementary instruction in forestry in public schools. R. S. c. 7, § 65.** The forest commissioner shall take such measures as the state superintendent of public schools and the president of the University of Maine may approve, for awakening an interest in behalf of forestry in the public schools, academies and colleges of the state, and of imparting some degree of elementary instruction upon this subject therein.

**Sec. 57. Commissioner shall issue circulars of advice for care of woodlands. R. S. c. 7, § 66.** He shall prepare tracts or circulars of information, giving plain and concise advice for the care of woodlands and for the preservation of forest growth. These publications shall be furnished to any citizen of the state upon application.

**Sec. 58. Copies of §§ 28-59 shall be printed and distributed to selectmen and posted; penalty for destroying notices. R. S. c. 7, § 67.** The forest commissioner, at the expense of the state, shall cause copies of sections twenty-eight to fifty-nine, both inclusive, of this chapter and all other laws of the state relating to forest fires to be printed and freely distributed to the selectmen of all the towns of the state, who shall post them up in school-houses, saw mills, logging camps and other places; and similar copies shall be furnished to owners of forest lands, who may apply for them, to be posted up at the expense of such owners. Any person viciously or wantonly tearing down, destroying or defacing any such notices, shall on conviction thereof, be punished by a fine of five dollars.

**Sec. 59. Penalties not substitutes for existing liabilities. R. S. c. 7, § 68.** None of the penalties imposed by sections thirty-five, fifty-one, fifty-two and fifty-eight shall be considered as substitutes for or as repealing the provisions of existing laws, making persons guilty of acts of trespass or liable for civil damages to persons injured by such acts.

### Maine Forestry District.

**Sec. 60. Maine Forestry District. 1909, c. 193, § 1.** The administrative district known as the Maine Forestry District, heretofore established and incorporated, shall include the following territory:

**Aroostook county. 1913, c. 68, § 1.** Township A, R. 2, W. E. L. S.; Hammond plantation; C, R. 2, W. E. L. S.; D, R. 2, W. E. L. S.; E plantation; 3, R. 2, W. E. L. S.; Cox Patent; Glenwood plantation; 3, R. 3, W. E. L. S.; 4, R. 3, W. E. L. S.; 7, R. 3, W. E. L. S.; 8, R. 3, W. E. L. S.; 9, R. 3, W. E. L. S.; 10, R. 3, W. E. L. S.; 17, R. 3, W. E. L. S.; 1, R. 4, W. E. L. S.; 2, R. 4, W. E. L. S.; 3, R. 4, W. E. L. S.; 7, R. 4, W. E. L. S.; 8, R. 4, W. E. L. S.; 9, R. 4, W. E. L. S.; 10, R. 4, W. E. L. S.; 11, R. 4, W. E. L. S.; Westmanland plantation; 16, R. 4, W. E. L. S.; 17, R. 4, W. E.

## CHAP. 8

L. S.; A, R. 5, W. E. L. S.; 1, R. 5, W. E. L. S.; 7, R. 5, W. E. L. S.; 8, R. 5, W. E. L. S.; 9, R. 5, W. E. L. S.; 13, R. 5, W. E. L. S.; 14, R. 5, W. E. L. S.; 15, R. 5, W. E. L. S.; 16, R. 5, W. E. L. S.; 17, R. 5, W. E. L. S.; Oxbow plantation; 10, R. 6, W. E. L. S.; Garfield plantation; Nashville plantation; 14, R. 6, W. E. L. S.; 15, R. 6, W. E. L. S.; 16, R. 6, W. E. L. S.; 9, R. 7, W. E. L. S.; 10, R. 7, W. E. L. S.; 11, R. 7, W. E. L. S.; 12, R. 7, W. E. L. S.; 13, R. 7, W. E. L. S.; 14, R. 7, W. E. L. S.; Winterville plantation; 9, R. 8, W. E. L. S.; 10, R. 8, W. E. L. S.; 11, R. 8, W. E. L. S.; 12, R. 8, W. E. L. S.; 13, R. 8, W. E. L. S.; 14, R. 8, W. E. L. S.; 15, R. 8, W. E. L. S.; 16, R. 8, W. E. L. S.; 11, R. 9, W. E. L. S.; 12, R. 9, W. E. L. S.; 13, R. 9, W. E. L. S.; 14, R. 9, W. E. L. S.; 15, R. 9, W. E. L. S.; 16, R. 9, W. E. L. S.; 11, R. 10, W. E. L. S.; 12, R. 10, W. E. L. S.; 13, R. 10, W. E. L. S.; 14, R. 10, W. E. L. S.; 15, R. 10, W. E. L. S.; Allagash plantation; 18, R. 10, W. E. L. S.; 11, R. 11, W. E. L. S.; 12, R. 11, W. E. L. S.; 13, R. 11, W. E. L. S.; 14, R. 11, W. E. L. S.; 15, R. 11, W. E. L. S.; 18, R. 11, W. E. L. S.; 19, R. 11, W. E. L. S.; 11, R. 12, W. E. L. S.; 12, R. 12, W. E. L. S.; 13, R. 12, W. E. L. S.; 14, R. 12, W. E. L. S.; 15, R. 12, W. E. L. S.; 16, R. 12, W. E. L. S.; 17, R. 12, W. E. L. S.; 18, R. 12, W. E. L. S.; 19, R. 12, W. E. L. S.; 20, R. 11 and 12, W. E. L. S.; 11, R. 13, W. E. L. S.; 12, R. 13, W. E. L. S.; 13, R. 13, W. E. L. S.; 14, R. 13, W. E. L. S.; 15, R. 13, W. E. L. S.; 16, R. 13, W. E. L. S.; 17, R. 13, W. E. L. S.; 18, R. 13, W. E. L. S.; 11, R. 14, W. E. L. S.; 12, R. 14, W. E. L. S.; 13, R. 14, W. E. L. S.; 14, R. 14, W. E. L. S.; 15, R. 14, W. E. L. S.; 16, R. 14, W. E. L. S.; 17, R. 14, W. E. L. S.; 11, R. 15, W. E. L. S.; 12, R. 15, W. E. L. S.; 13, R. 15, W. E. L. S.; 14, R. 15, W. E. L. S.; 15, R. 15, W. E. L. S.; 11, R. 16, W. E. L. S.; 12, R. 16, W. E. L. S.; 13, R. 16, W. E. L. S.; 14, R. 16, W. E. L. S.; 11, R. 17, W. E. L. S.; 12, R. 17, W. E. L. S.; in Aroostook county.

**Franklin county.** Township Number 4, Washington plantation; Sandy River plantation; Rangeley plantation; 4, R. 1, B. K. P., W. K. R.; 4, R. 2, B. K. P., W. K. R.; 4, R. 3, B. K. P., W. K. R.; D, R. 1; 1, R. 2, W. B. K. P.; Dallas plantation; Coplin plantation; Lang plantation; 3, R. 3, W. B. K. P.; 3, R. 2, B. K. P., W. K. R.; 2, R. 4, W. B. K. P.; 3, R. 4, W. B. K. P.; 1, R. 5, W. B. K. P.; 2, R. 5, W. B. K. P.; 3, R. 5, W. B. K. P.; 1, R. 6, W. B. K. P.; 2, R. 6, W. B. K. P.; 3, R. 6, W. B. K. P.; 1, R. 7, W. B. K. P.; 2, R. 7, W. B. K. P.; 1, R. 8, W. B. K. P.; 2, R. 8, W. B. K. P.; Gore north of T. number 2 and 3, R. 6, W. B. K. P.; number 6 north of Weld; Gore north of T. 1, R. 8, W. B. K. P.; township E; Perkins; in Franklin county.

**Hancock county.** Township No. 3, North Division; No. 4, North Division; Two Mile Strip North of No. 3, North Division; Strip North of No. 4, North Division; No. 7, South Division; No. 8, Plantation; No. 9, South Division; No. 10, South Division; No. 16, Middle Division; No. 21, Plantation; No. 22, Middle Division; No. 28, Middle Division; No. 32, Middle Division; No. 33, Plantation; No. 34, Middle Division; number 35, Middle Division; number 39, Middle Division; number 40, Middle Division; number 41, Middle Division; Butter Island; Eagle Island; Spruce Head Island;

## CHAP. 8

Bear Island; Beach Island; Hog Island; Bradbury's Island; Pond Island; Western Island; Little Spruce Island; Marshall's Island; Pickering's Island; in Hancock county.

**Oxford county.** 1913, c. 68, § 1. T. A. number 1; Andover North Surplus; Andover West Surplus; T. C.; C Surplus; 4, R. 1, W. B. K. P.; Magalloway plantation; 4, R. 2, W. B. K. P.; Lincoln plantation; 4, R. 3, W. B. K. P.; 5, R. 3, W. B. K. P.; 4, R. 4, W. B. K. P.; 5, R. 4, W. B. K. P.; 4, R. 5, W. B. K. P.; 4, R. 6, W. B. K. P.; 5, R. 5, W. B. K. P.; Batchelder's Grant; in Oxford county.

**Penobscot county.** Township 3, R. 1, N. B. P. P.; Lakeville plantation; 5, R. 1, N. B. P. P.; Webster plantation; Drew plantation; 1, R. 7, N. W. P.; 2, R. 8, N. W. P.; Seboeis plantation; 2, R. 9, N. W. P.; 3, R. 9, N. W. P.; 1, R. 6, W. E. L. S.; 2, R. 6, W. E. L. S.; Stacyville plantation; 6, R. 6, W. E. L. S.; 7, R. 6, W. E. L. S.; 8, R. 6, W. E. L. S.; A. R. 7, W. E. L. S.; 1, R. 7, W. E. L. S.; 2, R. 7, W. E. L. S.; 3, R. 7, W. E. L. S.; 4, R. 7, W. E. L. S.; 5, R. 7, W. E. L. S.; 6, R. 7, W. E. L. S.; 7, R. 7, W. E. L. S.; 8, R. 7, W. E. L. S.; Hopkins Academy grant; 8, R. 8, W. E. L. S.; A. R. 8 and 9, W. E. L. S.; Veazie Gore; number 3, Indian purchase; number 4, Indian purchase; 1, R. 8, W. E. L. S.; 2, R. 8, W. E. L. S.; 3, R. 8, W. E. L. S.; 4, R. 8, W. E. L. S.; 5, R. 8, W. E. L. S.; 6, R. 8, W. E. L. S.; 7, R. 8, W. E. L. S.; number 1, North Division; Grand Falls plantation; in Penobscot county.

**Piscataquis county.** 1913, c. 68, §§ 1, 2. Lakeview plantation; Barnard plantation; 4, R. 9, N. W. P.; 5, R. 9, N. W. P.; 6, R. 9, N. W. P.; 7, R. 9, N. W. P.; Elliottsville plantation; 3, R. 5, B. K. P., E. K. R.; 2, R. 6, B. K. P., E. K. R.; 1, R. 9, W. E. L. S.; 2, R. 9, W. E. L. S.; 3, R. 9, W. E. L. S.; 4, R. 9, W. E. L. S.; 5, R. 9, W. E. L. S.; 6, R. 9, W. E. L. S.; 7, R. 9, W. E. L. S.; 8, R. 9, W. E. L. S.; 9, R. 9, W. E. L. S.; 10, R. 9, W. E. L. S.; A. R. 10, W. E. L. S.; B. R. 10, W. E. L. S.; 1, R. 10, W. E. L. S.; 2, R. 10, W. E. L. S.; 3, R. 10, W. E. L. S.; 4, R. 10, W. E. L. S.; 5, R. 10, W. E. L. S.; 6, R. 10, W. E. L. S.; 7, R. 10, W. E. L. S.; 8, R. 10, W. E. L. S.; 9, R. 10, W. E. L. S.; 10, R. 10, W. E. L. S.; A. R. 11, W. E. L. S.; B. R. 11, W. E. L. S.; 1, R. 11, W. E. L. S.; 2, R. 11, W. E. L. S.; 3, R. 11, W. E. L. S.; 4, R. 11, W. E. L. S.; 5, R. 11, W. E. L. S.; 6, R. 11, W. E. L. S.; 7, R. 11, W. E. L. S.; 8, R. 11, W. E. L. S.; 9, R. 11, W. E. L. S.; 10, R. 11, W. E. L. S.; 7, R. 10, N. W. P.; 8, R. 10, N. W. P.; A. R. 12, W. E. L. S.; 1, R. 12, W. E. L. S.; 2, R. 12, W. E. L. S.; 3, R. 12, W. E. L. S.; 4, R. 12, W. E. L. S.; 5, R. 12, W. E. L. S.; 6, R. 12, W. E. L. S.; 7, R. 12, W. E. L. S.; 8, R. 12, W. E. L. S.; 9, R. 12, W. E. L. S.; 10, R. 12, W. E. L. S.; A. R. 13, W. E. L. S.; A. 2, R. 13 and 14, W. E. L. S.; 1, R. 13, W. E. L. S.; 2, R. 13, W. E. L. S.; 3, R. 13, W. E. L. S.; 4, R. 13, W. E. L. S.; 5, R. 13, W. E. L. S.; 6, R. 13, W. E. L. S.; 7, R. 13, W. E. L. S.; 8, R. 13, W. E. L. S.; 9, R. 13, W. E. L. S.; 10, R. 13, W. E. L. S.; A. R. 14, W. E. L. S.; X, R. 14, W. E. L. S.; 3, R. 14, and 15, W. E. L. S.; 1, R. 14, W. E. L. S.; 4, R. 14, W. E. L. S.; 5, R. 14, W. E. L. S.; 6, R. 14, W. E. L. S.; 7, R. 14, W. E. L. S.; 8, R. 14, W. E. L. S.; 9, R. 14, W. E. L. S.; 10, R. 14, W. E. L. S.; Sugar Island; Deer Island; Middlesex canal; Day's academy; 4, R. 15, W. E. L.

S.; 5, R. 15, W. E. L. S.; 6, R. 15, W. E. L. S.; 7, R. 15, W. E. L. S.; 8, R. 15, W. E. L. S.; 9, R. 15, W. E. L. S.; 10, R. 15, W. E. L. S.; Moose Island; Farm Island; Kingsbury plantation; in Piscataquis county.

**Somerset county.** Lexington plantation; Pleasant Ridge plantation; Highland plantation; 1, R. 3, B. K. P., W. K. R.; 2, R. 3, B. K. P., W. K. R.; Dead River plantation; Bigelow plantation; 1, R. 4, B. K. P., W. K. R.; 2, R. 4, B. K. P., W. K. R.; 3, R. 4, B. K. P., W. K. R.; Flagstaff plantation; West Forks plantation; 2, R. 5, B. K. P., W. K. R.; 3, R. 5, B. K. P., W. K. R.; 4, R. 5, B. K. P., W. K. R.; 1, R. 6, B. K. P., W. K. R.; 2, R. 6, B. K. P., W. K. R.; 3, R. 6, B. K. P., W. K. R.; 4, R. 6, B. K. P., W. K. R.; 5, R. 6, B. K. P., W. K. R.; 1, R. 7, B. K. P., W. K. R.; 2, R. 7, B. K. P., W. K. R.; 3, R. 7, B. K. P., W. K. R.; 4, R. 7, B. K. P., W. K. R.; 5, R. 7, B. K. P., W. K. R.; 6, R. 7, B. K. P., W. K. R.; Gore North of numbers 1, 2 and 3, R. 7, B. K. P., W. K. R.; Mayfield plantation; 2, R. 3, B. K. P., E. K. R.; The Forks plantation; 2, R. 4, B. K. P., E. K. R.; 1, R. 5, B. K. P., E. K. R.; 2, R. 5, B. K. P., E. K. R.; 1, R. 6, B. K. P., E. K. R.; 1, R. 1, N. B. K. P.; 2, R. 1, N. B. K. P.; 3, R. 1, N. B. K. P.; Jackman plantation; 5, R. 1, N. B. P. P.; 6, R. 1, N. B. P. P.; 1, R. 2, N. B. K. P.; 2, R. 2, N. B. K. P.; 3, R. 2, N. B. K. P.; Moose River plantation; Dennistown plantation; 6, R. 2, N. B. K. P.; Big W, N. B. K. P.; Little W, N. B. K. P.; 1, R. 3, N. B. K. P.; 2, R. 3, N. B. K. P.; 3, R. 3, N. B. K. P.; 4, R. 3, N. B. K. P.; 5, R. 3, N. B. K. P.; Seboomook; 1, R. 4, N. B. K. P.; 2, R. 4, N. B. K. P.; 3, R. 4, N. B. K. P.; 4, R. 4, N. B. K. P.; 5, R. 4, N. B. K. P.; 3, R. 5, N. B. K. P.; 4, R. 5, N. B. K. P.; 4, R. 16, W. E. L. S.; 5, R. 16, W. E. L. S.; 6, R. 16, W. E. L. S.; 7, R. 16, W. E. L. S.; 8, R. 16, W. E. L. S.; 9, R. 16, W. E. L. S.; 10, R. 16, W. E. L. S.; 4, R. 17, W. E. L. S.; 5, R. 17, W. E. L. S.; 6, R. 17, W. E. L. S.; 7, R. 17, W. E. L. S.; 8, R. 17, W. E. L. S.; 9, R. 17, W. E. L. S.; 10, R. 17, W. E. L. S.; 4, R. 18, W. E. L. S.; 5, R. 18, W. E. L. S.; 6, R. 18, W. E. L. S.; 7, R. 18, W. E. L. S.; 8, R. 18, W. E. L. S.; 9, R. 18, W. E. L. S.; 5, R. 19, W. E. L. S.; 6, R. 19, W. E. L. S.; 7, R. 19, W. E. L. S.; 8, R. 19, W. E. L. S.; 5, R. 20, W. E. L. S.; in Somerset county.

**Washington county.** Township number 18, east division; number 19, east division; number 26, east division, number 27, east division, number 18, middle division; number 19, middle division; number 24, middle division; number 25, middle division; number 29, middle division; number 30, middle division; number 31, middle division; number 36, middle division; number 37, middle division; number 42, middle division; number 43, middle division; number 5, north division; strip north of number 5, north division; number 6, north division; strip north of number 6, north division; number 1, R. 1, Titcomb's survey; Grand Lake Stream plantation; 1, R. 2, Titcomb's survey; 1, R. 3, Titcomb's survey; 6, R. 1, N. B. P. P.; 7, R. 2, N. B. P. P.; 8, R. 3, N. B. P. P.; 10, R. 3, N. B. P. P.; 11, R. 3, N. B. P. P.; 8, R. 4, N. B. P. P.; Indian township; Codyville plantation; number 14 plantation; number 21 plantation; in Washington county.

**Sec. 61. Annual tax assessed; when payable; description of property.** 1909, c. 193, § 2. An annual tax of one and one-half mills on the dollar is hereby assessed upon all the property in said district, including rights in public lots, to be used for the protection thereof. Said tax shall be due

## CHAP. 8

and payable at the date of the assessment of the state tax, in the years when the legislature is in session, and for other years it shall be due and payable in one year after the date of such assessment. The valuation as determined by the board of state assessors, and set forth in the statement filed by them as provided in section eleven of chapter nine, shall be the basis for the computation and apportionment of the tax hereby assessed. The tax hereby assessed shall be valid, and all remedies herein provided shall be in full force if said property is described with reasonable accuracy, whether the ownership thereof is correctly stated or not.

**Sec. 62. State assessors shall file description of land subject to tax. 1909, c. 193, § 3.** The board of state assessors shall, within thirty days after such tax is due, prepare and file with the treasurer of state, a certificate setting forth the description of each lot, parcel or right subject to the tax, together with the tax computed at the rate fixed in the preceding section.

**Sec. 63. Lists of assessments to be advertised; land held to the state for payment of tax. 1909, c. 193, § 4.** The treasurer of state shall cause lists of the assessments made hereby to be advertised for three weeks successively in the state paper, and in some newspaper, if any, in the county where the land lies, within three months after such tax is due. Such advertisement may be consolidated with the advertisement required by section forty-four of chapter ten.

The land shall be held to the state for the payment of the tax so assessed, with interest at twenty per cent per annum, to commence six months after such tax is due as herein provided.

109 Me. 477.

**Sec. 64. Redemption of lands assessed and advertised, proceedings; land forfeited to the state. 1909, c. 193, § 5.** Owners of lands so assessed and advertised may redeem them by paying to the treasurer of state the tax with interest thereon, within one year from the time when such interest commences. Each owner may pay for his interest in any tract, whether in common or not, and upon filing with the treasurer of state a certificate showing the number of acres, and describing the property on which he desires to pay the tax, and where the same is located, and paying the amount due, shall receive a certificate from the treasurer of state, discharging the tax on the number of acres or interest upon which such payment is made. Each part or interest of every such township or tract upon which the tax hereby imposed and so advertised is not paid, with interest, within the time limited in this section for such redemption, shall be wholly forfeited to the state and vest therein free of any claim by any former owner.

109 Me. 477.

**Sec. 65. Assessment of taxes on organized plantations. 1911, c. 33.** The treasurer of state shall annually send his warrant, together with a copy of the assessment of taxes upon the organized plantations in the Maine Forestry District, directed to the municipal officers of said plantations, requiring them respectively to assess, in dollars and cents, the sum so charged, according to the provisions of law for the assessment of such taxes, and to add to the amount of such tax the amount of state, county and plantation taxes, to be by them assessed in each plantation respectively.

**Sec. 66. Use of funds; when insufficient, payments from state treasury; audit of accounts.** 1909, c. 193, § 6. 1913, c. 85, § 1. The tax assessed by authority of section sixty-one shall be held by the treasurer of state as a fund to be used to protect from fire the forests situated upon and within the district, and to pay expenses incidental thereto and for no other purpose. The governor and council shall from time to time, as the forest commissioner may request, issue their warrant to the treasurer of state to pay to said commissioner such sums of money as said commissioner may deem necessary for the purpose aforesaid. If the tax assessed by authority of section sixty-one has not been collected or for any reason is not available for the purpose aforesaid or if said tax proves insufficient in any year to properly carry out said purpose, the governor and council may issue their warrant to the treasurer of state, authorizing him to advance and pay to the forest commissioner, from any moneys then in the treasury not otherwise appropriated, such sum or sums of money as they may deem necessary for such purpose. The accounts of the commissioner of the disbursement of all funds shall be examined by the state auditor for the purpose of determining if said accounts are correctly kept and all payments properly vouched for. The forest commissioner may employ from time to time such clerks in his office as will enable him to pay promptly all bills contracted in carrying out the provisions hereof and the compensation of such clerks shall be paid from the funds provided for the district.

109 Me. 472.

**Sec. 67. Prevention, control and extinguishment of fires; lookout stations.** 1909, c. 193, § 7. The forest commissioner shall take measures for the prevention, control and extinguishment of forest fires in said forestry district, and to this end he shall establish such sub-forestry districts as he may deem necessary for effective protection against loss or damage by fire. He may establish lookout stations connected by telephone and equip and maintain depots for necessary tools for the extinguishment of forest fires.

**Sec. 68. Chief forest fire warden; deputy forest fire wardens; tenure.** 1909, c. 193, § 8. He shall appoint in and for each of the districts so established, a chief forest fire warden, and such number of deputy forest fire wardens as in his judgment may be required to carry out the provisions of sections sixty to seventy-three, both inclusive, assigning to each of the latter the territory over and within which he shall have jurisdiction. All chief and deputy forest fire wardens, so appointed, shall hold office during the pleasure of the commissioner; they shall be sworn to the faithful discharge of their duties, and a certificate thereof shall be returned to the office of the commissioner.

**Sec. 69. Duties of fire wardens and deputy wardens; employment of assistants.** 1909, c. 193, § 9. 1913, c. 85, § 2. The chief forest fire wardens, under the direction of the commissioner, shall have general supervision of their respective districts and of the deputy forest fire wardens therein. Each chief forest fire warden, when directed by the commissioner, shall patrol the forests of his district for the purpose of searching out, extinguishing and guarding against forest fires. He shall investigate and gather evidence regarding the causes of forest fires, enforce all laws relating

## CHAP. 8

to forests and forest preservation, arrest all violators thereof, prosecute all offences against the same, and in this connection shall have the same power to serve criminal processes against such offenders and shall be allowed the same fee as a sheriff, or his deputy, for like services, and shall have and enjoy the same right as a sheriff to require aid in executing the duties of his office. The chief forest fire wardens shall perform such other duties, at such times, and under such rules and regulations, as the said commissioner may prescribe, and each shall receive as compensation three dollars for each and every day of actual service, with an allowance for actual necessary expenses of travel and subsistence. The commissioner may authorize the employment of suitable persons to assist the chief forest fire wardens in patrolling their respective districts and every person so employed shall be paid twenty cents for each hour of service so rendered by him and be provided with subsistence during such period. Deputy forest fire wardens shall perform such duties, at such times and under such rules and regulations, as the commissioner, or the chief fire warden of the district, with the approval of the commissioner, may prescribe and they shall receive as compensation two dollars and actual necessary expenses for each and every day of actual service.

**Sec. 70. Chief and deputy fire wardens shall take immediate action to control fires; may summon assistance; deputy wardens shall render account of expense; chief warden shall make detailed report. 1909, c. 193, § 10, 1913, c. 85, § 3.** Whenever a fire occurs on, or is likely to do damage to forest lands within the district of any chief forest fire warden, he shall take immediate action to control and extinguish the same. If such fire occurs upon or is likely to do damage to forest lands within the territory of a deputy forest fire warden and the chief fire warden of the district is not present, the deputy forest fire warden having jurisdiction of the territory shall forthwith proceed to control and extinguish the same, and he shall meanwhile, with all consistent dispatch, cause the said chief fire warden of the district to be notified of the occurrence of such fire. Until the arrival of the chief warden at the place of fire, the deputy warden shall be in charge of the control and extinguishment of the same. For the purpose of controlling and extinguishing fires, chief forest fire wardens, and deputy forest fire wardens, when in charge of the control and extinguishment of forest fires or when so directed by the chief warden, may summon to their assistance any person found within the state and each person so summoned and assisting shall be paid twenty cents for each hour of service rendered by him and be provided with subsistence during such service. Immediately after the extinguishment of a fire, the deputy forest fire warden who for any time may have been in charge of the same, shall make return to the chief warden of the district of the expense thereof during the period of his being in charge, including the names of the persons so summoned and assisting, with their post-office addresses and the hours of labor actually performed by each under his direction. The return shall be made upon oath and the chief warden is hereby authorized and empowered to administer such oath. Upon receipt of such return, the chief fire warden shall carefully examine and audit the same, and he may direct the deputy to amend

and correct any return found to be incomplete, incorrect, or insufficient in form. If upon examination and auditing of said return, and investigation of the subject matter thereof, the chief fire warden believes said return to be just and correct, he shall endorse his written approval thereon and forward the same so approved to the forest commissioner. The chief fire warden of every district burned by a forest fire shall, upon the extinguishment of such fire, promptly forward an extract and detailed statement of the expense, if any, which he may have incurred in connection with the extinguishment of such fire, to the forest commissioner, who may confirm, reject or recommit, either or both, the approved return of said deputy or the detailed statement of the chief fire warden, if justice so requires.

**Sec. 71. Expenses, how paid. 1909, c. 193, § 11.** All expenses incurred under the provisions of sections sixty to seventy-three, both inclusive, shall be paid from the funds raised and created by the tax assessed under the provisions of section sixty-one.

**Sec. 72. Appropriation. 1909, c. 193, § 13.** So much of the funds raised by the tax hereby imposed and paid into the treasury, as may be necessary to pay the claims, accounts and demands arising under the provisions of the twelve preceding sections, is hereby appropriated to pay the same, and the governor and council may draw their warrants therefor at any time. Any balance remaining unpaid shall continue from year to year as a fund available for the purpose defined in section sixty-six.

**Sec. 73. Any adjacent town or plantation may become part of forestry district. 1913, c. 204.** Any incorporated town or organized plantation adjoining any part of the Maine forestry district may by vote at any meeting of its inhabitants duly called and held, become a part of said forestry district and subject to all the provisions of the thirteen preceding sections. A copy of such vote certified by the town clerk or plantation assessors, shall be forwarded forthwith to the treasurer of state and to the forest commissioner, and from the time such certified copy is filed in the office of the treasurer of state, the town or plantation so voting shall be and continue a part of said forestry district. All incorporated towns or organized plantations which shall become a part of said district and all officers of such towns or plantations shall be and are exempt from the duties and obligations imposed by sections twenty-nine and thirty-six of this chapter.

## CHAPTER 9.

### The Board of State Assessors and the Assessment of Excise Taxes.

- Sections 1-17 The Board of State Assessors.  
Sections 18-24 Taxation of Corporate Franchises.  
Sections 25-35 Taxation of Railroad Companies.  
Sections 36-42 Taxation of Telephone Companies.  
Sections 43-46 Taxation of Express Companies.  
Sections 47-58 Taxation of Insurance Companies.  
Sections 59-63 Taxation of Savings Banks.  
Sections 64-66 Taxation of Loan and Building Associations.  
Sections 67-70 Taxation of Foreign Banking Associations and Corporations.  
Sections 71-75 Taxation of Trust and Banking Companies.

#### Board of State Assessors.

**Sec. 1. Board of state assessors, appointment and tenure; governor shall designate chairman; vacancies. R. S. c. 8, § 1. 1909, c. 220, § 1.** A board of state assessors, consisting of three members, not more than two of whom shall be taken from the same political party, shall be appointed by the governor with the advice and consent of the council, for the term of six years, excepting in case of appointments made to fill vacancies, and the terms of office of said members shall be so arranged that an appointment of one member shall take place biennially. The governor shall designate the member who is to serve as chairman of the board, and he shall serve in such capacity until the expiration of his term of office or until a vacancy occurs. In case of the death, resignation, refusal, or inability to serve of any one or more of said board, the governor, with the advice and consent of the council, shall, as soon as may be, fill such vacancy by appointment, and the assessor so appointed shall hold said office until the expiration of the term in which such vacancy occurs.

See Const. of Me. Art. ix, § 1; 105 Me. 104.

**Sec. 2. Qualification; shall be in continuous session. R. S. c. 8, § 2. 1909, c. 220, § 2.** The members of such board shall be persons known to possess knowledge of and training in the subject of taxation and tax laws, and skilled in matters pertaining thereto. Each member shall devote his entire time to the duties of the office. The board shall be in continuous session and open for the transaction of business every secular day, and may hold sessions at any other place than the capitol when deemed necessary in the performance of their duties.

**Sec. 3. Powers. R. S. c. 8, § 3. 1909, c. 220, § 3.** The board of state assessors may summon before them and examine on oath any town assessor or other officer, or any officer of any corporation, or any individual, whose testimony they shall deem necessary in the proper discharge of their duties, and shall require such witnesses to bring with them for examination any

books, records, papers, or documents, belonging to them or in their custody or control, relating to any matter which the board may have authority to investigate or determine. Each of said members and their clerk shall have power to administer all oaths required by this chapter. In case of failure on the part of any person or persons, to comply with any order of the board, or on the refusal of any witness to testify on any matter regarding which he may lawfully be interrogated before the board, the supreme judicial court or any justice thereof, may, on application of the attorney-general, made at the written request of the board, compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or a refusal to testify therein. Officers who serve summonses or subpoenas, and witnesses attending when summoned, shall receive like compensation as officers and witnesses in the supreme judicial court.

**Sec. 4. Shall equalize state and county taxes. R. S. c. 8, § 4. 1909, c. 220, § 4.** The board of state assessors shall constitute a state board of equalization, whose duty it shall be to equalize the state and county taxes among the several towns and unorganized townships in the manner hereinafter provided, and to apportion the state taxes among the several towns of the state. They shall exercise and perform such other powers and duties as may be required or imposed upon them by law.

**Sec. 5. Supervision over administration of assessment and taxation laws, and over local assessors; notice of meetings; town assessors required to attend meetings and answer questions; penalty if town assessors fail to attend meetings. R. S. c. 8, § 5. 1909, c. 220, § 5.** The board shall have and exercise general supervision over the administration of the assessment and taxation laws of the state, and over local assessors and all other assessing officers in the performance of their duties, to the end that all property shall be assessed at the just value thereof in compliance with the laws of the state. One or more members of the board shall visit officially every county in the state at least once each year, and at other times as may be necessary in the performance of their duties, and shall there hold sessions at such times and places as they may deem necessary to inquire into the methods of assessment and taxation and to confer with and give necessary advice and instruction to local assessors as to their duties under the laws of the state, and to secure information to enable them to perform their duties as herein provided. They shall give such public notice of said meetings as they deem proper, and shall give to each board of town assessors in the county in which meetings are to be held a notice by mail of the time and place of such meetings. Each board of town assessors or some member or members of each of them, shall attend said meeting, having with them the then last lists or books giving the valuation of all taxable property in their respective towns. They shall answer, under oath if required, such questions pertaining to the valuation of the property in their towns as the board of state assessors may put to them. Said meeting shall be under the general direction of the board of state assessors and governed by such rules of order as said board shall make and announce. Any town whose assessors shall fail to attend said meetings, without excuse satis-

**CHAP. 9**

factory to the board of state assessors, shall be liable to pay the reasonable expenses of the board or of any person appointed by it, incurred in making examination of the lists or books of said town or in getting other evidence pertaining to the valuation of the property in such town. Such expenses shall be reported to the legislature by the board of state assessors and shall be added to the amount of the next state tax levied against such town, or may be recovered in an action of debt against such town in the name of the treasurer of state. Towns shall pay to said town assessors a reasonable compensation and actual expenses incurred in complying with the requirements of this chapter.

**Note.** Duties as to taxes in Maine Forestry District, c. 8, § 62.

**Sec. 6. If assessors fail to furnish information, board may report such valuation as it may deem just.** R. S. c. 8, § 6. 1909, c. 220, § 6. If the assessors of any town, or some one of them shall fail to appear before said board as hereinbefore provided or to transmit to them the lists hereinbefore named within ten days after the mailing or publication of notice or notices to them, to so appear or transmit said lists, the said board may in its discretion report the valuation of the estates and property and lists of polls liable to taxation in the town so in default, as it shall deem just and equitable.

**Sec. 7. Assessors of towns shall annually, under oath, make return to state assessors.** R. S. c. 8, § 7. 1909, c. 220, § 7. 1911, c. 174, § 1. The assessors of each town shall, on or before the first day of August, annually, and at such other times as the board may require, make and return on blank lists which shall be seasonably furnished by the board of state assessors for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the board, including annually aggregates of polls, the land value, exclusive of buildings and all other improvements, and the valuation of each and every class of property assessed in their respective towns, with the total valuation and percentage of taxation, and itemized lists of property upon which the town has voted to affix a value for taxation purposes, and before transmitting the same to the board of state assessors, shall make and subscribe an oath or affirmation, which for annual returns shall be printed on said lists as follows: "We, the assessors of the \_\_\_\_\_ of \_\_\_\_\_, do swear (affirm) that the foregoing statement contains true aggregates of the valuation of each class of property assessed in said town of \_\_\_\_\_, for the year \_\_\_\_\_, and that we have followed all the requirements of law in valuing, listing, and returning the same. So help me God, (this we do under the pains and penalty of perjury)."

See c. 4, § 31.

**Sec. 8. Equalize assessment list of each town.** R. S. c. 8, § 8. 1909, c. 220, § 8. The board of state assessors shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value.

**Sec. 9. Land agent shall furnish board, with lists of all wild lands; county commissioners shall, annually, return value of wild lands; value, when soil and growth are owned by different persons; owners of wild lands**

shall appear before board and render lists; exceptions. R. S. c. 8, § 9. The land agent shall prepare and deliver to the board of state assessors, full and accurate lists of all townships or parts of townships or lots or parcels of wild lands in this state sold and not included in the tax lists, whether conveyed or not, and shall lay before said board all information in his possession touching the value and description of wild lands at their request; also a statement of all lands on which timber has been sold or a permit to cut timber has been granted by lease or otherwise. All other state officers, when requested shall, in like manner, lay all information in their possession touching said valuation before said board. On or before the first day of August, biennially after the year eighteen hundred and ninety-four, the county commissioners of any county, in which are any wild lands as heretofore described in this section, shall return to said board in books prepared for that purpose, the fair value of each and every township, lot or parcel of wild land. In fixing the valuation of unorganized townships, whenever practicable, the lands and other property therein, of any owners may be valued and assessed separately. When the soil of townships or tracts taxed by the state as wild land, is not owned by the person or persons who own the growth or part of the growth thereon, the board of state assessors shall value the soil and such growth separately for purposes of taxation. All owners of wild lands or of rights of timber and grass on public lots, shall either in person or by authorized agent, appear before the board of state assessors at times and places of holding sessions in the counties where said lands are located, or at any regular meeting of the board held elsewhere on or before the first day of August of each year preceding the regular legislative session of this state; and render unto them a list of all wild lands thus owned, either in common or severalty, giving the township, number, range and county where located, part owned and an estimate of its fair value; and answer such questions or interrogatories as said board may deem necessary in order to obtain a full knowledge of the just value of said lands. Owners of less than five hundred acres of such lands in any township shall be exempted from the provisions of this section. Any owner of wild lands herein named who, after notice in writing so to do, shall fail to furnish all the information hereinbefore required within sixty days from the time he receives such notice, shall be liable to pay the reasonable expenses of the board of state assessors or of any person or persons, not exceeding two, appointed by said board, incurred in making examination of said wild lands. The amount of said expenses shall be determined by said board, and an action of debt to recover the same shall lie in the name of the treasurer of state.

**Sec. 10. Shall investigate all cases of concealment, and of under valuation; direct proceedings, actions, and prosecutions; order reassessment; appeal.** R. S. c. 8, § 10. 1909, c. 220, § 9. The board shall, at its own instance or on complaint made to it, diligently investigate all cases of concealment of property from taxation, of under valuation, and of failure to assess property liable to taxation. They shall bring to the attention of town assessors all such cases in their respective towns. They shall direct proceedings, actions and prosecutions to be instituted to enforce all laws

**CHAP. 9**

relating to the assessment and taxation of property and to the liability of individuals, public officers, and officers, and agents of corporations for failure or negligence to comply with the provisions of the laws governing the assessment or taxation of property, and the attorney-general and county attorneys, upon the written request of the board, shall institute such legal proceedings as may be necessary to carry out the provisions of this chapter. The board shall have power to order the reassessment of any or all real and personal property, or either, in any town where in the judgment of said board such reassessment is advisable or necessary to the end that all classes of property in such town shall be assessed in compliance with the law. Neglect or failure to comply with such orders on the part of any assessor or other official shall be deemed wilful neglect of duty and he shall be subject to the penalties provided by law in such cases. Any person aggrieved because of such reassessment shall have the same right of petition and appeal as from the original assessment.

**Sec. 11. Shall file with the secretary of state, biennially, a state valuation. R. S. c. 8, § 11. 1909, c. 264.** A statement of the amount of the assessed valuation for each town, township and lot or parcel of land, in any unorganized townships, and lot or parcel of land not included in any township, after adjustment as provided by section eight, the aggregate amount for each county, and for the entire state as fixed by the board of equalization, shall be certified by said board and deposited in the office of the secretary of state as soon as completed, and before the first day of December preceding the regular sessions of the legislature. The valuation thus determined shall be the basis for the computation and apportionment of the state and county taxes, until the next biennial assessment and equalization.

**Sec. 12. State assessors may make abatement of taxes. R. S. c. 8, § 12. 1909, c. 218, § 2.** The board of state assessors may, within one year from the assessment, if justice requires, make an abatement of any state, county or forestry district taxes. A list of such abatements, and the amount of the same, shall be transmitted by the board of state assessors to the treasurer of state, and such amount or amounts shall be deducted from such taxes.

**Sec. 13. May abate tax, when property has been doubly taxed. R. S. c. 8, § 13.** Whenever it appears to the board of state assessors, that any parcel of property in the state has been doubly taxed in any year, and it appears by the records in the office of the treasurer of state that a moiety of such tax has been paid, the board may abate the balance remaining unpaid, and said tax or taxes shall be canceled upon the treasurer's books.

**Sec. 14. Assessors shall examine the method of taxation in other states and incorporate result in report. R. S. c. 8, § 14.** The board of state assessors shall investigate and examine into the system and method of taxation of other states, and also make careful and constant inquiry into the practical operation and effect of the laws of this state, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this state are defective, inefficient, inoperative or inequitable. They shall biennially incorporate the result of their investigation and inquiry in their

report made prior to each legislative session, and recommend therein such modifications, changes and additions in the tax laws of this state as may seem advisable or necessary to secure a more just and equitable system of taxation.

**Sec. 15. Assessors shall be provided with rooms; clerk hire.** R. S. c. 8, § 15. 1913, c. 176. They shall be provided with suitable rooms in the state house, and may employ assistance in addition to a clerk, as they shall deem necessary, at an expense not exceeding one thousand dollars a year.

**Sec. 16. Assessors shall include in inventory sheep, swine, neat cattle, and fowl; returns to state assessors.** R. S. c. 8, § 16. 1915, c. 251. Assessors of taxes shall include in the inventory, required to be taken on April first, the number and value of all sheep, swine, yearling and two-year-old neat cattle, stated separately, of sheep and of swine; and at every fifth year after nineteen hundred thirteen the number and value of each kind of domestic fowl, and of the eggs and poultry, stated separately, produced therefrom during the year preceding. They shall make return thereof to the state assessors who shall tabulate the returns and publish them in detail. Said property shall not be included in the tax list.

**Sec. 17. Report annually to governor and council.** R. S. c. 8, § 17. 1909, c. 220, § 10. The board of state assessors shall annually, before the first day of December, make a report to the governor and council of their proceedings and shall include therein a tabular statement of all statistics derived from returns from local assessors, with schedules of all corporations on which state taxes were assessed during the year, and such other statistics and information concerning revenue and taxation as may be deemed of public interest, and for the years in which they shall equalize the valuation of the state, their report shall include tabular statements of the state valuation by towns.

### Taxation of Corporate Franchises.

**Sec. 18. Taxation and rate.** R. S. c. 8, § 18. 1907, c. 185. Every corporation incorporated under the laws of the state, except such as are excepted by section twenty-eight of chapter fifty-one, shall pay an annual franchise tax of five dollars, provided the authorized capital of said corporation does not exceed fifty thousand dollars; of ten dollars, provided said authorized capital exceeds fifty thousand dollars, and does not exceed two hundred thousand dollars; of fifty dollars, provided said authorized capital exceeds two hundred thousand dollars, and does not exceed five hundred thousand dollars; of seventy-five dollars, provided said authorized capital exceeds five hundred thousand dollars, and does not exceed one million dollars; and the further sum of fifty dollars a year for each one million dollars, or any part thereof, in excess of one million dollars.

108 Me. 275, 297.

**Sec. 19. Taxes, how assessed and when due and payable.** R. S. c. 8, § 19. The board of state assessors shall, on or before the first day of July, annually, assess the tax provided by the preceding section upon the authorized capital stock of each of said corporations and shall certify the same

**CHAP. 9**

to the secretary of state, who shall thereupon notify each of said corporations of the amount of said tax assessed to it, and such tax shall become due and payable from said corporation into the state treasury, on the first day of September thereafter.

108 Me. 275.

**Sec. 20. Tax shall be a debt due from corporation. R. S. c. 8, § 20.** Such tax shall be a debt due from such corporation to the state, for which an action of debt may be maintained after the same shall have been in arrears for the period of one month; such tax shall also be a preferred debt in case of insolvency under the laws of this state, or in any process of liquidation in its courts.

108 Me. 275.

**Sec. 21. In case of neglect or refusal to pay, charter liable to forfeiture. R. S. c. 8, § 21.** If any corporation liable to taxation under section eighteen shall for one year neglect or refuse to pay to the state any tax or penalty assessed against it hereunder, its charter shall be liable to forfeiture as hereinafter provided.

**Sec. 22. Proceedings when any company shall have been in arrears six months. R. S. c. 8, § 22.** The treasurer of state, whenever any tax due under the four preceding sections from any company shall have remained in arrears for a period of six months after the same shall have become payable, shall report the same to the attorney-general, who shall forthwith apply to the supreme judicial court in equity in the name of the state, for the forfeiture of the charter of such delinquent corporation, and said court shall order such notice to all parties interested as it may deem proper and shall have jurisdiction in said cause to appoint receivers, issue injunctions and pass interlocutory decrees and orders according to the usual course of proceedings in equity, and to make such final orders and decrees as the nature of the case may require.

**Sec. 23. Annual list shall be prepared and published, as herein provided. 1915, c. 314, § 2.** The secretary of state shall annually prepare a list of all corporations that have failed to pay their annual franchise tax for the preceding year, giving the corporate name, the name of the treasurer last filed in the office of the secretary of state, and the amount of the tax due from each corporation, except those from which by reason of having been duly excused as provided by statute, or dissolved by decree of court, no franchise tax is due for such year, which list shall be published three times for three consecutive weeks in the month of August in three places within the state, namely, Bangor, Portland and Augusta, in such newspapers in each place as the secretary of state may select. If any corporation so advertised shall fail to pay all franchise tax due the state for such year, and the expenses of advertising the same, on or before the first day of December following, its charter shall be suspended, and such corporation shall have no right to use the same.

**Sec. 24. Charter may be revived; data as to suspension of charter shall be placed on record and certified. 1915, c. 314, § 3.** Any charter suspended under the preceding section may be revived by payment of all franchise taxes and expenses of advertising as aforesaid due from the corporation at

the time of such payment. Any corporation whose charter shall have become suspended as aforesaid, shall continue liable for its yearly franchise tax, but while its charter is so suspended, no notice relating to said franchise tax need be sent to the corporation by any state officer. The data covering the suspension of said charter, to wit: the fact of publication and the dates thereof, and the suspension of said charter by reason of such publication and the failure to pay said overdue franchise tax as herein provided, shall be so entered upon the corporation records of the state and be certified by the secretary of state as evidence of the suspension of the charter of such corporation.

### Taxation of Railroad Companies.

**Sec. 25. Annual returns of railroad companies; contents.** R. S. c. 8, § 23. Every railroad company, incorporated under the laws of the state, or doing business therein, shall annually, between the first and fifteenth days of April, return to the secretary of state under oath of its treasurer, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders, with their places of residence and the number of shares belonging to each on said first day of April. The returns shall also contain a statement of the whole length of its line, the length of its line within the state, and the assessed value in each town of its stations and other property taxed by municipalities.

66 Me. 491; 73 Me. 530; 74 Me. 382.

**Sec. 26. Corporations or persons operating railroads, shall pay annual excise tax; state shall pay cities and towns one per cent on stock held therein.** R. S. c. 8, § 24. Every corporation, person or association, operating any railroad in the state under lease or otherwise, shall pay to the treasurer of state, for the use of the state, an annual excise tax, for the privilege of exercising its franchises and the franchises of its leased roads in the state, which, with the tax provided for in section four of chapter ten, is in place of all taxes upon such railroad, its property and stock. There shall be apportioned and paid by the state from the taxes received under this and the five following sections and under section thirty-two, to the several cities and towns in which, on the first day of April in each year, is held railroad stock of either such operating or operated roads exempted from other taxation, an amount equal to one per cent on the value of such stock on that day, as determined by the board of state assessors; provided, however, that the total amount thus apportioned on account of any railroad, shall not exceed the sum received by the state as tax on account of such railroad; and provided further, that there shall not be apportioned on account of any railroad and its several parts, if any, operated by lease or otherwise, a greater part of the whole tax received from such railroad and its several parts, than the proportion which the amount of capital stock of such railroad and its several parts owned in this state, bears to the whole amount of the capital stock of said railroad and its several parts.

66 Me. 492, 514; 74 Me. 382; 78 Me. 93; 97 Me. 269; 103 Me. 428.

## CHAP. 9

**Sec. 27. Amount of tax on railroads, how ascertained.** R. S. c. 8, § 25. 1907, c. 168. 1909, c. 81. 1911, c. 168. The amount of such annual excise tax shall be ascertained as follows: The amount of the gross transportation receipts as returned to the public utilities commission for the year ending on the thirtieth day of June preceding the levying of such tax, shall be divided by the number of miles of railroad operated, to ascertain the average gross receipts per mile; when such average receipts per mile do not exceed fifteen hundred dollars, the tax shall be equal to one-half of one per cent of the gross transportation receipts; when the average receipts per mile exceed fifteen hundred dollars and do not exceed nineteen hundred dollars, the tax shall be equal to three-quarters of one per cent of the gross receipts, and so on increasing the rate of tax one-quarter of one per cent for each additional four hundred dollars of average gross receipts per mile or fractional part thereof; provided, that the rate in no event exceed five and one-half per cent, and in case of railroads operated exclusively for the transportation of freight, said rate shall in no event exceed three per cent. When a railroad lies partly within and partly without the state, or is operated as a part of a line or system extending beyond the state, the tax shall be equal to the same proportion of the gross receipts in the state, as herein provided, and its amount shall be determined as follows: The gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the state, shall be divided by the total number of miles operated to obtain the average gross receipts per mile, and the gross receipts in the state shall be taken to be the average gross receipts per mile, multiplied by the number of miles operated within the state.

142 U. S. 217; 97 Me. 269; 100 Me. 202.

**Sec. 28. Tax, how fixed; notice to companies.** R. S. c. 8, § 26. The board of state assessors, on or before the first day of each April, shall determine the amount of such tax, and report the same to the treasurer of state, who shall forthwith give notice thereof to the corporation, person or association, upon which the tax is levied.

**Sec. 29. Tax, payable in July and October; lien.** R. S. c. 8, § 27. Said tax shall be payable, one-half on the first day of July next after the levy is made, and the other half on the first day of October following. Said tax shall be a lien on the railroad operated, and take precedence of all other liens and incumbrances.

**Sec. 30. Aggrieved parties may apply for abatement.** R. S. c. 8, § 28. Any corporation, person or association aggrieved by the action of the board of state assessors in determining the tax, through error or mistake in calculating the same, may apply for abatement of any such excessive tax within the year for which such tax is assessed, and if, upon re-hearing and re-examination, the tax appears to be excessive through such error or mistake, the board of state assessors may thereupon abate such excess, and the amount so abated shall be deducted from any tax due and unpaid, upon the railroad upon which the excessive tax was assessed; or, if there is no

such unpaid tax, the governor and council shall draw a warrant for the abatement, to be paid from any money in the treasury not otherwise appropriated.

**Sec. 31. Further returns may be required; public utilities commission shall have access to books of railroad companies; penalty for refusing to make returns, or for making false ones.** R. S. c. 8, § 29. If the returns required by law, in relation to railroads, are found insufficient to furnish the basis upon which the tax is to be levied, the public utilities commission shall require such additional facts in the returns as may be found necessary; and, until such returns are so required, or, in default of such returns when required, the board of state assessors shall act upon the best information that they may obtain. The public utilities commission shall have access to the books of railroad companies, to ascertain if the required returns are correctly made; and any railroad corporation, association, or person operating any railroad in the state, which refuses or neglects to make returns required by law, or to exhibit to the public utilities commission its books for the purposes aforesaid, or makes returns which the president, clerk, treasurer or other person certifying to such returns knows to be false, forfeits not less than one thousand, nor more than ten thousand dollars, to be recovered by indictment, or by an action of debt in any county into which the railroad operated extends.

**Sec. 32. Taxation of street railroad corporations.** R. S. c. 8, § 31. 1909, c. 82. Street railroad corporations and associations are subject to the seven preceding sections and to section four of chapter ten, except that the annual excise tax shall be ascertained as follows: When the gross average receipts per mile do not exceed one thousand dollars the tax shall be equal to one-fourth of one per cent on the gross transportation receipts; and for each thousand dollars additional gross receipts per mile, or fractional part thereof, the rate shall be increased one-fourth of one per cent, provided that the rate shall in no case exceed four per cent.

**Sec. 33. Taxation of owners of parlor cars.** R. S. c. 8, § 32. 1907, c. 156. 1909, c. 147. Every corporation or person owning or operating parlor or other cars for which extra compensation is charged for riding therein over any of the railroads of the state shall annually on the first day of September, pay to the treasurer of state for the use of the state an annual excise tax for the privilege of exercising its franchises in the state, equal to six per cent of its or his gross receipts from business done wholly in the state, for the year ending June thirtieth next preceding.

See § 75.

**Sec. 34. Returns to state assessors; tax in place of local taxation.** R. S. c. 8, § 33. Every such corporation or person shall by its properly authorized agent or officer annually on or before the first day of August, make a return under oath to the board of state assessors, stating the amount of such gross receipts; whereupon the board of state assessors shall on or before the fifteenth day of said August assess the tax herein provided and forthwith certify the same to the treasurer of state, who shall thereupon notify said corporations or persons; said tax shall be paid into the state

## CHAP. 9

treasury on or before the first day of September following, and, is in place of all local taxation upon the cars and equipment of said corporations or persons used in carrying on business in the state.

**Sec. 35. Penalty for neglecting to make return. R. S. c. 8, § 34.** Any corporation or person neglecting to make returns according to the preceding section forfeits twenty-five dollars for every day's neglect, to be recovered by action of debt in the name of the state.

### Taxation of Telephone and Telegraph Companies.

**Sec. 36. Returns of corporations or persons operating telephone or telegraph lines. R. S. c. 8, § 35. 1909, c. 210, § 1.** Every corporation, association or person operating in whole or in part a telephone or telegraph line for toll or other compensation within the state shall annually, between the first and fifteenth days of April, return to the secretary of state under oath of its treasurer, if a corporation, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders resident within the state, with their places of residence, and the number of shares belonging to each on said first day of April; if a person or association, the owner or owners or one of them shall annually make a return under oath to the secretary of state, between the first and fifteenth days of April, of the names and residences of the owner or owners and the relative interest each owner has in any such association on the first day of April. The returns shall also contain a statement of the assessed value in each town of the real estate of such corporation, association or person, used solely for the conduct of a telephone or telegraph business, and taxed by any municipality, and the gross receipts of such corporation, association or person collected within this state on account of its telephone or telegraph business during the preceding year ending April first.

See § 75; 103 Me. 242.

**Sec. 37. State taxation of telephone and telegraph companies; apportionment to cities and towns. R. S. c. 8, § 36.** Every corporation, association or person operating in whole or in part a telephone or telegraph line within the state for tolls or other compensation, shall pay to the treasurer of state for the use of the state an annual excise tax for the privilege of conducting such business within the state which tax, with the tax provided for in section forty-two, is in place of all taxes upon the property of such corporation, association or person employed in such business, and of all taxes upon the shares of the capital stock of any such corporation.

There shall be apportioned and paid by the state from the taxes collected under this section to the several cities and towns in which on the first day of April in each year is held stock of any such corporation, or in which resides the owner or owners of an interest in any telegraph or telephone lines operated by any association or person not a corporation and taxed under this section, an amount equal to one per cent on the value of such stock on that day as determined by the board of state assessors, if a corporation; and if not a corporation, such proportion of the amount of such excise tax paid into the state treasury by the association, person or persons operating such line as such interest owned by a resident in any such municipi-

pality bears to the whole ownership; provided, however, that the total thus apportioned on account of such stock, if a corporation, shall not exceed the sum received by the state as a tax on account of such corporation; and provided further, that there shall not be apportioned on account of any such corporation a greater part of the whole tax received by the state from such corporation than the proportion which the amount of capital stock of such corporation owned in this state bears to the whole amount of the capital stock of such corporation.

See § 75; 73 Me. 525; 103 Me. 242.

**Sec. 38. Computation of tax.** R. S. c. 8, § 37. 1909, c. 210, § 2. 1911, c. 142. The amount of such annual excise tax shall be ascertained as follows: When the gross receipts of such corporation, association or person collected within this state on account of its telephone or telegraph business during the year for which the tax is assessed on such corporation, association or person exceed one thousand dollars and do not exceed five thousand dollars, the tax shall be one and one-fourth per cent of such gross receipts; when such gross receipts exceed five thousand dollars and do not exceed ten thousand dollars, the tax shall be one and one-half per cent of such gross receipts; when such gross receipts exceed ten thousand dollars and do not exceed twenty thousand dollars, the tax shall be one and three-fourths per cent of such gross receipts; when such gross receipts exceed twenty thousand dollars and do not exceed forty thousand dollars, the tax shall be two per cent of such gross receipts; and so on, increasing the rate of tax one-quarter of one per cent for each additional twenty thousand dollars or fractional part thereof, of such gross receipts, provided that the rate shall in no event exceed six per cent of such gross receipts.

103 Me. 242.

**Sec. 39. Tax shall be determined and reported to treasurer of state.** R. S. c. 8, § 38. The board of state assessors on or before the first day of May annually shall determine the amount of such tax and report the same to the treasurer of state, who shall forthwith give notice thereof to the corporation, association or person upon which the tax is levied.

103 Me. 242.

**Sec. 40. Payment of tax; lien.** R. S. c. 8, § 39. Said tax shall be paid to the treasurer on or before the first day of September annually. Said tax shall be a lien on the property of such corporation, and on its franchise, and upon the property used in operating a telephone or telegraph business by any such association or person, and takes precedence over all other liens.

See § 75; 103 Me. 242.

**Sec. 41. Books of corporations shall be open to assessors; penalty for refusing to make returns.** R. S. c. 8, § 40. The board of state assessors, or their duly authorized agent, shall have access to the books of any such corporation, association or person, to ascertain if the required returns are correctly made; and any corporation, association or person operating any telegraph or telephone line in this state, and refusing or neglecting to make the returns required by law, or to exhibit to the board of state assessors, or to their duly authorized agent therefor, its or his books for the purpose aforesaid, or making returns which the president, clerk, treasurer or other

## CHAP. 9

person certifying such returns knows to be false, shall forfeit not less than one thousand, nor more than ten thousand dollars, to be recovered by indictment or by action of debt in any county into which the said telegraph or telephone lines extend.

103 Me. 242.

**Sec. 42. Tax shall be in lieu of all taxes. R. S. c. 8, § 41. 1909, c. 210, § 3.** The excise tax collected under the six preceding sections shall be in lieu of all taxes upon any corporation therein designated, upon its shares of capital stock, and its property; provided, however, that the land and buildings thereon owned by such corporation, association or person shall be taxed in the municipality in which the same is situated. The assessment of taxes on such land and buildings shall be legal, whether assessed as resident or non-resident property.

103 Me. 242, 428.

#### Taxation of Express Companies.

**Sec. 43. Companies and persons doing express business shall apply annually for license and shall pay tax. R. S. c. 8, § 42. 1907, c. 167. 1909, c. 152, § 1. 1911, c. 115.** Every corporation, company or person doing express business on any railroad, steamboat or vessel in the state, shall, annually, before the first day of May, apply to the treasurer of state for a license authorizing the carrying on of said business and any such corporation, company or person, neglecting to make application as aforesaid, forfeits fifty dollars, to be recovered by action of debt in the name of the state; every such corporation, company or person shall annually pay to the treasurer of state four per cent of the gross receipts of said business for the year ending on the first day of April preceding. Said four per cent shall be on all business done in the state, including a proportional part on all express business coming from other states or countries into this state, and all going from this state to other states or countries, provided, however, that nothing herein applies to goods or merchandise in transit through the state.

100 Me. 278; 103 Me. 428.

**Sec. 44. Annual return to board of state assessors; assessment of tax. R. S. c. 8, § 43.** Every such corporation, company or person, shall, by its properly authorized agent or officer, annually, on or before the fifteenth day of May make a return under oath to the board of state assessors, stating the amount of said receipts for all express matter carried within the state as specified in the preceding section; whereupon, the board of state assessors shall, on or before the fifteenth day of June following, assess the tax therein provided, and forthwith certify the same to the treasurer of state, who shall thereupon notify said corporations, companies or persons, and said taxes shall be paid into the state treasury on or before the first day of September following.

See § 75; 100 Me. 278.

**Sec. 45. State tax is in place of local taxation.** R. S. c. 8, § 44. 1909, c. 152, § 2. The taxes assessed upon express corporations, companies and persons as aforesaid, is in place of all local taxation, except that real estate owned by such corporations, companies or persons, shall be taxed in the municipality where the same is situated, as non-resident real estate.

100 Me. 278; 103 Me. 428.

**Sec. 46. Penalty for neglect to make return.** R. S. c. 8, § 45. Any corporation, company or person, neglecting to make returns according to section forty-four, forfeits twenty-five dollars for every day's neglect, to be recovered by action of debt in the name of the state.

100 Me. 278; 103 Me. 428.

#### Taxation of Insurance Companies.

**Sec. 47. Life insurance companies shall be taxed on real estate, premiums and surplus.** R. S. c. 8, § 46. Every life insurance company or association, organized under the laws of this state, in lieu of all other taxation, shall be taxed as follows: First, its real estate shall be taxed by the municipality in which such real estate is situated, in the same manner as other real estate is taxed therein. Second, it shall pay a tax of two per cent upon all premiums, whether in cash or notes absolutely payable, received from residents of this state during the year preceding the assessment, as hereinafter provided, first deducting therefrom all dividends paid to policyholders in this state on account of said premiums. Third, it shall pay a tax of one-half of one per cent a year on its surplus, computed according to the laws of this state, after deducting the value of its real estate in this state, as fixed in determining such surplus; said surplus shall be determined by the insurance commissioner, and his certificate thereof to the treasurer of state shall be final.

79 Me. 231; 103 Me. 428.

**Sec. 48. Shall return to insurance commissioner statement of premiums liable to taxation; §§ 53, 56 made applicable.** R. S. c. 8, § 47. Every such company shall include in its annual return to the insurance commissioner a statement of the amount of premiums liable to taxation as provided in the preceding section, and of the real estate held by it on the thirty-first day of the previous December, showing in detail the amount of all premiums whether in cash or notes absolutely payable, received by said company from residents of this state during the year preceding the assessment, and all dividends paid to policyholders in this state on account of said premiums as required by blanks furnished by the commissioner. The tax provided by the preceding section shall be assessed and paid as provided in section fifty-six, and said section and section fifty-three shall be applicable thereto.

See c. 53, § 91.

**Sec. 49. Foreign insurance companies shall pay tax on premiums.** R. S. c. 8, § 48. 1909, c. 114. Every insurance company or association which does business or collects premiums or assessments in the state, except those mentioned in sections forty-seven and fifty-two including surety companies and companies engaged in the business of credit insurance or title insurance, shall, as hereinafter provided, annually pay a tax upon all premiums

**CHAP. 9**

received, whether in cash or in notes absolutely payable, on contracts made in the state for insurance of life, property or interest therein, at the rate of one and one-half per cent a year; provided, however, that no tax shall be required on account of any premium paid or assessment levied on policies of insurance issued on farm property.

**Sec. 50. Amount of tax, how determined.** R. S. c. 8, § 49. In determining the amount of tax due under the preceding section, there shall be deducted by each company from the full amount of premiums received, the amount of all return premiums on policies canceled, the amount of all premiums paid to companies authorized to transact business in this state for reinsurance of risks in the state, and the tax shall be computed on the amount thus actually received by said companies or their agents as aforesaid.

**Sec. 51. Such companies shall make returns.** R. S. c. 8, § 50. Every company or association which by the two preceding sections is required to pay a tax, shall, on or before the thirty-first day of each January, make a return under oath to the insurance commissioner, stating the amount of all premiums received by said company, either in cash or notes absolutely payable, during the year ending on the thirty-first day of December previous, the amount of return premiums on policies canceled during the year, the amount of all premiums paid to or received from other companies during the year for insurance or reinsurance of risks in this state; the names of the companies with which such insurance or reinsurance was affected; the amounts of the policies and the premiums on the same.

See c. 53, § 91.

**Sec. 52. Tax on mutual fire insurance companies transacting mill insurance; shall make return to the insurance commissioner.** 1913, c. 118. Mutual fire insurance companies incorporated under the laws of other states, which insure only factories, or mills, or property connected with such factories or mills, admitted to do business in this state shall comply with all the requirements of law except that in lieu of all other taxation upon premiums in this state, such companies shall annually pay a tax at the rate of two per cent on gross premiums in force on risks in this state, after deducting the unabsorbed portion of such premium, computed at the rate of return actually made on annual policies expiring during the year by said insurance companies. Such companies shall, on or before the thirty-first day of each January, make a return, under oath, to the insurance commissioner, showing the gross premiums in force on risks in this state on the thirty-first day of December previous and the unabsorbed portion of such premiums computed at the rate of return actually made on annual policies expiring during the year, by said insurance companies.

See c. 53, § 104.

**Sec. 53. Neglecting to make return, how to be assessed; failing to pay, forbidden to do business in state.** R. S. c. 8, § 51. If any insurance company or association refuses or neglects to make the return required by the two preceding sections the board of state assessors shall make such assessment on such company or association as they deem just, and unless the same is paid on demand, such company or association shall do no more

business in the state, and the insurance commissioner shall give notice accordingly. Whoever, after such notice, does business in the state for such company or association, is liable to the penalty provided in section one hundred and twenty-one of chapter fifty-three.

**Sec. 54. Ratio of tax on certain foreign insurance companies; return and assessment of tax.** R. S. c. 8, § 52. Any insurance company incorporated by a state or country whose laws impose upon insurance companies chartered by this state any greater tax than is herein provided, shall pay the same tax upon business done by it in this state, in place of the tax above provided; and the insurance commissioner may require the return upon which such tax may be assessed to be made to him, and the board of state assessors may assess such tax; and if it is not paid as provided in section fifty-six the insurance commissioner shall suspend the right of said company to do business in this state.

**Sec. 55. Tax on reciprocal contracts of indemnity; return to insurance commissioner.** 1913, c. 135, § 9. Every attorney, agent or other representative by or through whom are issued policies or contracts of indemnity of the kind referred to in sections ninety-five to one hundred and two both inclusive, of chapter fifty-three, in lieu of all other taxation, state, county or municipal, in this state, shall annually pay a tax at the rate of two per cent on gross premiums or deposits actually received during the year after deducting amounts actually returned to policy-holders as the unused part of such premium or deposit, or such part as may be credited on the renewal or extension of the indemnity. Such attorney, agent or other representative shall, on or before the thirty-first day of each January, make a return, under oath, to the insurance commissioner showing the gross premiums or deposits actually received during the preceding calendar year and such unused part of such premium or deposit as has been returned to policy-holders or credited on renewal or extension of the indemnity.

**Sec. 56. Assessment of tax; notice; suspension for non-payment.** R. S. c. 8, § 50. 1913, c. 118. 1913, c. 135, § 9. The taxes imposed by sections forty-nine, fifty-two, and fifty-five respectively, shall be assessed by the board of state assessors, upon the certificate of the insurance commissioner, to be seasonably furnished therefor, and certified to the treasurer of state, on or before the first day of April and the same shall be paid on or before the first day of May following. The treasurer shall notify the several companies, and the agent, attorney or other representative mentioned in the preceding section, and unless the tax is paid as aforesaid, the commissioner shall suspend the right of the company, agent, attorney or other representative to do any further business in the state until the tax is paid.

See c. 53, § 91.

**Sec. 57. Taxation of business done with unauthorized companies; rate; exception.** 1911, c. 131, §§ 1, 3. 1913, c. 114. 1915, c. 340, § 1. All persons, companies, associations or corporations, residing or doing business in this state, that enter into any agreements with an insurance company, association, individual, firm, underwriter or Lloyd, not authorized to do business in this state, whereby said person, company, association or corporation shall enter into contracts of insurance against loss or damage by

## CHAP. 9

fire or lightning covering risks or property within this state, with said unauthorized association, individual, firm, underwriter or Lloyd, for which a premium is charged or collected, shall, annually on the first day of December or within ten days thereafter, return to the insurance commissioner of this state a statement under oath for the twelve months preceding on policies or contracts of insurance or indemnity taken by the said person, company, association or corporation. Such statement shall show the amount of insurance and the gross premiums paid to each stock company for insurance during the period covered by such statement, and there may be deducted from the gross premiums any premiums returned to the insured on policies canceled where such policies have been issued during the term covered by the statement, or premiums returned on policies canceled where such original premiums have been previously taxed under this section; or if the insurance or indemnity is with a mutual company or association or individual or through an attorney for individuals, partnerships or corporations, or firm or Lloyds, such statement shall show the amount of insurance or indemnity and gross premium or deposit or payment made to secure such insurance or indemnity and from said gross premium or deposit or payment there may be deducted any premiums returned to the insured on policies canceled where such policies have been issued during the term covered by the statement or premiums returned on policies canceled where such original premiums have been previously taxed under this section. The insurance commissioner shall give notice to each person, company, association or corporation filing such return of the amount of his tax, computed at two and one-half per cent of the gross premium or deposit or payment made to secure the insurance or indemnity and said tax shall be payable to the treasurer of state on or before the thirty-first day of December following; provided, however, that this section shall not be construed as extending to fraternal beneficiary associations, or members thereof; nor to mutual church insurance companies conducted for the protection of properties used in the service of religious denominations, or members thereof; nor to marine insurance; nor shall any provision of this section be construed as extending to insurance in unauthorized companies, written by special insurance brokers, under section one hundred and twenty-five of chapter fifty-three.

**Sec. 58. Penalty for refusing to make returns; action to recover tax.** 1911, c. 131, § 2. 1913, c. 114. 1915, c. 340, § 2. Any person, company, association or corporation failing or refusing to make the report required in section fifty-seven and to furnish all the data and information that may be required by the insurance commissioner to determine the amount due, shall be deemed guilty of a misdemeanor and upon conviction be fined not less than one hundred, nor more than five hundred dollars for each offence. Any person, company, association or corporation, failing or refusing to pay the tax required by section fifty-seven, shall be liable for such tax in an action of debt to be brought in the name of the state in the supreme judicial court in any county where such person, company, association or

corporation has a residence or place of business. Such action shall be prosecuted by the various county attorneys at the request of the treasurer of state.

### Taxation of Savings Banks.

**Sec. 59.** Return of assets, loans, investments and deposits; bank commissioner shall fix market values and return to state assessors. R. S. c 8, § 53. 1915, c. 150, § 3. Every savings bank and institution for savings incorporated under the laws of the state, shall, semi-annually, on the last Saturdays of March and September, make a return, signed and sworn to by its treasurer, of the average amount of its deposits, reserve fund and undivided profits for the six months ending on each of said days, together with a statement in detail of its assets, loans and investments and its deposits within and without the state, in separate columns. Said return shall be made to the bank commissioner on or before the first Saturdays of April and October and within thirty days thereafter, he shall fix and determine the market values of the investments aforesaid and transmit the same with such values so determined, to the board of state assessors for the assessment required by the following section.

66 Me. 243; 68 Me. 517, 519.

**Sec. 60.** State assessors shall determine value of the several franchises, and assess tax; rate; when payable. R. S. c. 8, § 54. 1909, c. 49, § 2. 1915, c. 150, § 4. The board of state assessors shall thereupon determine the values of the several franchises of the said banks and institutions according to the following rule; from the average amount of deposits, reserve fund and undivided profits so returned by each bank or institution there shall in each case be deducted an amount equal to the value so determined of United States bonds, all bonds issued after the first day of February nineteen hundred and nine by this state, or any county, municipality, village corporation or water district therein, the shares of corporation stocks such as are by law of this state free from taxation to the stockholders, and the assessed value of real estate owned by the bank or institution, and also an amount equal to two-fifths of the value so determined of such other assets, loans and investments as by such statement appear to be loans to persons resident or corporations located and doing business in this state, investments in mortgages on real estate in this state, securities of this state, public or private, bonds issued by corporations located and doing business in this state or guaranteed by such corporations, provided, the corporations issuing such bonds be operated by and physically connected with such guaranteeing corporations, and also an amount equal to two-fifths of the cash on hand and cash deposited within the state. Upon the value of each of said franchises so ascertained the board of state assessors shall assess an annual tax of five-eighths of one per cent; one-half of said tax shall be assessed on or before the fifteenth day of May, and one-half on or before the fifteenth day of November. The board of state assessors shall thereupon certify said assessments to the treasurer of state, who shall forthwith notify the

## CHAP. 9

several banks and institutions interested. All taxes so assessed shall be paid semi-annually within ten days after the fifteenth days of May and November.

See § 75; c. 16, § 153.

**Sec. 61. Additional deductions after July 1, 1916. 1915, c. 321, §§ 1, 3.** On and after the first day of July, nineteen hundred and sixteen the board of state assessors shall determine the values of the several franchises of the said banks and institutions according to the following rule, instead of the rule given in the preceding section; from the average amount of deposits, reserve fund and undivided profits so returned by each bank or institution there shall in each case be deducted an amount equal to the value so determined of United States bonds, all bonds issued after the first day of February, nineteen hundred nine, by this state, or any county, municipality, village corporation or water district therein, the shares of corporation stocks such as are by law of this state free from taxation to the stockholders, investments in such notes and bonds secured by mortgages on real estate in this state as are exempt from taxation in the hands of individuals, and the assessed value of real estate owned by the bank or institution, and also an amount equal to two-fifths of the value so determined of such other assets, loans and investments as by such statement appear to be loans to persons resident or corporations located and doing business in this state, securities of this state, public or private, bonds issued by corporations located and doing business in this state or guaranteed by such corporations, provided, the corporations issuing such bonds be operated by and physically connected with such guaranteeing corporations, and also an amount equal to two-fifths of the cash on hand and cash deposited within the state.

**Sec. 62. Deposits are exempt from municipal taxation; but not land held by bank. R. S. c. 8, § 55.** All deposits in savings banks in the state are exempt from municipal taxation to the bank or to the depositor, but real estate owned by the bank, not held as collateral security, may be taxed by the town in which the same is located.

103 Me. 428.

**Sec. 63. Return of bank stock pledged as collateral. R. S. c. 8, § 56.** Treasurers of savings banks, on the first day of each April shall return to the assessors of towns, where persons reside who own bank stock which is pledged or transferred to said bank as collateral security for loans, the names of persons pledging or transferring such stock and the amount of the same; and stock so pledged or transferred by persons residing out of the state shall be returned by such treasurers in the same manner to the assessors of the town in which the bank whose stock is so pledged or transferred is located. For the purpose of taxation, bank stock so pledged or transferred shall be deemed the property of the persons so pledging or transferring it.

**Taxation of Loan and Building Associations.**

**Sec. 64. Required to make semi-annual returns to state assessors; penalty for false return; rate of taxation.** R. S. c. 8, § 57. 1909, c. 24. 1915, c. 150, § 5. Every loan and building association doing business in this state shall semi-annually on the last secular days of March and September make a return, signed and sworn to by its secretary, of its assets and liabilities in detail, of the net amount of its investments other than in loans to individuals or corporations on real estate and on shares of the association, during the six months ending on each of said days, and of the monthly capital dues paid in by its shareholders during the six months ending on each of said days, exclusive of withdrawals, fines, interest and premiums. Said returns shall be made to the board of state assessors on or before the second Mondays of April and October, and for wilfully making a false return, the secretary forfeits not less than five hundred dollars nor more than five thousand dollars. The treasurer of such association shall pay to the treasurer of state a tax of one-fourth of one per cent a year on the amount of monthly capital dues so returned, and a further tax of one-half of one per cent on the average amount so returned of the investments of such associations other than in loans to individuals and corporations on real estate and on shares of the association.

**Sec. 65. Taxes, how assessed.** R. S. c. 8, § 58. 1915, c. 150, § 6. One-half of said tax shall be assessed on the amount so returned for the six months ending on the last secular day in March and the other half on the amount so returned for the six months ending on the last secular day in September; and such tax shall be paid semi-annually, within ten days after the first Mondays in May and November.

**Sec. 66. Capital dues exempt from taxation.** R. S. c. 8, § 59. All capital dues of such associations are exempt from municipal taxation to the association or to the shareholder, but real estate owned by the association, not held as collateral security, may be taxed by the town in which the same is located.

**Taxation of Foreign Banking Associations and Corporations.**

**Sec. 67. Foreign banking corporations doing business in this state, required to pay a tax; rate; amount of business, how ascertained; when payable.** R. S. c. 8, § 60. 1915, c. 150, § 7. Every banking association or corporation, not incorporated under the laws of this state or of the United States, that maintains a branch or agency in this state for the transaction of a banking business, shall pay to the treasurer of state a tax of three-quarters of one per cent a year on the amount of such business done in this state. One-half of said tax shall be paid on the amount of such business for the six months ending on the last Saturday of March, and the other half on the amount for the six months ending on the last Saturday of September, or for such portion of such periods as said association or corporation may transact business in this state. The amount of such business done in this state shall be ascertained by first computing the daily average

## CHAP. 9

for each month of the period of all the moneys outstanding upon loans and investments and of all other moneys received, used or employed in connection with such business, and by then dividing the aggregate of such monthly averages by the number of months covered by said return; and the quotient resulting shall be deemed the amount of such business. The amount of such tax so ascertained shall be paid to the treasurer of state semi-annually within ten days after the first Mondays in May and November.

**Sec. 68. Report to bank commissioner of amount of business transacted, etc. R. S. c. 8, § 61. 1915, c. 150, § 8.** Such association or corporation and the manager or agent of such branch or agency, shall cause a written report to be made to the bank commissioner on or before the last Saturdays of April and October of each year, verified by the oath of such manager or agent, giving the amount of such business transacted in this state under the rule given in the preceding section, and stating the amount of state tax which such branch or agency is liable to pay, and setting forth in detail the daily average for each month preceding the last Saturdays of March and September; and also giving such further or additional information as to the business of such foreign banking association or corporation done in this state as may be required by the bank commissioner.

**Sec. 69. Shall keep account of money used and deposits made. R. S. c. 8, § 62.** Every such banking association or corporation and its managers, agents and employees, shall cause to be kept at all times in the office where such business is transacted in this state, a full and accurate account of the moneys used or employed in such business and of the deposits therein, and such account together with the books, papers and records relating to the business done in this state, shall be subject to the inspection and examination of the bank commissioner, or of any clerk designated by him, during business hours of any day on which business may legally be transacted.

**Sec. 70. Penalty for violation. R. S. c. 8, § 63.** Except as hereinbefore provided, no banking association, unless incorporated under the laws of this state or of the United States, shall maintain any branch or agency in this state for the transaction of banking business. Any officer, agent or employee of such association or corporation doing business in this state contrary to the provisions of the three preceding sections, shall be subject to a penalty of not less than one hundred, nor more than five hundred dollars for each offence, to be recovered by indictment to the use of the state.

#### Taxation of Trust and Banking Companies.

**Sec. 71. Trust and banking companies shall semi-annually return the amount of certain deposits; penalty for false returns; valuation of securities. R. S. c. 8, § 64. 1915, c. 150, § 9.** Every trust and banking company incorporated under the laws of this state, shall, semi-annually on the last Saturdays of March and September, make a return signed and sworn to by its treasurer, of the average amount of its time deposits and its deposits bearing interest at the rate of three per cent or more per annum for the six months preceding each of said days, together with a statement in detail of the amount of United States bonds, the shares of corporation stocks such as are

by law of this state free from taxation to the stockholders. For wilfully making a false return, the treasurer of the corporation forfeits not less than five hundred, nor more than five thousand dollars. Said return shall be made to the bank commissioner, on or before the first Saturdays of April and October, and within thirty days thereafter, he shall fix and determine the market values of the United States bonds, and the shares of corporation stocks returned as aforesaid, and transmit said returns with such values so determined to the board of state assessors for the assessment required by the following section.

**Sec. 72. Assessment of tax; when payable.** R. S. c. 8, § 65. 1909, c. 49, § 3. 1915, c. 150, § 10. The board of state assessors shall thereupon deduct from the average amount of the time and interest bearing deposits so returned, an amount equal to the value so determined of the United States bonds, all bonds issued after the first day of February, nineteen hundred and nine, by this state, or any county, municipality, village corporation or water district therein, the shares of corporation stocks such as are by law of this state free from taxation to stockholders, and upon the balance so found, assess an annual tax of one-half of one per cent; one-half of said tax shall be assessed on or before the fifteenth day of May on the balance of said deposits so ascertained for the six months ending on and including the last Saturday of March, and one-half on or before the fifteenth day of November on the balance of said deposits so ascertained for the six months ending on and including the last Saturday of September. The board of state assessors shall thereupon certify said assessment to the treasurer of state, who shall forthwith notify the several trust and banking companies interested, and all taxes so assessed shall be paid semi-annually within ten days after the fifteenth days of May and November.

**Sec. 73. Additional deductions after July 1, 1916.** 1915, c. 321, §§ 2, 3. On and after the first day of July, nineteen hundred and sixteen, the board of state assessors in making the assessment required by the preceding section shall also deduct from the average amount of the time and interest bearing deposits so returned, an amount equal to the value so determined of investments in such notes and bonds secured by mortgages on real estate in this state as are exempt from taxation in the hands of individuals.

**Sec. 74. Exemption from municipal taxation.** R. S. c. 8, § 67. All deposits designated in section seventy-one are exempt from municipal taxation to the company or the depositor.

103 Me. 428.

**Sec. 75. Proceedings in case of failure to make returns and pay tax;** R. S. c. 8, §§ 66, 68. If any corporation, company or person, fails to make the returns required by sections thirty-four, thirty-six, forty-four, sixty-four and seventy-one, the board of state assessors shall make an assessment of a state tax upon such corporation, company or person on such valuation, or on such gross receipts thereof, as the case may be, as they think just, with such evidence as they may obtain, and such assessment shall be final. If any corporation, company, association or person fails to pay the taxes required or imposed by sections twenty-six, thirty-three, thirty-seven, forty-three, sixty, sixty-five, and seventy-two, the treasurer of state

**CHAP. 10**

shall forthwith commence an action of debt, in the name of the state, for the recovery of the same with interest at the rate of ten per cent a year. In addition to other remedies for the collection of state taxes upon any corporation, such taxes with interest at the rate of ten per cent a year may be recovered by an action of debt, in the name of the state.

See c. 86, § 15; 86 Me. 495; 68 Me. 517, 519.

Note. As to penalties for failure to make returns upon which the franchise tax imposed by section eighteen may be assessed, see c. 51, § 29; for failure to make returns under which the taxes imposed upon railroad companies under section twenty-seven may be assessed, see c. 55, §§ 65, 66; for failure to make the returns of insurance companies under which the tax imposed by sections forty-seven and fifty-six may be assessed, see c. 53, § 91.

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## CHAPTER 10.

### The Assessment of Taxes.

- Sections 1-39 General Provisions respecting Taxation.
- Section 40 Personal Liability of Assessors.
- Sections 41-50 Assessment on Lands in Places not Incorporated.
- Sections 51-57 Timber and Grass on Reserved Lands.
- Sections 58-65 Assessment of Taxes for Building and Repair of Roads  
in Unincorporated Places.
- Sections 66-68 State Tax Sales.
- Sections 69-100 Assessment of Taxes in Incorporated Places.
- Sections 101-107 Assessment of Taxes in Plantations.

#### General Provisions Respecting Taxation.

**Sec. 1. Poll-tax. R. S. c. 9, § 1.** A poll-tax shall be assessed upon every male inhabitant of the state above the age of twenty-one years whether a citizen of the United States or an alien, in the manner provided by law, unless he is exempted therefrom by this chapter, which said poll-tax shall not exceed three dollars and shall not be less than one dollar.

See § 39; 50 Me. 476; 64 Me. 198; 66 Me. 198.

**Sec. 2. Real and personal estate taxable. R. S. c. 9, § 2.** All real property within the state, all personal property of inhabitants of the state, and all personal property hereinafter specified of persons not inhabitants of the state, is subject to taxation as hereinafter provided.

37 Me. 371; 60 Me. 198; 74 Me. 284; 77 Me. 530; 103 Me. 425; 105 Me. 217.

**Sec. 3. Real estate, for purposes of taxation, what it includes; lien. R. S. c. 9, § 3. 1911, c. 174, § 2.** Real estate, for the purposes of taxation, except as provided in section six, includes all lands in the state, together with the water power, shore privileges and rights, forest and mineral deposits appertaining thereto, and all buildings erected on or affixed to the same, and all townships and tracts of land, the fee of which has passed from the state since the year eighteen hundred and fifty, and all interests in timber upon public lands derived by permits granted by the commonwealth of Massachusetts; interest and improvements in land, the fee of which is in

the state; and interest by contract or otherwise in land exempt from taxation. There shall be a lien to secure the payment of all taxes legally assessed on real estate as defined in this section, which shall take precedence of all other claims on said real estate and interests, and shall continue in force until said taxes are paid.

See c. 11, §§ 28, 72, 93, 95; 9 Me. 91; 60 Me. 198; 69 Me. 347; 74 Me. 284-5; 78 Me. 97; 85 Me. 331; 86 Me. 77; 105 Me. 217; 108 Me. 125.

**Sec. 4. Railroad buildings, etc., subject to municipal tax as non-resident land. R. S. c. 9, § 4.** The buildings of every railroad corporation or association, whether within or without the located right of way, and its lands and fixtures outside of its located right of way, are subject to taxation by the cities and towns in which the same are situated, as other property is taxed therein, and shall be regarded as non-resident land.

60 Me. 198.

**Sec. 5. Personal estate, taxable. R. S. c. 9, § 5.** Personal estate for the purposes of taxation, includes all goods, chattels, moneys and effects, where-soever they are; all vessels, at home or abroad; all obligations for money or other property; money at interest, and debts due the persons to be taxed more than they are owing; all public stocks and securities; all shares in moneyed and other corporations within or without the state, except as otherwise provided by law; all annuities payable to the person to be taxed, when the capital of such annuity is not taxed in this state; and all other property, included in the last preceding state valuation for the purposes of taxation.

See § 30; c. 9, §§ 25-75; 36 Me. 259; 54 Me. 542; 56 Me. 288; 68 Me. 33; 102 Me. 404; 103 Me. 420.

**Sec. 6. Exemptions. R. S. c. 9, § 6.** The following property and polls are exempt from taxation:

I. The property of the United States and of this state, and the property of any public municipal corporation of this state, appropriated to public uses, if located within the corporate limits and confines of such public municipal corporation, and also the pipes, fixtures, hydrants, conduits, gate-houses, pumping stations, reservoirs, and dams used only for reservoir purposes, of public municipal corporations engaged in supplying water, power or light, if located outside of the limits of such public municipal corporations, but nothing herein contained shall abridge any power of taxation possessed by any city or town by virtue of any special act.

1911, c. 120; 101 Me. 153.

II. All bonds issued after the first day of February, nineteen hundred and nine, by the State of Maine, or any county, municipality, village corporation or water district therein.

1909, c. 49, § 1.

III. All property which by the articles of separation is exempt from taxation; the personal property of all literary and scientific institutions; the real and personal property of all benevolent and charitable institutions incorporated by the state; the real estate of all literary and scientific institutions occupied by them for their own purposes or by any officer thereof as a residence. Corporations whose property or funds in excess of their ordinary expenses are held for the relief of the sick, the poor, or the dis-

## CHAP. 10

tressed, or of widows and orphans, or to bury the dead, are benevolent and charitable corporations within the meaning of this specification, without regard to the sources from which such funds are derived, or to limitations in the classes of persons for whose benefit they are applied; but so much of the real estate of such corporations as is not occupied by them for their own purposes, shall be taxed in the municipality in which it is situated. And any college in this state authorized under its charter to confer the degree of Bachelor of Arts or of Bachelor of Science, and having real estate liable to taxation, shall, on the payment of such tax and proof of the same to the satisfaction of the governor and council be reimbursed from the state treasury to the amount of the tax so paid; provided, however, that the aggregate amount so reimbursed to any college in any one year shall not exceed fifteen hundred dollars; and provided, further, that this claim for such reimbursement shall not apply to real estate bought by any such college after the twelfth day of April, eighteen hundred and eighty-nine.

See articles of separation, condition 7; 61 Me. 586; 65 Me. 92; 73 Me. 433, 441; 86 Me. 76, 78, 246; 99 Me. 357; 105 Me. 217; 108 Me. 321; 109 Me. 24.

IV. The household furniture of each person, not exceeding two hundred dollars to any one family, his wearing apparel, farming utensils, mechanics' tools necessary for his business, and musical instruments not exceeding in value fifty dollars to one family.

V. Houses of religious worship, including vestries, and the pews and furniture within the same, except for parochial purposes; tombs and rights of burial; and property held by a religious society as a parsonage, not exceeding six thousand dollars in value, and from which no rent is received, and personal property not exceeding six thousand dollars in value. But all other property of any religious society, both real and personal, is liable to taxation the same as other property.

65 Me. 94; 86 Me. 78.

VI. All mules and horses less than six months old, and neat cattle thirty months old and under and all sheep and swine.

1915, c. 57. See c. 9, § 16.

VII. Hay, grain and potatoes, orchard products and wool, owned by and in possession of the producer.

63 Me. 16.

VIII. The polls and estates of Indians; and the polls of persons under guardianship, or blind.

1907, c. 52.

IX. The polls and estates of persons who by reason of age, infirmity or poverty, are in the judgment of the assessors unable to contribute toward the public charges; and the polls of all soldiers and sailors who receive state pension; and the polls of all soldiers and sailors who served in the army or navy of the United States in the war of eighteen hundred and sixty-one and five, and were honorably discharged from such service; provided, however, that any such soldier or sailor who desires to pay said tax may, on or before the first day of April, in each year, notify in writing the assessors of the city, town or plantation in which he resides of his desire to pay said tax, whereupon said assessors shall assess said tax against said soldier or sailor, and said soldier or sailor shall be legally holden to pay said tax.

1905, c. 163; 1907, c. 20; 92 Me. 443.

X. The aqueducts, pipes and conduits of any corporation, supplying a town with water, are exempt from taxation, when such town takes water therefrom for the extinguishment of fires, without charge. But this exemption does not include therein, the capital stock of such corporation, any reservoir or grounds occupied for the same, or any property, real or personal, owned by such company or corporation, other than as hereinabove enumerated.

See c. 61, § 8; 82 Me. 194; 90 Me. 181.

XI. Whenever a land owner, plants or sets apart for the growth and production of forest trees any cleared land or lands from which the primitive forest has been removed, and successfully cultivates the same for three years, the trees being not less in numbers than six hundred and forty on each acre and well distributed over the same, then, on application of the owner or occupant thereof to the assessors of the town in which such land is situated, the same shall be exempt from taxation for twenty years after the expiration of said three years, provided, that said applicant at the same time files with said assessors a correct plan of such land with a description of its location, and a statement of all the facts in relation to the growth and cultivation of said incipient forest; provided, further, that such grove or plantation of trees is during that period kept alive and in thriving condition.

1907, c. 169; 1909, c. 136.

XII. Mines of gold, silver or of the baser metals, when opened and in process of development, are exempt from taxation for ten years from the time of such opening. But this exemption does not affect the taxation of the lands or the surface improvements of the same, at the same rate of valuation as similar lands and buildings in the vicinity.

XIII. All loans of money made by any individual or corporation and secured by mortgage on real estate situated in this state.

1911, c. 179.

**Sec. 7. Poll-tax, where assessed. R. S. c. 9, § 7.** The poll-tax shall be assessed on each taxable person in the place where he is an inhabitant on the first day of each April. No person shall be considered an inhabitant of a place on account of residing there as a student in a literary seminary.

43 Me. 499; 47 Me. 172; 50 Me. 476.

**Sec. 8. Lists of employees to be furnished. 1907, c. 141.** Every person, association or corporation employing more than twenty-five men in any city or town in the state shall, within ten days after receiving a written request therefor from the assessors of taxes of the city or town where said men are so employed, furnish to said assessors a complete list of all men so employed by said person, association or corporation in said city or town on the first day of the preceding April. Upon neglect or refusal so to do, said person, association or corporation shall be liable to a penalty of fifty dollars to be recovered in an action of debt; and the treasurer of said city or town shall upon request of the assessors of taxes bring such action in his name for the benefit of said city or town.

**Sec. 9. Real estate, where taxed. R. S. c. 9, § 8.** Taxes on real estate shall be assessed in the town where the estate lies, to the owner or person

## CHAP. 10

in possession thereof on the first day of each April. In cases of mortgaged real estate, the mortgagor, for taxation, shall be deemed the owner, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

See § 21; 32 Me. 69; 34 Me. 90; 35 Me. 554; 56 Me. 46; 74 Me. 284; 85 Me. 331; 86 Me. 77; 95 Me. 293; 108 Me. 325; 110 Me. 365.

**Sec. 10. Standing wood, bark and timber may be taxed to purchaser. R. S. c. 9, § 9.** Whenever the owner of real estate notifies the assessors that any part of the wood, bark and timber standing thereon has been sold by contract in writing, and exhibits to them proper evidence, they shall assess such wood, bark and timber to the purchaser.

**Sec. 11. Lien, how enforced. R. S. c. 9, § 10.** A lien is created on such wood, bark and timber, for the payment of such taxes; and may be enforced by the collector by a sale thereof when cut, as provided in section eighteen of chapter eleven.

**Sec. 12. Landlord and tenant to pay equally. R. S. c. 9, § 11.** When a tenant paying rent for real estate is taxed therefor, he may retain out of his rent half of the taxes paid by him; and when a landlord is assessed for such real estate, he may recover half of the taxes paid by him and his rent in the same action against the tenant, unless there is an agreement to the contrary.

**Sec. 13. Personal estate, taxable where owner resides. R. S. c. 9, § 12.** All personal property within or without the state, except in cases enumerated in the following section, shall be assessed to the owner in the town where he is an inhabitant on the first day of each April.

37 Me. 371; 48 Me. 443; 49 Me. 369, 430; 50 Me. 476; 53 Me. 520; 54 Me. 543; 60 Me. 200; 61 Me. 459; 68 Me. 33; 79 Me. 233; 81 Me. 296; 83 Me. 145, 228; 91 Me. 511; 103 Me. 425; 105 Me. 55; 107 Me. 396; 109 Me. 237.

**Sec. 14. Exceptions. R. S. c. 9, § 13.** The excepted cases referred to in the preceding section are the following:

I. All personal property employed in trade, in the erection of buildings or vessels, or in the mechanic arts, shall be taxed in the town where so employed on the first day of each April; provided, that the owner, his servant, sub-contractor or agent, so employing it, occupies any store, store-house, shop, mill, wharf, landing place or shipyard therein for the purpose of such employment. Portable mills, logs in any town to be manufactured therein, and all manufactured lumber excepting lumber in the possession of a transportation company and in transit, shall be taxed in the town where situated on the first day of April each year.

1909, c. 4; 1911, c. 140; 1913, c. 30; 184 Mass. 464.  
48 Me. 478; 53 Me. 519; 59 Me. 286, 289; 60 Me. 279; 81 Me. 296; 83 Me. 145; 91 Me. 512; 93 Me. 333; 98 Me. 381; 104 Me. 277; 105 Me. 55; 107 Me. 397; 108 Me. 132; 109 Me. 228, 238.

II. Personal property, including yachts and pleasure vessels whether propelled by sail, steam, gasoline or otherwise, which on the first day of each April is within the state and owned by persons residing out of the state or by persons unknown; except vessels built, in process of construction, or undergoing repairs, and hides and the leather, the product thereof, when it appears that the hides were sent into the state to be tanned, and to be carried out of the state, when tanned; shall be taxed either to the

owner, if known, or to the person having the same in possession, or to the person owning or occupying any store, storehouse, shop, mill, wharf, landing, shipyard or other place therein where said property is on said day, and a lien is created on said property in behalf of such person, which he may enforce for the repayment of all sums by him lawfully paid in discharge of the tax. A lien is also created upon the property for the payment of the tax, which may be enforced, by the constable or collector to whom the tax is committed, by a sale of the property, as provided in sections eighteen, nineteen and twenty of chapter eleven. If any person pays more than his proportionate part of such tax, or if his own goods or property are applied to the payment and discharge of the whole tax, he may recover of the owner such owner's proper share thereof. Persons engaged in tanning leather in the state, shall on or before the first day of each April, furnish to the assessors of the town where they are carrying on said business, a full account, on oath, of all hides and leather on hand received by them from without the state, and all hides and leather on hand from beasts slaughtered in the state, which last named hides and leather shall be taxed in the town where they were tanned. The words "vessels built" in the fourth line of this paragraph shall not be construed to include pleasure vessels or boats. Provided, however, that pleasure vessels or boats in the state on the first day of each April whose owners reside without the state, and which are left in this state temporarily by the owners for the purposes of repairs, shall not be taxable under the provisions of this section.

1909, c. 80; 1913, c. 173; 1915, c. 31; 109 Me. 238.

III. Machinery employed in any branch of manufacture, goods manufactured or unmanufactured, and real estate belonging to any corporation, except when otherwise expressly provided, shall be assessed to such corporation in the town or place where they are situated or employed; and in assessing stockholders for their shares in any such corporation, their proportional part of the assessed value of such machinery, goods and real estate, shall be deducted from the value of such shares.

37 Me. 446; 60 Me. 199; 78 Me. 97; 88 Me. 180.

IV. All mules, horses, and neat cattle shall be taxed in the town where they are kept on the first day of each April, to the owner, or person who has them in possession at that time. All such animals, which are in any other town, than that in which the owner or possessor resides, for pasturing or any other temporary purpose on said first day of April, shall be taxed to such owner or possessor in the town where he resides; and all such animals, which are out of the state, or in any unincorporated place in the state on said first day of April, but owned by, or in charge and possession of any person residing in any town, shall be taxed to such owner or possessor in the town where he resides. If a town line so divides a farm that the dwelling-house is in one town, and the barn or outbuildings or any part of them is in another, such animals kept for the use of said farm, shall be taxed in the town where the house is.

See § 6, ¶ vi; c. 9, § 16; 33 Me. 445; 107 Me. 532.

## CHAP. 10

V. Personal property belonging to minors under guardianship, shall be assessed to the guardian in the place where he is an inhabitant. The personal property of all other persons under guardianship, shall be assessed to the guardian in the town where the ward is an inhabitant.

98 Me. 154.

VI. Personal property held in trust by an executor, administrator or trustee, the income of which is to be paid to any other person, shall be assessed to such executor, administrator or trustee, in the place where the person to whom the income is payable as aforesaid, is an inhabitant. But if the person to whom the income is payable as aforesaid, resides out of the state, such personal property shall be assessed to such executor, administrator or trustee, in the place where he resides.

80 Me. 510; 91 Me. 606; 109 Me. 228.

VII. Personal property placed in the hands of any corporation as an accumulating fund for the future benefit of heirs or other persons, shall be assessed to the person for whose benefit it is accumulating, if within the state, otherwise, to the person so placing it, or his executors or administrators, until a trustee is appointed to take charge of it or its income, and then to such trustee.

79 Me. 233.

VIII. The personal property of deceased persons in the hands of their executors or administrators not distributed, shall be assessed to the executors or administrators in the town where the deceased last dwelt, until they give notice to the assessors, that said property has been distributed and paid to the persons entitled to receive it. If the deceased at the time of his death did not reside in the state, such property shall be assessed in the town in which such executors or administrators live. Before the appointment of executors or administrators the property of deceased persons shall be assessed to the estate of the deceased in the town where he last dwelt, if in the state, otherwise in the town where the property is on the first day of April, and the executors or administrators subsequently appointed shall be liable for the tax so assessed.

1905, c. 7; 1905, c. 47; 76 Me. 550; 78 Me. 282; 90 Me. 493; 98 Me. 51; 111 Me. 317.

IX. Personal property held by religious societies shall be assessed to the treasurer thereof in the town where they usually hold their meetings; but any corporation or society in this state holding personal property as a fund for the support of the ministry in any town in the state, and liable to taxation therefor, shall on payment of such tax and proof of the same to the satisfaction of the governor and council, be reimbursed from the state treasury to the amount of the tax so paid.

1915, c. 86; 65 Me. 94; 109 Me. 27.

X. Personal property in another state or country on the first day of each April, and legally taxed there.

**Sec. 15. Stock of toll bridges, how, where and to whom taxed.** R. S. c. 9, § 14. The stock of toll bridges shall be taxed as personal property, to the owners thereof, in the towns where they reside, except stock owned by persons residing out of the state, which shall be taxed in the town where the bridge is located, and where such bridge is in two towns, one-half of such stock so owned by persons residing out of the state shall be assessed and taxed in each town.

**Sec. 16. Clerks failing to make returns, property deemed corporate.** R. S. c. 9, § 15. When the clerk of a corporation holding property liable to be taxed, fails to comply with section twenty-six of chapter fifty-one, whether the corporation was chartered before or since the separation of Maine from Massachusetts, such property for the purposes of taxation, shall be deemed corporate property, liable to be taxed to the corporation, although its stock has been divided into shares and distributed among any number of stockholders.

**Sec. 17. Such property, how taxable; franchise may be sold on warrant of distress.** R. S. c. 9, § 16. Such property, both real and personal, is taxable for state, county, city, town and school district taxes, to be assessed and collected in the same manner and with the same effect as upon similar taxable property owned by individuals. If the corporation has the right to receive tolls, such right or franchise may be taken and sold on warrant of distress for payment of such taxes, as such property is taken and sold on execution.

88 Me. 179.

**Sec. 18. Blood animals.** R. S. c. 9, § 17. Blood animals, brought into the state and kept for improvement of the breed, shall not be taxed at a higher rate than stock of the same quality and kind bred in the state.

**Sec. 19. Stock of companies invested in other stock, how to be taxed.** R. S. c. 9, § 18. When an insurance or other incorporated company is required by law to invest its capital stock or any part thereof in the stock of a bank, or other corporation in the state, for the security of the public, such investments shall not be liable to taxation except to the stockholders of the company so investing as making a part of the value of their shares in the capital stock of said company.

103 Me. 428.

**Sec. 20. Investments of insurance companies, taxation.** R. S. c. 9, § 19. When the capital stock of any insurance company incorporated in the state, is taxed at its full value, the securities and pledges held by said company to the amount of said stock, are exempt from taxation; but if the pledge or security consists of real estate in a town other than that where the stockholder resides, it shall be taxed where it lies, and the stock shall be exempt to the amount for which it is assessed.

103 Me. 428.

**Sec. 21. Mortgaged personal property; loan secured by deed is taxable to grantee.** R. S. c. 9, § 20. When personal property is mortgaged or pledged, it shall for purposes of taxation, be deemed the property of the party who has it in possession, and it may be distrained for the tax thereon. Money or personal property, loaned or passed into the hands or possession

## CHAP. 10

of another, by any person residing in the state, secured by an absolute deed of real estate, shall be taxed to the grantee, as in case of a mortgage, although the land is taxed to the grantor or other person in possession.

See § 6, ¶ xiii; 74 Me. 83.

**Sec. 22. Real estate of deceased, how taxed. R. S. c. 9, § 21.** The undivided real estate of a deceased person may be assessed to his heirs or devisees without designating any of them by name, until they give notice to the assessors of the division of the estate, and the names of the several heirs or devisees; and until such notice is given, each heir or devisee shall be liable for the whole of such tax, and may recover of the other heirs or devisees their portions thereof when paid by him; and in an action for that purpose, the undivided shares of such heirs or devisees in the estate, upon which such tax has been paid, may be attached on mesne process, or taken on execution issued on a judgment recovered in an action therefor. Or such real estate may be assessed to the executor or administrator of the deceased, and such assessment shall be collected of him the same as taxes assessed against him in his private capacity, and it shall be a charge against the estate and shall be allowed by the judge of probate; but when such executor or administrator notifies the assessors that he has no funds of the estate to pay such taxes and gives them the names of the heirs, and the proportions of their interests in the estate to the best of his knowledge, the estate shall no longer be assessed to him.

69 Me. 31; 76 Me. 551; 87 Me. 359; 95 Me. 168; 98 Me. 51.

**Sec. 23. Personal estate of partners, how to be taxed. R. S. c. 9, § 22.** Partners in business, whether residing in the same or different towns, may be jointly taxed, under their partnership name, in the town where their business is carried on, for all personal property enumerated in paragraph one of section fourteen, employed in such business; and if they have places of business in two or more towns, they shall be taxed in each town for the portion of property employed therein; except that if any portion of such property is placed, deposited or situated in a town other than where their place of business is, under the circumstances specified in said paragraph, they shall be taxed therefor in such other town; and in such cases they shall be jointly and severally liable for such tax.

59 Me. 289; 107 Me. 396.

**Sec. 24. Lands may be assessed to owners or tenants; part owners may be taxed and pay, separately. R. S. c. 9, § 23.** All real estate, and such as is usually called real, but is made personal by statute, may be taxed to the tenant in possession, or to the owner, whether living in the state or not, in the town where it is; and when a state, county or town tax is assessed on lands owned or claimed to be owned, in common, or in severalty, any person may furnish the collector or treasurer, to whom the tax is to be paid, an accurate description of his part of the land, in severalty, or his interest, in common, and pay his proportion of such tax; and thereupon his land or interest shall be free of all lien created by such tax.

22 Me. 405; 25 Me. 365; 32 Me. 70; 34 Me. 90; 35 Me. 554; 37 Me. 444; 43 Me. 499; 47 Me. 172, 415; 74 Me. 284.

**Sec. 25. Assessments may be continued until notice of transfer; tenant in common may be considered owner.** R. S. c. 9, § 24. When assessors continue to assess real estate to the person to whom it was last assessed, such assessment is valid, although the ownership or occupancy has changed, unless previous notice is given of such change, and of the name of the person to whom it has been transferred or surrendered; and a tenant in common, or joint tenant, may be considered sole owner for the purpose of taxation, unless he notifies the assessors what his interest is.

95 Me. 166.

**Sec. 26. Property of manufacturing, mining and smelting corporations, and of stock raising corporations, how taxed.** R. S. c. 9, § 25. 1907, c. 16. 1915, c. 65, § 1. The buildings, lands and other property of manufacturing, mining and smelting corporations, not exempt from taxation, and all stock used in factories, shall be taxed to the corporation, or to the person having possession of its property or stock, in the town or place where the buildings and lands are situated and where the property is kept, or where the stock is manufactured; and the buildings and lands and other property of agricultural and stock raising corporations shall be taxed to the corporation, or to the person having possession of its property, in the town where the buildings and lands are situated and where the personal property is kept; and there shall be a lien for one year on such property and stock for payment of such tax; and it may be sold for payment thereof, as in other cases; and shares of the capital stock of such corporations shall not be taxed to their owners.

**Sec. 27. Property of corporations organized for dealing in real estate, where taxed; lien.** R. S. c. 9, § 26. The buildings, lands and all other property, real and personal, including all reserve funds, accumulations and undivided profits of corporations organized for the purpose of buying, selling and leasing real estate, shall be taxed to the corporation or the persons having possession of such property, in the place where such land and other property are situated, and there shall be a lien for one year on such property for the payment of such tax, and the same may be sold for payment thereof as in other cases; and shares of the capital stock of such corporations shall not be taxed to the owners thereof.

**Sec. 28. Sailing vessels and barges, rate of taxation.** R. S. c. 9, § 27. 1909, c. 14, § 1. All sailing vessels and barges registered or enrolled under the laws of the United States or foreign governments, owned wholly or in part by inhabitants of this state, shall be taxed upon an appraised value of twenty dollars a ton, gross tonnage, for new vessels and barges completed on or before the first day of April of each year. Vessels or barges one year old or more shall be reduced in value at the rate of one dollar a ton a year for each additional year of age, until they shall have reached the age of seventeen years, at and after which time said vessels and barges shall be taxed upon an appraised value of three dollars a ton, gross tonnage. The provisions of this section shall not apply to steam barges.

**Sec. 29. How rebuilt vessels and barges shall be taxed.** R. S. c. 9, § 28. 1909, c. 14, § 2. Vessels and barges when rebuilt shall be taxed on the same valuation as vessels and barges of one-half the age of such rebuilt

## CHAP. 10

vessels or barges. A vessel or barge shall be regarded as rebuilt only on an expenditure being made of not less than forty per cent of the cost of such vessel or barge if built entirely new. Vessels and barges if repaired to the extent of twenty-five per cent of the cost of such vessel or barge if built entirely new, shall be taxed upon the same valuation as vessels and barges of five-eighths the age of such repaired vessel or barge. The provisions of this section shall not apply to steam barges.

**Sec. 30. Real estate of banks, where to be taxed; bank stock, where taxed. R. S. c. 9, § 29.** All real property in the state owned by any bank incorporated by this state, or by any national bank or banking association, or by any corporation organized under the laws of this state for the purpose of doing a loan, trust or banking business and having a capital divided into shares, shall be taxed in the place where the property is situated, to said bank, banking association or corporation, for state, county and municipal taxes, according to its value, like other real estate; but the stock of such banks, banking associations and other corporations shall be taxed to the owners thereof where they reside, if known to be residents of the state; but taxation of shares in such banks shall not be at a greater rate than is assessed upon other money capital in the hands of citizens. This section does not apply to building and loan associations.

54 Me. 542; 55 Me. 457; 56 Me. 275, 313; 103 Me. 420. See § 14, ¶ 3; c. 9, § 66.

**Sec. 31. Taxation of bank and other stock owned out of the state; lien. R. S. c. 9, § 30. 1915, c. 65, § 2.** Stock of any bank or other corporation, except a manufacturing corporation, an agricultural and stock raising corporation or corporation mentioned in section twenty-seven, held by persons out of the state, or unknown, which has not been certified according to section twenty-six of chapter fifty-one, in any town in the state, and is not there assessed; and the stock of any bank or such other corporation appearing by the books thereof to be held by persons residing out of the state, or whose residence is unknown to the assessors, shall unless exempt be assessed in the town where such bank or other corporation is located, or transacts its ordinary business; and such town has a lien on such stock and all dividends thereon, from the date of such assessment, until such tax and all costs and expenses arising in the collection thereof are paid. No assignment, sale, transfer or attachment passes any property in such stock unless the vendee first pays such tax and cost.

103 Me. 425.

**Sec. 32. Officers are required to exhibit books. R. S. c. 9, § 31.** The cashier or other officer of each bank or other corporation, except a manufacturing corporation, an agricultural and stock raising corporation, or corporation mentioned in section twenty-seven, shall exhibit on demand, to the assessors of any town all the books of such bank or other corporation that contain any record of the stock of such bank or other corporation or any dividend, declared or paid thereon, and if requested, shall deliver to them a true and certified copy of so much of said record as they require. If any cashier or other officer neglects or refuses to perform the duties required by this section, the assessors may doom such bank or other corporation in such sum as they deem reasonable, and the assessment shall

bind such bank or other corporation and the tax thereon shall not be abated, and for such neglect or refusal, such cashier or other officer forfeits five hundred dollars to be recovered in an action of debt, half to the prosecutor and half to the state.

103 Me. 425.

**Sec. 33. Duty of assessors when holders of stock returned do not reside in their town. R. S. c. 9, § 32.** When returns of stock in banks and national banking associations and other corporations are made according to the preceding section, or section twenty-six of chapter fifty-one, if it is found by the assessors of any town receiving such returns that the holders of such stock do not reside in such town, they shall within fifteen days return the names of such stockholders, with the amount of stock held by them to the assessors of the town where such stockholders reside, if their residence is known, and within the state; and if not, such return shall be made to the assessors of the town where the bank is located, and shall be subject to section thirty-one of this chapter.

103 Me. 425.

**Sec. 34. Collectors of taxes shall give notice; no dividend shall be paid, until tax is paid; powers of collectors. R. S. c. 9, § 33.** The collector of a town, to whom has been committed a tax upon the stock of any bank or other corporation, except a manufacturing corporation or corporation mentioned in section twenty-seven, shall, within thirty days after the bills of assessment are delivered to him, cause a written notice to be delivered to the cashier or president thereof, stating the description of stock taxed, to whom assessed, if stated in the bills, and the tax thereon. No dividend shall be paid on such stock after such notice until the tax and all cost thereon are paid. The cashier or treasurer may pay such tax, and payment shall constitute a charge in offset against any dividend thereon. Should such tax remain unpaid for ninety days after such notice, the collector may sell such stock in the manner specified in sections twenty-four and twenty-five of chapter eleven. For the purpose of collecting taxes on bank or other stock, collectors may act in any town.

103 Me. 425. See c. 11, §§ 26, 32, 33.

**Sec. 35. Actions may be maintained by treasurers of towns and cities. R. S. c. 9, § 34.** Any town treasurer, or his successor in office may maintain an action on the case against any bank, or other corporation, and recover therein the tax assessed if unpaid, and the lawful charges upon any share thereof, if any dividend thereon has been paid after such tax was assessed, provided the notice prescribed in the preceding section has been given; but judgment shall not be rendered in such action for a larger sum in damages than the dividend thus paid, and all such taxes and charges may be recovered in one suit, if said treasurer so elects.

103 Me. 425.

**Sec. 36. Supplementary assessments may be made. R. S. c. 9, § 35. 1909, c. 5.** When any assessors, after completing the assessment of a tax, discover that they have omitted any polls or estate liable to be assessed, they may, during their term of office, by a supplement to the invoice and valuation, and the list of assessments, assess such polls and estate their

## CHAP. 10

proportion of such tax according to the principles on which the assessment was made, certifying that they were omitted. Such supplemental assessments shall be committed to the collector with a certificate under the hands of the assessors, stating that they were omitted, and that the powers in their previous warrant, naming the date of it, are extended thereto; and the collector has the same power, and is under the same obligations to collect them, as if they had been contained in the original list; and all assessments shall be valid, notwithstanding that by such supplement the whole amount exceeds the sum to be assessed by more than five per cent, or alters the proportion of tax allowed by law to be assessed on the polls.

See c. 4, § 10; c. 11, § 31; 34 Me. 268; 61 Me. 547; 65 Me. 25; 87 Me. 359; 90 Me. 491; 94 Me. 354; 98 Me. 53, 150, 153.

**Sec. 37. Treasurer of state shall issue warrants for state tax; tax for each year shall be separately ordered.** R. S. c. 9, § 36. When a state tax is ordered by the legislature, the treasurer of state shall forthwith send his warrants directed to assessors of each town or other place, requiring them to assess upon the polls and estates of each, its proportion of such state tax for the current year; and shall in like manner send like warrants for the state tax for the succeeding year, forthwith upon the expiration of one year from the time such tax is so ordered. The tax for each year shall be separately ordered and apportioned; and the amount of such proportion shall be stated in the warrants.

See c. 11, § 94; 90 Me. 243.

**Sec. 38. Requirements of treasurer's warrant.** R. S. c. 9, § 37. The treasurer, in his warrant, shall require said assessors to make a fair list of their assessments, setting forth in distinct columns against each person's name, how much he is assessed for a poll, how much for real estate, and how much for personal estate, distinguishing any sum assessed to such person as guardian, or for any estate in his possession as executor, administrator or trustee; to insert in such list the number of acres of land assessed to each non-resident proprietor, and the value at which they have estimated them; to commit such list, when completed and signed by a majority of them, to the collector or constable of such town or other place, with their warrants in due form requiring them to collect and pay the same to the treasurer of such town or other place, at such times as the legislature, in the act authorizing such tax, directed them to be paid; and to return a certificate of the names of such officers and the amount so committed to each, two months at least before the time at which they are required to pay in such tax.

See c. 11, § 94.

**Sec. 39. Rules for assessment of taxes.** R. S. c. 9, § 38. In the assessment of all state, county, town, plantation, parish or society taxes, assessors shall govern themselves by this chapter, except in parishes and societies where different provision for assessing their taxes is made; and shall assess on the taxable polls therein in accordance with section one of this chapter, such part of the whole sum to be raised as they deem expedient; and the residue of such taxes shall be assessed on the estates according to their value.

See c. 11, § 94; 55 Me. 461.

**Personal Liability of Assessors.**

**Sec. 40. Assessors are responsible for personal faithfulness only.** R. S. c. 9, § 39. Assessors of towns, plantations, school districts, parishes and religious societies, are not responsible for the assessment of any tax, which they are by law required to assess; but the liability shall rest solely with the corporation for whose benefit the tax was assessed, and the assessors shall be responsible only for their own personal faithfulness and integrity.

11 Me. 137; 12 Me. 259; 15 Me. 260; 39 Me. 187; 43 Me. 499; 49 Me. 351;  
90 Me. 243.

**Assessment of Taxes on Lands in Places Not Incorporated.**

**Sec. 41. Lands in places not incorporated may be taxed by the state.** R. S. c. 9, § 40. Lands not exempt, and not liable to be assessed in any town, may be taxed by the legislature for a just proportion of all state and county taxes as herein provided for ordering the state and county taxes upon property liable to be assessed in towns. The board of state assessors shall make lists thereof, with as many divisions as will secure equitable taxation, conforming as near as convenient to known divisions and separate ownership and report the same to each successive legislature.

See c. 11, § 95.

**Sec. 42. Meaning of letters used in lists of unincorporated townships and wild lands.** 1905, c. 137. In the lists made by the board of state assessors, in accordance with the preceding section, for purposes of valuation and assessment, the following initial letters shall be held and construed to mean as follows: The letter "T" when used alone shall be held and construed to mean Township; the letter "R," when used alone, Range; the letter "N." when used alone shall be construed to mean North, "E." East, "S." South, "W." West; the letters "N. W." North West, "N. E." North East, "S. W." South West, "S. E." South East.

The letters "W. E. L. S." West of the East Line of the State; "B. K. P.," Bingham's Kennebec Purchase; "B. P. P.," Bingham's Penobscot Purchase; "W. B. K. P." West of Bingham's Kennebec Purchase; "N. B. K. P.," North of Bingham's Kennebec Purchase; "W. K. R." West of the Kennebec River; "E. K. R." East of the Kennebec River; "E. C. R." East of the Canada Road; "W. C. R." West of the Canada Road; "N. W. P." North of Waldo Patent; "T. S." Titcomb Survey.

**Sec. 43. Lands in places not incorporated subject to county taxes.** R. S. c. 9, § 41. 1905, c. 69, § 1; c. 150, § 1. 1909, c. 259. 1915, c. 150, § 11. Such lands may be assessed by the county commissioners according to the last state valuation for a due proportion of county taxes. Lists of such taxes shall immediately be certified and transmitted by the county treasurer to the treasurer of state. In the list, each such township and tract shall be sufficiently described, with the date and amount of assessment on each. The treasurer of state shall, in his books, credit the county treasurer for the amount of each such assessment when collected by him and shall certify and pay to said county treasurer the amount of tax and interest so collected on or before the last day of each April, August and November, and so much of said tax and interest so collected as may be necessary is hereby appro-

## CHAP. 10

prorated to pay the same to the several county treasurers, and the governor and council are hereby authorized to draw their warrants for the same as above provided.

86 Me. 515. See c. 11; § 95.

**Sec. 44. Treasurer of state shall cause lists of assessments to be advertised; lands held to state for payment of taxes.** R. S. c. 9, § 42. 1905, c. 69, § 2. 1909, c. 235. When the legislature assesses such state tax, the treasurer of state shall, within three months thereafter, cause the lists of such assessments, together with the amounts of county tax on said lands so certified to him, both for the current year, to be advertised for three weeks successively in the state paper, and in some newspaper, if any, printed in the county in which the land lies, and shall cause like advertisement of the lists of such state and county taxes for the following year to be made within three months after one year from such assessment. Said lands are held to the state for payment of such state and county taxes, with interest thereon at the rate of twenty per cent to commence upon the taxes for the year for which such assessment is made at the expiration of six months and upon the taxes for the following year at the expiration of eighteen months from the date of such assessment.

86 Me. 515; 95 Me. 418; 113 Me. 257.

**Sec. 45. Lands assessed and advertised may be redeemed.** R. S. c. 9, § 43. 1905, c. 69, § 3; c. 150, § 2. Owners of the lands so assessed and advertised may redeem them by paying to the treasurer of state the taxes with interest thereon within one year from the time when such interest commences. Each owner may pay for his interest in any tract, whether in common or not, and upon filing with the state assessors a certificate showing the number of acres, and describing the property on which he desires to pay the tax and where the same is located, and paying the amount due, shall receive a certificate from the treasurer of state, discharging the tax on the number of acres or interest, upon which such payment is made. Each part or interest of every such township or tract, upon which the state or county taxes so advertised are not paid with interest within the time limited in this section for such redemption, shall be wholly forfeited to the state, and vest therein free of any claim by any former owner. But this section and the five following sections do not apply to taxes upon organized plantations taxed by the state as wild lands.

See c. 11, §§ 88, 94; 26 Me. 219; 36 Me. 336; 43 Me. 312; 46 Me. 518; 95 Me. 418; 113 Me. 257.

**Sec. 46. Treasurer of state shall sell forfeited lands; land agent may bid in behalf of state; disposal of proceeds.** R. S. c. 9, § 44. 1907, c. 174. 1909, c. 226. Lands thus forfeited shall annually in November be sold by the treasurer of state at public auction to the highest bidder; but never at a price less than the full amount due thereon for such unpaid state, county and district taxes, interest and cost of advertising except that in case of a sale to the land agent no interest shall be added. Notice of the sale shall be given by publishing a list of the lands to be sold, with the amount of such unpaid taxes, interest and costs on each parcel and the time and place of sale, in the state paper and in some newspaper, if any, published in the county in which the lands lie, three weeks successively within three months

before the time of sale. The treasurer shall give to the purchaser a deed of such lands, which shall vest in such purchaser title to the same in fee subject to the right of redemption hereinafter provided. Such deed, before delivery, and all releases and certificates given under the provisions of section forty-eight, shall be recorded in the land office, with appropriate references thereto on the margin of the record of the original deed therein recorded. The land agent of the state shall attend such sales, and may, in behalf of the state, bid for the same the amount of such unpaid taxes, and costs. In such case the deed may be made to the inhabitants of the state of Maine and delivered to said land agent; for such deed the land agent shall give his receipt, which shall be a sufficient authority for the governor and council to draw their warrant upon the treasurer of state for the amount of such taxes and costs. The proceeds of any tax sales under this section shall be credited by the treasurer of state to the several accounts of state, county and district taxes, interest and costs of advertising.

See c. 11, § 77; 60 Me. 270; 68 Me. 317; 86 Me. 515; 95 Me. 418; 113 Me. 258.

**Sec. 47. Surplus shall be paid to owners. R. S. c. 9, § 45.** If any such tract is sold for more than the amount due, the surplus shall be held by the state to be paid to the owner, whose right has been so forfeited, upon proof of ownership produced to the governor and council.

95 Me. 418.

**Sec. 48. Owner may pay tax before sale, or he may redeem from the purchaser within one year. R. S. c. 9, § 46.** Any owner may redeem his interest in such lands, by paying to the treasurer of state his part of the sums due at any time before sale; or after sale, by paying or tendering to the purchaser, within a year, his proportion of what the purchaser paid therefor at the sale, with interest at the rate of twenty per cent a year from the time of sale, and one dollar for a release; and the purchaser, on reasonable demand, shall execute such release; and if he refuses or neglects, a bill in equity may be maintained to compel him, with costs and any damages occasioned by such refusal or neglect. Or such owner may redeem his interest by paying as aforesaid to the treasurer of state, who, on payment of fifty cents, shall give a certificate thereof; which certificate, recorded in the registry of deeds in the county or district where the lands lie, shall be a release of such interest; and the title thereto shall revert and be held as if no such sale had been made. The governor and council may draw their warrant on the treasurer for any money so paid to him, in favor of the purchaser for whom it was paid, or his legal representatives.

See c. 11, § 77; 77 Me. 83; 95 Me. 418.

**Sec. 49. Costs; county taxes shall be paid over to county treasurer; copy of record of treasurer's doings, is made evidence. R. S. c. 9, § 47.** The printer's bills for advertising such lands shall be divided in each case by the number of townships and tracts advertised, and each shall be charged with its proportion thereof. All amounts of county taxes and interest so received by the treasurer of state, shall be credited by him to the counties to which they belong, and paid to the treasurers thereof. The treasurer of state shall record his doings in every such sale; and a certified copy of such

## CHAP. 10

record shall be prima facie evidence, in any court, of the facts therein set forth. He shall give a deed to the purchaser conveying all the interest of the state in the land sold.

68 Me. 317; 86 Me. 515; 95 Me. 418.

**Sec. 50. Owner may pay taxes to county treasurer.** R. S. c. 9, § 48. Any owner of lands so assessed by the county commissioners for county taxes, may redeem them by paying to the county treasurer the amount due thereon for such taxes, interest and charges, and depositing with the treasurer of state the county treasurer's certificate of such payment, at any time before the sale.

### Timber and Grass on Reserved Lands.

**Sec. 51. Timber and grass on reserved lands, held for payment of taxes.** R. S. c. 9, § 49. 1911, c. 139, § 1. The timber and grass on the reserved lands shall be held to the state for the payment of such state, county and forestry district taxes as may be lawfully assessed against them after the twenty-sixth day of April, eighteen hundred and ninety-seven, with interest thereon at the rate of twenty per cent a year, to commence upon the taxes for the year in which such assessment is made, at the expiration of six months, and upon the taxes for the following year, at the expiration of eighteen months from the date of such assessment.

**Sec. 52. Owner may pay his proportion of tax; discharge.** R. S. c. 9, § 50. Each owner of timber and grass so assessed may pay the part of the tax so assessed proportioned to his interest in any tract, whether in common or not; and shall receive from the treasurer of state a certificate, discharging the tax upon the interest upon which such payment is made.

**Sec. 53. Each interest by acreage shall be forfeited at annual sale, if tax is not paid.** R. S. c. 9, § 51. 1911, c. 139, § 2. Each fractional part, or interest represented by acreage, in all such reserved lands, upon which the state, county and forestry district taxes and interest are not paid at the time of the annual land sale in November, shall be forfeited to the state, the same as in the case of lands sold for taxes; but any owner may redeem his interest in such reserved lands by tendering to the treasurer of state, within one year after the date of the land sale at which said interest was forfeited, his proportional part of all the sums due on the reserved lands in any township, together with interest at twenty per cent a year from the date of the land sale, and one dollar for a release.

**Sec. 54. If land is not redeemed in one year, it shall remain forfeited to the state.** R. S. c. 9, § 52. If any fractional part or interest represented by acreage in such reserved lands shall not be redeemed as provided in the preceding section, at the expiration of one year from the date of the land sale at which such interest was forfeited, then it shall be and remain wholly forfeited to the state, and shall vest in the state free from all claims by any former owner.

**Sec. 55. Timber and grass forfeited shall be held for the benefit of the townships.** R. S. c. 9, § 53. All timber and grass forfeited under the provisions of the preceding section, shall be held in trust by the state for the

benefit of the townships in which such reserved lands lie, and shall be under the control of the land agent, as provided in the case of reserved lands in organized plantations.

**Sec. 56. Land agent shall make division of lots partially forfeited. R. S. c. 9, § 54.** The land agent shall cause a division to be made, if found necessary from time to time, of the reserved lands or public lots which have been partially forfeited, and shall set off and hold the forfeited portions for the benefit of townships in which they lie, as provided in the preceding section.

**Sec. 57. Taxes due from interests forfeited shall be deducted from money payable to the township from stumpage. R. S. c. 9, § 55.** After such timber and grass shall be wholly forfeited to the state, the treasurer of state shall charge all taxes due from such interests as are forfeited, to the several townships in which they lie, to be deducted from such moneys as may be payable to said townships in the future, from the sale of stumpage by the land agent.

#### **Assessment of Taxes for Building and Repair of Roads in Unincorporated Places.**

**Sec. 58. Assessment on lands for opening roads in unincorporated places; lien created; apportionment of part of expense on county; appeal; appointment of agent to superintend building of road. R. S. c. 9, § 56.** When a road is laid over lands under section fifty, of chapter twenty-four, the county commissioners shall at their first regular session thereafter assess thereon and on adjoining townships benefited thereby, such an amount as they judge necessary for making, opening and paying expenses attending it; and such assessment shall create a lien thereon for the payment thereof; and they may make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and may assess upon each a sum proportional to the value thereof and the benefits likely to result to the same by the establishment of the road; when such assessment would be unreasonably burdensome to such owners, they shall assess an equitable sum on the county and the balance only on such land. Any person aggrieved by an assessment may appeal to the supreme judicial court at the term thereof first held after such assessment; and the presiding judge at that term shall, on hearing the case, determine what part of said assessment shall be paid by the owners of the tract or township, and what part, if any, by the county, and there shall be no appeal from such decision. They shall, at the same time, fix the time for making and opening such road, not exceeding two years from the date of the assessment, and appoint an agent or agents, not members of their board, to superintend the same, who shall give bond to the treasurer of the county, with sureties approved by them, to expend the money faithfully, and to render account thereof on demand; and they shall publish a list of the townships and tracts of land so assessed, with the sum assessed on each, and the time in which the road is to be made and opened, in the state paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

See c. 24, § 50-54; 17 Me. 198; 27 Me. 294; 29 Me. 201; 30 Me. 352; 33 Me. 458; 46 Me. 346; 72 Me. 248; 80 Me. 285; 83 Me. 517, 521.

## CHAP. 10

**Sec. 59. Owners may discharge their assessments by building roads.** R. S. c. 9, § 57. If the owners make and open such road to the acceptance of the commissioners, after an actual examination by one or more of their board, within said time, the assessment shall thereby be discharged; otherwise it shall be enforced as hereinafter provided, and the agents shall proceed immediately to make and open the road.

**Sec. 60. Commissioners annually to inspect county roads in unincorporated places; assessments for repairs; agent to be appointed to superintend the repair of roads.** R. S. c. 9, § 58. 1909, c. 150, § 1. Said county commissioners, in September, annually, by one or more of their board, shall make an inspection of all county roads and other roads originally located as town roads in the unincorporated townships and tracts of land in their counties, and shall thereupon make an estimate of the amount needed to put them in repair, so as to be safe and convenient for public travel, and assess thereon not exceeding two per cent of the valuation thereof, and shall assess on the county the balance of said amount if said assessment of two per cent is not sufficient to properly repair said roads; and they shall make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and shall assess upon each a sum proportionate to the value thereof; and cause so much thereof as they deem necessary for the purpose aforesaid, to be expended on said roads within one year thereafter, which assessment shall create a lien thereon for the payment thereof. They shall make such assessment by the first day of each January, and at the same time appoint an agent or agents, skilled in road building, not members of their board, to superintend the expenditure thereof, who shall give bonds as provided in section fifty-eight; and they shall publish a list of townships and tracts of land so assessed, with the sums so assessed on each, and the roads on which it is to be expended, in some paper printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

63 Me. 568; 87 Me. 503.

**Sec. 61. Proceedings if owner fails to discharge his assessments.** R. S. c. 9, § 60. If any owner fails to pay the sum so assessed on his land, for the expenses of making and opening such new roads, within two months from the time fixed therefor as provided in section fifty-nine or fails within two months after the fifteenth day of each June, to pay his assessment for repairing roads, as provided in the preceding section, the county treasurer shall proceed to sell the lands so assessed, by advertising the lists of unpaid taxes, with the date of assessment and the time and place of sale, in the state paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be at least thirty days before the time of sale. No bid shall be received at such sale for less than the amount due for the tax, costs and interest at twenty per cent a year from the time prescribed for the payment of said tax; and the treasurer shall sell so much of said land as is necessary to pay the unpaid tax, costs and interest as aforesaid, and give a deed thereof to the purchaser, if any; and if no one becomes a purchaser at such sale it shall be forfeited to the

county; and such owner or part owner or tenant in common, may redeem his interest therein at any time within two years from the sale or forfeiture, by paying to the purchaser or the county the sum for which it was sold or forfeited, with interest at twenty per cent a year, and any sums subsequently paid for state and county taxes thereon. Any owner of lands so sold, shall receive his share in any overplus of the proceeds of such sale, on exhibiting to the treasurer satisfactory evidence of his title. In addition to the foregoing method for the collection of highway taxes, the county commissioners of any county may, in writing, at any time subsequent to that when the lands so assessed might be sold for non-payment of the taxes assessed thereon, direct the treasurer of such county to commence an action of debt in the name of the inhabitants of said county, against the party liable to pay such taxes. But no such defendant shall be liable for any costs of suit in such action unless it appears by the declaration and proof, that payment of said tax had been duly demanded by said treasurer before the suit was commenced.

See c. 11, § 94; 27 Me. 294; 30 Me. 352; 33 Me. 458; 69 Me. 349; 74 Me. 55.

**Sec. 62. Prima facie proof of title by purchase at such sale. R. S. c. 9, § 61.** In any trial at law or in equity involving the validity of any sale or forfeiture of such lands, as provided in the preceding section, it shall be prima facie proof of title for the party claiming under it, to produce in evidence the county treasurer's deed, duly executed and recorded, the assessments signed by the county commissioners and certified by them or their clerk to the county treasurer, and to prove that the county treasurer complied with the requirements of law in advertising and selling.

27 Me. 293; 101 Me. 234. See c. 11, § 87.

**Sec. 63. County commissioners may repair county roads and bridges in unincorporated places in case of sudden injury, and assess the expense thereof; appointment of agents. R. S. c. 9, § 62.** County commissioners, in case of sudden injury to county roads and bridges in unincorporated townships and tracts of land in their counties, or where said roads and bridges are rendered impassable by snow, may cause them to be repaired or made passable forthwith, or as soon as they deem necessary, and may appoint an agent or agents not members of their own board, to superintend the expenditure therefor, who shall give bond as required in section fifty-eight, if required, the whole expense whereof shall be added to their next assessment on said lands for repairs, authorized by section sixty, which assessment shall create a lien upon said lands for the whole amount thereof as effectually as is now provided in relation to repairs on such county roads. That portion of said assessment which is for repairs of sudden injuries as aforesaid, shall be set down, in the assessment, in distinct items in a separate column, and shall be enforced as is provided in section sixty-one.

**Sec. 64. Purchasers acquire state's title only, and have no claim on the state. R. S. c. 9, § 63.** Purchasers of land sold for non-payment of state and county taxes, and assessments for opening, making and repairing roads, have no claim against the state or county for any defect in the title under such sale, notwithstanding any irregularities in the proceedings, or failure to comply with the law under which the sales were made. Deeds given pursuant to sales made for non-payment of state and county taxes, vest in

## CHAP. 10

the grantee the title of the state, or of the county, to the lands sold, subject to the conditions of sale, and no more.

34 Me. 269. See c. 11, §§ 31, 81, 87.

**Sec. 65. Part owner may redeem his share. R. S. c. 9, § 64.** Any person having a legal interest in a tract so advertised, sold or forfeited, may redeem his interest by paying within the times prescribed, the amount so required to discharge the claim thereon. The rate of interest upon unpaid state and county taxes, and taxes assessed by county commissioners for opening, making and repairing roads, shall be twenty per cent a year, commencing at the expiration of one year from the date of the assessments, except when otherwise provided.

## State Tax Sales.

**Sec. 66. Limitation of action to recover wild land sold and deeded for non-payment of taxes. R. S. c. 9, § 65.** When the state has taxed wild land, and the treasurer of state has conveyed it, or part of it, for non-payment of tax, by deed purporting to convey the interest of the state by forfeiture for such non-payment and his records show that the grantee, his heirs or assigns, has paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for the twenty years subsequent to such deed; and when a person claims under a recorded deed describing wild land taxed by the state, and the record of the treasurer of state shows that he has, by himself or by his predecessors under such deed, paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for twenty years subsequent to recording such deed; and whenever, in either case, it appears that the person claiming under such a deed, and those under whom he claims, have, during such period, held such exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of wild lands in this state, and it further appears that during such period, no former owner, or person claiming under him, has paid any such tax, or any assessment by the county commissioners, or done any other act indicative of ownership, no action shall be maintained by a former owner, or those claiming under him, to recover such land, or to avoid such deed, unless commenced within said twenty years. Such payment shall give such grantee or person claiming as aforesaid, his heirs or assigns, a right of entry and seizin in the whole, or such part, in common and undivided, of the whole tract as the deed states, or as the number of acres in the deed is to the number of acres assessed.

201 U. S. 359; 98 Me. 272; 102 Me. 227; 105 Me. 444.

**Sec. 67. Action may be commenced within ten years, after removal of disability. R. S. c. 9, § 66.** If any such former owner, or person claiming under him, during said period of twenty years, or any portion thereof, is a minor, insane, imprisoned or absent from the United States he may, if otherwise entitled, bring such action at any time within ten years after such disability is removed, notwithstanding said period of twenty years has expired. And if such person dies during the continuance of the disability, and no determination or judgment has been had on his title or right of

action, such action may be brought by his heirs, or other person claiming under him, at any time within ten years after his death, notwithstanding the twenty years have elapsed.

98 Me. 272.

**Sec. 68. §§ 66, 67, not applicable to certain cases. R. S. c. 9, § 67.** The two preceding sections shall not apply to actions between co-tenants, nor to actions pending in court on the twenty-seventh day of April, eighteen hundred ninety-five, nor to those commenced before the first day of January, nineteen hundred.

98 Me. 276.

#### Assessment of Taxes in Incorporated Places.

**Sec. 69. Treasurer of state to send warrants for assessment on towns of state tax. R. S. c. 9, § 68.** When a state tax is imposed and required to be assessed by the proper officers of towns, the treasurer of state shall send such warrants as he is, from time to time, ordered to issue for the assessment thereof, to the assessors requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

**Sec. 70. County commissioners to make annual estimates for county taxes. R. S. c. 9, § 69.** In order to assess a county tax, county commissioners, at their regular session next before the first day of each January in which the legislature meets, shall prepare estimates of the sums necessary to defray the expenses which have accrued or may probably accrue for one year from said day, including the building and repairing of jails, court-houses and appurtenances, with the debts owed by their counties, and like estimates for the succeeding year, and the county tax for both said years shall be granted by the legislature separately at the same session.

**Sec. 71. Estimates to be recorded and transmitted to secretary of state. R. S. c. 9, § 70.** Said estimates shall be recorded by their clerk in a book; and a copy thereof shall be signed by the chairman of the county commissioners, and attested by their clerk, who shall transmit it to the office of the secretary of state, on or before the first day of each January in which the legislature meets, to be by him laid before the legislature.

See c. 13, § 11.

**Sec. 72. County commissioners to apportion sums to be assessed, and to issue warrants to assessors. R. S. c. 9, § 71.** When a county tax is authorized, the county commissioners shall in March, in the year for which such tax is granted, apportion it upon the towns and other places according to the last state valuation, and fix the time for the payment of the same, which shall not be earlier than the first day of the following September. They may add such sum above the sum so authorized, not exceeding two per cent of said sum, as a fractional division renders convenient, and certify that fact in the record of said apportionment, and issue their warrant to the assessors requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

## CHAP. 10

**Sec. 73. Tax illegal, unless raised at legal meeting.** R. S. c. 9, § 72. No assessment of a tax by a town is legal, unless the sum assessed is raised by vote of the voters, at a meeting legally called and notified.

See c. 11, § 82; 68 Me. 357; 86 Me. 533; 98 Me. 153.

**Sec. 74. Assessors to give notice to bring in lists of taxable property; if no lists are brought in, no claim for abatement.** R. S. c. 9, §§ 73, 74. 1911, c. 174, § 3. Before making an assessment, the assessors shall give reasonable notice in writing to the inhabitants, by posting notifications in some public place in the town, or shall notify them, in such other way as the town at its annual meeting directs, to make and bring in to them true and perfect lists of their polls and all their estates real and personal, not by law exempt from taxation, of which they were possessed on the first day of April of the same year. If any resident owner after such notice does not bring in such list, he is thereby barred of his right to make application to the assessors or the county commissioners for any abatement of his taxes, unless he offers such list with his application and satisfies them that he was unable to offer it at the time appointed.

3 Me. 300; 37 Me. 562; 53 Me. 507; 57 Me. 278, 280; 66 Me. 176, 387; 68 Me. 352, 356; 76 Me. 461, 467; 81 Me. 310; 85 Me. 330; 90 Me. 491; 98 Me. 50, 150, 153; 102 Me. 141; 106 Me. 235; 108 Me. 533; 111 Me. 321.

**Sec. 75. Assessors shall ascertain value of estate.** 1911, c. 174, § 4. The assessors shall ascertain as nearly as may be, the nature, amount and value of the estate, real and personal, for which in their judgment the owner is liable to be taxed, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate.

**Sec. 76. Persons may be required to swear to lists; refusal bars appeal.** R. S. c. 9, § 75. The assessors or either of them may require the person presenting such list to make oath to its truth, which oath either of them may administer, and either of them may require him to answer all proper inquiries in writing as to the nature, situation and value of his property liable to be taxed in the state, and a refusal or neglect to answer such inquiries and subscribe the same, bars an appeal to the county commissioners, but such list and answers shall not be conclusive upon the assessors.

53 Me. 507; 57 Me. 278; 66 Me. 176; 67 Me. 436; 76 Me. 467; 108 Me. 533.

**Sec. 77. Assessors may make abatements; record and report of abatements.** R. S. c. 9, § 76. 1905, c. 26. The assessors for the time being, on written application, stating the grounds therefor, within two years from the assessment, may make such reasonable abatement as they think proper. If after two years from the date of assessment a collector is satisfied that a poll-tax or tax upon personal property, or any portion of said tax, committed to him or to any of his predecessors in office for collection, cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy, or other inability of the person assessed to pay, he shall notify the assessors thereof in writing, under oath, stating the reason why such tax cannot be collected. The assessors, after due inquiry, may abate such tax or any part thereof, and shall certify such abatement in writing to the collector; and said certificate shall discharge the collector from further obligation to collect the tax so abated. They shall keep in suitable book form, a record

of such abatements, with the reasons for each, and report the same to the town at its annual meeting, and to the mayor and aldermen of cities, by the first Monday in each March.

19 Me. 330; 33 Me. 446; 57 Me. 280; 67 Me. 435; 76 Me. 467; 77 Me. 410;

102 Me. 141.

Note. Right to petition and appeal from reassessment ordered by board of state assessors, c. 9, § 10.

**Sec. 78. Notice of decision.** R. S. c. 9, § 77. They shall give to any person applying to them for an abatement of taxes, notice in writing of their decision upon such application within ten days after they take final action thereon.

99 Me. 265; 102 Me. 142.

**Sec. 79. Appeal to county commissioners; proceedings thereon; appeal to supreme judicial court.** R. S. c. 9, § 78. 1909, c. 211. If they refuse to make the abatement asked for, the applicant may apply to the county commissioners at their next meeting, and if they think that he is overrated, he shall be relieved by them, and be reimbursed out of the town treasury the amount of their abatement, with incidental charges. The commissioners may require the assessors or town clerk to produce the valuation, by which the assessment was made, or a copy of it. If the applicant fails, the commissioners shall allow costs to the town, taxed as in a suit in the supreme judicial court, and issue their warrant of distress for collection thereof against him; either party may appeal from the decision of said county commissioners, to the supreme judicial court, under the same conditions that an appeal lies from the assessors to the supreme judicial court.

33 Me. 446; 57 Me. 280; 66 Me. 225; 67 Me. 435; 76 Me. 467; 77 Me. 410;

99 Me. 268; 102 Me. 142.

**Sec. 80. Appeals from assessors to supreme judicial court.** R. S. c. 9, § 79. Any person entitled to make a complaint to the county commissioners for an abatement of his taxes may, if he so elect, appeal under the same terms and conditions from the decision of the assessors to the supreme judicial court for the county in which the city or town, in which the property of such person is assessed, is situated.

98 Me. 296; 99 Me. 264; 102 Me. 404.

**Sec. 81. Entry of appeal; hearing.** R. S. c. 9, § 80. Such appeal shall be entered at the term first occurring not less than thirty days after the assessors shall have given to the appellant notice in writing of their decision upon his application for such abatement, and notice thereon shall be ordered by said court in term time or by any justice thereof in vacation, and said appeal shall be tried, heard and determined by the court without a jury in the manner and with the rights provided by law in other civil cases so heard.

102 Me. 404.

**Sec. 82. Proceedings and judgment; lien shall continue for thirty days; how enforced.** R. S. c. 9, § 81. If upon such trial it appears that the appellant has complied with all provisions of law he may be granted such abatement as said court may deem reasonable, under the same circumstances as an abatement may be granted by the county commissioners. If no abatement is granted, judgment shall be rendered in favor of the city or town, and for its costs, to be taxed by the court. If an abatement is granted, judgment shall be rendered in favor of the city or town for such amount, if any,

## CHAP. 10

as may be due, after deducting the abatement, and the court may make such order relating to the payment of costs as justice shall require. In either case execution shall issue. The lien created by statute on real estate to secure the payment of taxes shall be continued for thirty days after the rendition of judgment, and may be enforced by sale of said real estate on execution, in the same manner as attachable real estate may be sold under the provisions of section thirty-two, chapter eighty-one, and with the same right of redemption. Claims for abatement on several parcels of real estate may be embraced in one appeal, but judgment shall be rendered, and execution shall issue, for the amount of taxes due on each several parcel. The final judgment of the court shall be forthwith certified by the clerk to the assessors of the town or city where such tax was assessed, and such assessors shall in all cases carry into full effect the judgment of the appellate court in the same manner as if made by themselves. If it shall be alleged in the application that the applicant has paid the taxes for which he has been assessed, and if the court shall so find, judgment for the amount of the abatement granted shall be rendered against the city or town, and execution therefor, and for such costs as may be awarded, shall issue as in civil actions.

99 Me. 268; 102 Me. 404.

**Sec. 83. Trial and exceptions. R. S. c. 9, § 82.** Such appeal shall be tried at the term to which the notice is returnable, unless delay shall be granted at the request of such city or town for good cause; and said court shall, if requested by such city or town, advance the case upon the docket so that it may be tried and decided with as little delay as possible. Either party may file exceptions to the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the supreme judicial court in the trial of cases without a jury.

**Sec. 84. Appeals to supreme judicial court referred to state assessors, or commissioner may be appointed. R. S. c. 9, § 83. 1909, c. 220, § 11.** All appeals to the supreme judicial court under the provisions of section eighty, may be referred by the court to the board of state assessors, who shall hear the parties and report their findings to the court together with a transcript of the evidence. Such report shall be prima facie evidence of the facts thereby found; or the court may in its discretion appoint a commissioner to hear the parties and to report to the court the facts, or the facts with the evidence. Such report shall be prima facie evidence of the facts thereby found. The fees of the commissioner shall be paid in the same manner as those of auditors appointed by the court.

**Sec. 85. Assessments and commitment. R. S. c. 9, § 84.** The assessors shall assess upon the polls and estates in their town all town taxes and their due proportion of any state or county tax, according to the rules in the latest act for raising a state tax, and in this chapter; make perfect lists thereof under their hands; and commit the same to the constable or collector of their town, if any, otherwise to the sheriff of the county or his deputy, with a warrant under their hands, in the form hereinafter prescribed.

4 Me. 75; 51 Me. 599; 52 Me. 589; 58 Me. 417, 532; 64 Me. 190; 71 Me. 182; 82 Me. 194; 87 Me. 121; 93 Me. 178; 94 Me. 356.

**Sec. 86. State and county taxes to be added.** R. S. c. 9, § 85. They may add their proportion of the state and county tax to any of their other taxes, and make one warrant and their certificates accordingly.

71 Me. 183; 93 Me. 178.

**Sec. 87. Overlay not to exceed five per cent.** R. S. c. 9, § 86. They may assess on the polls and estates such sum above the sum committed to them to assess, not exceeding five per cent thereof, as a fractional division renders convenient, and certify that fact to their town treasurer.

See § 36; c. 11, § 94; 83 Me. 533; 93 Me. 178.

**Sec. 88. Record of assessment and valuation, to be deposited in assessors' office.** R. S. c. 9, § 87. They shall make a record of their assessment and of the invoice and valuation from which it was made; and before the taxes are committed to the officer for collection, they shall deposit it, or a copy of it, in the assessors' office, if any, otherwise with the town clerk, there to remain; and any place, where the assessors usually meet to transact business and keep their papers or books, shall be considered their office.

58 Me. 529; 71 Me. 183; 87 Me. 122; 93 Me. 178; 94 Me. 356; 102 Me. 419.

**Sec. 89. Certificates to be sent to treasurer of state and county treasurer.** R. S. c. 9, § 88. When they have assessed any county tax and committed it to the officer for collection, they shall return to the county treasurer a certificate thereof with the name of such officer. When they have so assessed and committed a state tax, they shall return a like certificate to the treasurer of state; and if this is not done, and any part of such tax remains unpaid for sixty days after the time fixed for its payment, the treasurer of state shall issue his warrant to the sheriff or his deputy to collect the sum unpaid of the inhabitants of the town or place.

See c. 11, § 94.

**Sec. 90. Selectmen to be assessors in certain events; compensation.** R. S. c. 9, § 89. 1907, c. 184. 1909, c. 94. 1911, c. 46. 1915, c. 183. If any town does not choose assessors, the selectmen shall be the assessors, and each of them shall be sworn as an assessor; and each selectman and assessor shall be paid for his services, two dollars and fifty cents for every day necessarily and actually employed in the service of the town. Towns having three thousand or more inhabitants may vote to pay their selectmen a compensation not exceeding five dollars a day for time actually spent in the service of the town, and a town having less than three thousand inhabitants may, by major vote at its annual town meeting fix the compensation of its board of selectmen, allowing such sum as may be commensurate with the duties of the office.

See c. 4, § 30; 51 Me. 600; 55 Me. 503; 61 Me. 546; 75 Me. 298; 76 Me. 416; 78 Me. 569; 87 Me. 221.

**Sec. 91. Penalty for neglect to choose.** R. S. c. 9, § 90. Any town neglecting to choose selectmen or assessors, forfeits to the state not exceeding three hundred, nor less than one hundred dollars, as the supreme judicial court orders.

**Sec. 92. When no assessors, county commissioners may appoint; proceedings thereon.** R. S. c. 9, § 91. In such case, and when the selectmen and assessors chosen by a town do not accept the trust, the county com-

## CHAP. 10

missioners may appoint three or more suitable persons in the county, to be assessors of taxes, and such assessors, being duly sworn, shall assess upon the polls and estates in the town their due proportion of state and county taxes and said penalty, and not exceeding two dollars and fifty cents a day each, for their own reasonable charges for time and expense in said service; and shall issue a warrant under their hands for collecting the same, and transmit a certificate thereof to the treasurer of state, with the name of the person to whom it is committed; and the assessors shall be paid their charges as allowed by said commissioners out of the state treasury.

**Sec. 93. Such assessors to obey warrants.** R. S. c. 9, § 92. All assessors, chosen or appointed as above provided, shall observe all warrants, received by them while in office, from the treasurer of state, or the county commissioners of their county.

**Sec. 94. Penalty for neglect to make assessments of state tax.** R. S. c. 9, § 93. If assessors of a town refuse or neglect to assess any state tax apportioned on it, and required by the warrant of the treasurer of state to be assessed by them, they forfeit to the state the full sum mentioned in such warrant and such treasurer shall issue his warrant to the sheriff of the county to levy said sum by distress and sale of their real and personal estate.

**Sec. 95. Penalty for neglect to assess county tax.** R. S. c. 9, § 94. If such assessors neglect to assess the county tax required in the warrant of the county commissioners to be assessed by them, they forfeit that sum to the county; and it shall be levied by sale of their real and personal estate, by virtue of a warrant issued by the county treasurer to the sheriff of the county for that purpose.

**Sec. 96. Assessors may be arrested and other assessors may be appointed.** R. S. c. 9, § 95. If the sheriff cannot find property of said assessors to satisfy the sum due on either of said warrants, he may arrest and imprison them, until they pay the same; and the county commissioners shall forthwith appoint other proper persons to be assessors of such state and county taxes, who shall be sworn, and perform the same duties, and be liable to the same penalties, as the former assessors.

98 Me. 131.

**Sec. 97. Towns neglecting to assess, treasurer to issue warrant to sheriff to collect.** R. S. c. 9, § 96. If the inhabitants of a town of which a state tax is required, neglect for five months, after having received the warrant of the treasurer of state for assessing it, to choose assessors to assess it, and cause the assessment thereof to be certified to such treasurer for the time being, he shall issue his warrant, under his hand, to the sheriff of the same county, who shall proceed to levy such sums on the real and personal property of any inhabitants of such town, observing the regulations provided for satisfying warrants against deficient collectors, as prescribed in chapter eleven. But if the assessors thereof, within sixty days from the receipt of a copy of such warrant from the officer, deliver to him a certificate, according to law, of the assessment of the taxes required by the warrant, and pay him his legal fees, he shall forthwith transmit the certificate to the treasurer of state, and return the warrant unsatisfied.

**Sec. 98. For like neglect, county treasurer to issue warrant.** R. S. c. 9, § 97. If the inhabitants of a town of which a county tax is required, neglect to choose and keep in office assessors to assess it, as the law requires, the county treasurer, for the time being, after five months from the time when they received the county commissioners' warrant for assessing it, shall issue his warrant to the sheriff, requiring him to levy and collect the sum mentioned therein; and he shall execute it, observing the regulations and subject to the conditions provided in the preceding section.

**Sec. 99. Warrants to be issued to collect of inhabitants, if not collected of assessors.** R. S. c. 9, § 98. If the voters of a town, of which a state or county tax is required, choose assessors who neglect to assess the tax required by the warrant issued to them, and to certify it as the law directs; and if the estates of such assessors are insufficient to pay such taxes as are already provided, the treasurer of state, or of the county, as the case may be, for the time being, shall issue his warrant to the sheriff of such county, requiring him to levy, by distress and sale, such deficiency on the real and personal estates of such inhabitants; and the sheriff or his deputy shall execute such warrants, observing all the provisions mentioned in section ninety-seven.

See c. 11, § 70.

**Sec. 100. Penalty on assessors for refusing to be sworn; vacancy, how filled.** R. S. c. 9, § 99. Any assessor, chosen and notified to take the oath of office, unreasonably refusing to be sworn, forfeits to the town fifteen dollars, to be recovered by their treasurer in an action of debt; and the selectmen shall forthwith call a town meeting to fill the vacancy.

See § 107; c. 4, § 28.

#### Assessment of Taxes in Plantations.

**Sec. 101. Plantations taxed, have power of towns for such purpose.** R. S. c. 9, § 100. All plantations required to pay any part of the public taxes, are vested with the same power as towns, so far as relates to the choice of clerk, assessors and collector of taxes; and any person, chosen assessor therein, and refusing to accept, or to take the legal oath, after due notice, is liable to the same penalty, to be recovered in the manner mentioned in the preceding section; and the other assessors shall forthwith call a plantation meeting to fill the vacancy.

See c. 11, § 17; c. 4, §§ 145, 146; 65 Me. 346.

**Sec. 102. Subject to same penalties.** R. S. c. 9, § 101. If any such plantation neglects to choose a clerk, assessors and collector of taxes, or if the assessors chosen neglect their duty, it shall be subject to the same penalties and proceeded against in the same manner as towns deficient in the same respect.

See c. 11, § 58.

**Sec. 103. Officers to be sworn.** R. S. c. 9, § 102. The clerk, assessors and collector shall be sworn as similar officers chosen by a town, and shall receive the same compensation, unless otherwise agreed.

See c. 4, §§ 19, 144.

## CHAP. 11

**Sec. 104.** When a tax is laid on a place not incorporated, county commissioners may cause it to be organized as a plantation. R. S. c. 9, § 103. When a state or county tax is laid on a place not incorporated or organized, the treasurer of state or county commissioners of that county may cause the same to be organized as provided in chapter four, sections one hundred and thirty-eight and one hundred and thirty-nine, for the organization of plantations ascertained to contain two hundred inhabitants. If the inhabitant to whom the warrant is directed, fails to perform the duties required of him, he forfeits the sums due for state and county taxes, to be recovered by the treasurer to whom the tax is payable.

See c. 4, § 139.

**Sec. 105.** Assessors to make list of polls, etc. R. S. c. 9, § 104. The assessors shall thereupon take a list of the ratable polls, and a valuation of the estates of the inhabitants of the plantation, and proceed to assess taxes and cause the same to be collected as required by law.

**Sec. 106.** Laws applicable. R. S. c. 9, § 105. All laws applicable to organized plantations apply to plantations organized under section one hundred and four.

**Sec. 107.** Neglect to be sworn. R. S. c. 9, § 106. Plantation officers neglecting to be sworn when notified, are liable to the same penalties as town officers so neglecting, to be recovered in the same manner.

See § 100; c. 4, §§ 28, 144.

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## CHAPTER 11.

### The Collection of Taxes.

- Sections 1-64 Collection of Taxes in Incorporated Places.
- Sections 65-71 Special Provisions.
- Sections 72-83 Sales of Land for Taxes in Incorporated Places.
- Sections 84-87 Additional Provisions.
- Sections 88-94 Collection of Taxes on Organized Plantations taxed as Wild Lands.
- Sections 95-96 Actions by Treasurer of State.

#### Collection of Taxes in Incorporated Places.

**Sec. 1.** Towns may fix time for payment and require interest; poll-tax due May first. R. S. c. 10, § 1. 1915, c. 194. Towns, at their annual meetings, may determine when the lists named in section eighty-five of chapter ten shall be committed, and when their taxes shall be payable, and that interest shall be collected thereafter; provided, however, that the poll-taxes shall be due and payable on the first day of May and the commitment of the lists of poll-tax payers shall be made to the collector prior to that date.

71 Me. 182; 77 Me. 431; 82 Me. 194.

**Sec. 2. Rate. R. S. c. 10, § 2.** The rate of such interest, not exceeding one per cent a month, shall be specified in the vote, and shall be added to, and become part of the taxes.

77 Me. 431; 82 Me. 194.

**Sec. 3. Collection of state taxes. R. S. c. 10, § 3.** All state taxes hereafter assessed shall be collected by the collectors or constables of the several towns and paid by them to the treasurers of their respective towns as other taxes are paid. Said treasurers shall pay such taxes to the treasurer of state.

**Sec. 4. Issue of warrants for state tax. R. S. c. 10, § 4.** On or before the first day of September in each year, the treasurer of state shall issue his warrant to the treasurer of each town therein requiring him to transmit and pay said town's proportion of the state tax for the year nineteen hundred and \_\_\_\_\_, to \_\_\_\_\_, treasurer of state, or to his successor in office, on or before the time at which they are required to pay such tax.

**Sec. 5. Warrants issued to collect taxes of delinquent towns. R. S. c. 10, § 5.** When the time for the payment of a state tax to the treasurer of state has expired, and it is unpaid, the treasurer of state shall give notice thereof to the municipal officers of any delinquent town, and unless such tax shall be paid within sixty days, the treasurer of state may issue his warrant to the sheriff of the county, requiring him to levy, by distress and sale, upon the real and personal property of any of the inhabitants of the town; and the sheriff or his deputy shall execute such warrants, observing the regulations provided for satisfying warrants against deficient collectors prescribed by this chapter.

**Sec. 6. Collection of county taxes. R. S. c. 10, § 6.** All county taxes hereafter assessed shall be collected by the collectors or constables of the several towns and paid by them to the treasurers of their respective towns as other taxes are paid. Said treasurers shall pay such taxes to the county treasurers of their respective counties.

**Sec. 7. Warrants issued by county treasurer, for collection of county taxes; if not paid within forty days, warrant shall be issued to sheriff to collect tax. R. S. c. 10, § 7.** On or before the first day of September of each year, the county treasurer shall issue his warrants to the treasurers of the several towns in his county, requiring them to transmit and pay their town's proportion of the county tax for the year nineteen hundred and \_\_\_\_\_, to \_\_\_\_\_, county treasurer, or his successor in office, on or before the time fixed by law for said payment. And if said town treasurer fails to pay such county tax for forty days after the time fixed therefor, said county treasurer shall issue his warrant directed to the sheriff of the county, requiring him to levy it, by distress and sale, on real and personal property of any of the inhabitants of the town. And the sheriff or his deputy shall execute such warrants, observing all the provisions mentioned in section ninety-seven of chapter ten.

## CHAP. 11

**Sec. 8. Form of warrant for collection of state taxes. R. S. c. 10, § 8.**  
The warrant to be issued by selectmen or assessors for collection of state taxes shall be in substance as follows:

ss. A. B., constable or collector of the town of \_\_\_\_\_, within the county of \_\_\_\_\_ : Greeting:

In the name of the State of Maine, you are hereby required to levy and collect of each of the several persons named in the list herewith committed unto you, his respective proportion therein set down, of the sum total of such list, it being said town's proportion of the state tax for the year 19\_\_\_\_; and to transmit and pay the same to \_\_\_\_\_, the treasurer of your town, or to his successor in office, and to complete and make an account of your collections of the whole sum on or before the \_\_\_\_\_ day of \_\_\_\_\_ next. And if any person refuses or neglects to pay the sum which he is assessed in said list, you shall distrain his goods or chattels to the value thereof, and keep the distress so taken for four days at the cost and charge of the owner; and if he does not pay the sum so assessed within said four days, then you shall sell at public vendue such distress for payment thereof with charges; first giving forty-eight hours' notice thereof by posting advertisements in some public place in the town or plantation, as the case may be; and the overplus arising by such sale, if any, beyond the sum assessed and the necessary charges of taking and keeping the distress, you shall immediately restore to the owner; and for want for twelve days, of goods and chattels, whereon to make distress, except implements, tools and articles of furniture exempt from attachment for debt, you shall take the body of such person so refusing or neglecting, and him commit to the jail of the county, there to remain until he pays the same, or such part thereof, as is not abated by the assessors for the time being, or the county commissioners for said county.

Given under our hands, by virtue of a warrant from the treasurer aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_ nineteen hundred and \_\_\_\_\_.

Assessors.

And a certificate of the assessment of any state tax shall be in substance as follows:

Pursuant to a warrant from the treasurer of the State of Maine dated the \_\_\_\_\_ day of \_\_\_\_\_, nineteen hundred and \_\_\_\_\_, we have assessed the polls and estates of the \_\_\_\_\_ of \_\_\_\_\_, the sum of \_\_\_\_\_ dollars and \_\_\_\_\_ cents, and have committed lists thereof to the \_\_\_\_\_ of said \_\_\_\_\_, viz: to \_\_\_\_\_, with warrants in due form of law for collecting and paying the same to \_\_\_\_\_, town treasurer of \_\_\_\_\_, or his successor in office, on or before the \_\_\_\_\_ day of \_\_\_\_\_, next ensuing.

In witness whereof, we have hereunto set our hands at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, nineteen hundred and \_\_\_\_\_.

Assessors.

No error or informality in the warrant so far as it relates to the description of the officer to whom any tax is to be paid by the collector shall render the same invalid, or relieve the collector from the duty of complying with the provisions of the statute in that behalf, or from liability on account of failure so to do.

3 Me. 301; 4 Me. 75; 20 Me. 202; 40 Me. 528; 41 Me. 538; 55 Me. 503; 57 Me. 61; 61 Me. 552; 65 Me. 24; 68 Me. 161; 71 Me. 182; 73 Me. 126, 181; 74 Me. 410; 79 Me. 189.

**Sec. 9. Warrant for county and town taxes.** R. S. c. 10, § 9. The warrant for collection of county or town taxes, shall be made by the assessors in the same tenor, with proper changes.

71 Me. 183; 73 Me. 126; 74 Me. 410.

**Sec. 10. New warrant issued in case of loss.** R. S. c. 10, § 10. When an original warrant issued by assessors and delivered to a constable or collector for collection of a tax, has been lost or destroyed by accident, the assessors may issue a new warrant for that purpose, which shall have the same force as the original.

79 Me. 188.

**Sec. 11. Compensation of collectors.** R. S. c. 10, § 11. When towns choose collectors, they may agree what sum shall be allowed for performance of their duties.

98 Me. 90.

**Sec. 12. Fees of collector.** R. S. c. 10, § 12. In case of distress or commitment for non-payment of taxes, the officer shall have the same fees which sheriffs have for levying executions, except that travel, in case of distress, shall be computed only from the dwelling-house of the officer to the place where it is made.

**Sec. 13. Collector to receive a warrant.** R. S. c. 10, § 13. Every collector or constable, required to collect taxes, shall receive a warrant from the selectmen or assessors of the kind hereinbefore mentioned, and shall faithfully obey its directions.

**Sec. 14. Bond of collector.** R. S. c. 10, § 14. The assessors shall require such constable or collector to give bond for the faithful discharge of his duty, to the inhabitants of the town, in such sum, and with such sureties, as the municipal officers approve; and bonds of collectors of plantations shall be given to the inhabitants thereof, approved by the assessors, with like conditions.

See §§ 23, 36, 38, 55, 57; c. 4, § 17; 1 Me. 250; 3 Me. 301; 4 Me. 75; 8 Me. 341; 15 Me. 28, 29; 20 Me. 202; 31 Me. 281; 41 Me. 538; 44 Me. 50; 47 Me. 518; 50 Me. 40, 351; 53 Me. 254; 55 Me. 501; 57 Me. 62; 61 Me. 555; 64 Me. 403; 68 Me. 161, 162; 69 Me. 334, 369; 73 Me. 181; 98 Me. 90.

**Sec. 15. Record of bond.** R. S. c. 10, § 15. Such bond shall, after its approval and acceptance, be recorded by the clerk, in the town or plantation records, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond.

**Sec. 16. Receipts for taxes given on demand.** R. S. c. 10, § 16. When a tax is paid to a collector or constable, he shall give a receipt therefor on demand; and if he neglects or refuses so to do, he forfeits five dollars to the aggrieved party, to be recovered in an action of debt.

**Sec. 17. Plantations may choose collectors.** R. S. c. 10, § 17. All plantations, required to pay any portion of the public taxes, have all the powers of towns so far as relates to the choice of constables and collectors and the requiring bonds from them.

See c. 10, § 101.

**Sec. 18. Collectors to distrain if taxes are not paid; notice of sale.** R. S. c. 10, § 18. If a person refuses to pay any part of the tax assessed against

## CHAP. 11

him in accordance with this chapter, the person whose duty it is to collect the same, may distrain him by any of his goods and chattels not exempt, for the whole or any part of his tax, and may keep such distress for four days at the expense of the owner, and if he does not pay his tax within that time, the distress shall be openly sold at vendue by the officer for its payment. Notice of such sale shall be posted in some public place in the town, at least forty-eight hours before the expiration of said four days.

See c. 10, § 11; 40 Me. 528; 49 Me. 357; 61 Me. 402; 62 Me. 462; 65 Me. 24; 75 Me. 391, 394.

**Sec. 19. Overplus. R. S. c. 10, § 19.** The officer, after deducting the tax and expense of sale, shall restore the balance to the former owner, with a written account of the sale and charges.

17 Me. 102; 32 Me. 558, 560; 59 Me. 297.

**Sec. 20. Arrest after twelve days' notice. R. S. c. 10, § 20.** If a person so assessed, for twelve days after demand, refuses or neglects to pay his tax and to show the constable or collector sufficient goods and chattels to pay it, such officer may arrest and commit him to jail, until he pays it, or is discharged by law.

19 Me. 328; 47 Me. 172; 49 Me. 430; 61 Me. 556; 71 Me. 406; 88 Me. 454; 109 Me. 327; 113 Me. 446.

**Sec. 21. May demand immediate payment. R. S. c. 10, § 21.** If the assessors think that there are just grounds to fear that any person so assessed may abscond before the end of said twelve days, the constable or collector may demand immediate payment, and on refusal, he may commit him as aforesaid.

See § 67; 113 Me. 446.

**Sec. 22. When payable by instalments, whole may be demanded of one about to remove. R. S. c. 10, § 22.** When a tax is made payable by instalments, and any person, who was an inhabitant of the town at the time of making such tax, and assessed therein, is about to remove therefrom before the time fixed for any payment, the collector or constable may demand and levy the whole tax, though the time for collecting any instalment has not arrived; and in default of payment he may distrain for it, or take the course provided in section twenty.

See § 67.

**Sec. 23. Former collectors to complete collections. R. S. c. 10, § 23.** When new constables or collectors are chosen and sworn before the former officers have perfected their collections, the latter shall complete the same, as if others had not been chosen and sworn.

See §§ 36, 55, 57; 47 Me. 172; 53 Me. 256.

**Sec. 24. Collectors may distrain shares in a corporation. R. S. c. 10, § 24.** For non-payment of taxes, the collector or constable may distrain the shares owned by the delinquent in the stock of any corporation; and the same proceedings shall be had as when like property is seized and sold on execution.

**Sec. 25. Duties of officers of the corporation. R. S. c. 10, § 25.** The proper officer of such corporation, on request of such constable or collector, shall give him a certificate of the shares or interest owned by the delinquent therein, and issue to the purchaser certificates of such shares according to the by-laws of the corporation.

**Sec. 26. Collectors may collect in any part of state, of persons removed. R. S. c. 10, § 26.** When a person taxed in a town in which he was living at the time of assessment, removes therefrom before paying his tax, such constable or collector may demand it of him in any part of the state, and, if he refuses to pay, may distrain him by his goods, and for want thereof may commit him to the jail of the county where he is found, to remain until his tax is paid; and he shall have the same power to distrain property and arrest the body in any part of the state, as in the place where the tax is assessed.

See §§ 20, 32, 33; c. 10, § 34; 113 Me. 446.

**Sec. 27. Collector or administrator may sue for taxes; town magistrate may try case; no costs for plaintiff unless demand is made before suit. R. S. c. 10, § 27.** Any collector of taxes, or his executor or administrator, may, after demand for payment, sue in his own name for any tax, in an action of debt, and no trial justice or judge of any municipal or police court before whom such suit is brought, is incompetent to try the same by reason of his residence in the town assessing said tax. Where before suit the person taxed dies or removes to any other town or place in the state, or, being an unmarried woman, marries, the aforesaid demand is not requisite, but the plaintiff shall recover no costs unless payment was demanded before suit.

See §§ 28, 32, 64, 95; 50 Me. 377; 61 Me. 546; 77 Me. 55, 410; 82 Me. 156; 83 Me. 532; 86 Me. 365; 89 Me. 578; 110 Me. 199; 113 Me. 446.

**Sec. 28. Lien for taxes enforced by action of debt; notice to taxpayer; judgment and costs; redemption. R. S. c. 10, § 28.** The lien on real estate created by section three of chapter ten may be enforced in the following manner, provided, however, that in the inventory and valuation upon which the assessment is made, there shall be a description of the real estate taxed, sufficiently accurate to identify it. Any officer to whom a tax has been committed for collection, except a collector elected or appointed under section ninety, may, after the expiration of eight months from the date of commitment to him of said tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, if then a resident of the town where said real estate lies, a notice in writing signed by said officer, stating the amount of such tax, describing the real estate on which the tax is assessed, and demanding the payment of such tax within ten days after service of such notice. After the expiration of said ten days, in case of a resident, and in all cases within one year after the date of commitment to him of said tax, such officer may bring an action of debt for the collection of said tax, in his own name, in the county where the land lies, against the person against whom said tax is assessed. Such action shall be begun by writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate. The declaration in such action shall contain a statement of such tax, a description of the

## CHAP. 11

real estate contained in said notice, and an allegation that a lien is claimed on said real estate to secure the payment of the tax. If no service is made upon the defendant, or if it shall appear that other persons are interested in such real estate, the court shall order such further notice of said action as appears proper, and shall allow such other persons to become parties thereto. If it shall appear upon trial of said action that such tax was legally assessed on said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of such tax, judgment shall be rendered for such tax, interest and costs of suit against the defendants and against the real estate attached, and execution issued thereon to be enforced by sale of such real estate in the manner provided for a sale on execution of real estate attached on original writs. Provided, however, that when the officer sells the real estate on such execution he shall sell the least undivided fractional part thereof that any person bidding will take, and pay the amount due on the execution with all necessary charges of sale; and he shall convey by his deed to the purchaser such part so sold to him, subject to redemption according to law, and the deed shall be construed to convey the right of entry and seizin in such part in common and undivided of such property assessed. In all actions brought in the supreme judicial and superior courts under the provisions of this section or of sections ninety-three or ninety-five, full costs shall be recovered notwithstanding the amount of the judgment be twenty dollars or less. Any person interested in said real estate may redeem the same at any time within one year after the sale of the same by the officer on such execution, by paying the amount of such judgment and all costs on such execution with interest at the rate of ten per cent a year. This section shall not affect any other provision of law for the enforcement and collection of taxes upon real estate.

See §§ 27, 32, 64, 93, 95, 96; 89 Me. 337, 384; 106 Me. 177; 108 Me. 125; 113 Me. 446.

**Sec. 29. Court may permit amendment of record or deed, when errors or defects appear therein. R. S. c. 10, § 29.** At the trial of any action for the collection of taxes, or of any action at law or in equity involving the validity of any sale of real estate for non-payment of taxes, if it shall appear that the tax in question was lawfully assessed, the court may permit the collector or other officer to amend his record, return or deed in accordance with the fact, when circumstantial errors or defects appear therein; provided, that the rights of third parties are not injuriously affected thereby. And if a deed be so amended, and the amended deed be thereupon recorded, it shall have the same effect as if it had been originally made in its amended form.

108 Me. 125.

**Sec. 30. In suits to collect tax on real estate, if record title appears to be in defendant, he shall not deny his title. R. S. c. 10, § 30.** In all suits to collect a tax on real estate, if it appears that at the date of the list on which such tax was made, the record title to the real estate listed was in the defendant, he shall not deny his title thereto; provided, however, if any owner of real estate who has conveyed the same, shall forthwith file a copy of the description as given in his deed with the date thereof and the name and residence of his grantee, in the registry of deeds where such deed should be recorded, he shall be free from any liability under this section.

**Sec. 31. Assessments not void, although they include sums raised for an illegal object; persons paying illegal tax may recover of town. R. S. c. 10, § 31.** If money not raised for a legal object, is assessed with other moneys legally raised, the assessment is not void; nor shall any error, mistake, or omission by the assessors, collector or treasurer, render it void; but any person paying such tax, may bring his action against the town in the supreme judicial court for the same county, and shall recover the sum not raised for a legal object, with twenty-five per cent interest and costs, and any damages which he has sustained by reason of the mistakes, errors or omissions of such officers.

See §§ 82, 87; c. 4, § 10; c. 10, § 64; c. 16, § 91; 5 Me. 403; 15 Me. 262; 27 Me. 147; 30 Me. 411; 48 Me. 444; 51 Me. 376; 58 Me. 532; 59 Me. 493; 65 Me. 23; 68 Me. 356, 357; 69 Me. 65; 71 Me. 184; 77 Me. 415; 78 Me. 276, 282; 82 Me. 156; 90 Me. 245, 494; 92 Me. 529; 94 Me. 358, 495; 104 Me. 446; 111 Me. 317.

**Sec. 32. Collections of non-resident owners of improved lands. R. S. c. 10, § 32.** When the owner of improved lands living in this state, but not in the town where the estate lies, is taxed, and neglects for six months after the lists of assessment are committed to an officer for collection, to pay his tax, such officer may distrain him by his goods and chattels, and for want thereof may commit him to jail in the county where he is found.

25 Me. 362; 47 Me. 172; 74 Me. 284.

**Sec. 33. Collection of taxes on personal property of non-residents. R. S. c. 10, § 33.** When the owner or possessor of goods, wares and merchandise, logs, timber, boards and other lumber, stock in trade, including stock employed in the business of any of the mechanic arts, horses, mules or neat cattle, resides in any other town than the one in which such personal property is kept and taxed, the constable or collector having a tax on any such property for collection, may demand it of such owner or possessor in any part of the state, and on his refusal to pay, may distrain him by his goods, and for want thereof, may commit him to jail in the county where he is found, until he pays it, or is discharged by law.

**Sec. 34. Collectors may demand aid; penalty for refusing. R. S. c. 10, § 34.** Any collector impeded in collecting taxes, in the execution of his office, may require proper persons to assist him in any town where it is necessary, and any person refusing when so required, shall, on complaint, pay not exceeding six dollars at the discretion of the justice before whom the conviction is had, if it appears that such aid was necessary; and on default of payment, the justice may commit him to jail for forty-eight hours.

**Sec. 35. Collectors to exhibit account of collections. R. S. c. 10, § 35.** Every collector of taxes shall once in two months at least exhibit to the municipal officers, or where there are none, to the assessors of his town, a just and true account of all moneys received on taxes committed to him, and produce the treasurer's receipts for money by him paid; and for neglect, he forfeits to the town two and a half per cent on the sums committed to him to collect.

68 Me. 163; 84 Me. 432.

**Sec. 36. Collectors removed or removing may be required to give up tax bills and settle; warrant to new collector. R. S. c. 10, § 36.** When a col-

## CHAP. 11

lector having taxes committed to him to collect, has removed; or in the judgment of the municipal officers, assessors, or treasurer of a town, is about to remove from the state before the time set in his warrant to make payment to such treasurer; or when the time has elapsed, and the treasurer has issued his warrant of distress; in either case, said officers or committee, may call a meeting of such town, to appoint a committee to settle with him for the money that he has received on his tax bills, to demand and receive of him such bills, and to discharge him therefrom; said meeting may elect another constable or collector, and the assessors shall make a new warrant and deliver it to him with said bills, to collect the sums due thereon, and he shall have the same power in their collection as the original collector.

See §§ 38, 55, 57; c. 4, §§ 17, 30; 57 Me. 62; 62 Me. 461; 82 Me. 45.

**Sec. 37. Penalty for refusing to deliver tax bills. R. S. c. 10, § 37.** If such collector or constable refuses to deliver the bills of assessment, and to pay all moneys in his hands collected by him, when duly demanded, he forfeits two hundred dollars to the town, and is liable to pay what remains due on said bills of assessment.

57 Me. 62.

**Sec. 38. Collector becoming incapable. R. S. c. 10, § 38.** When a constable or collector of taxes dies, becomes insane, has a guardian, or by bodily infirmities is incapable of performing the duties of his office before completing the collection, the municipal officers may demand and receive the tax bills of any person in possession thereof, and deliver them to the new collector.

See § 36; c. 4, § 17; 62 Me. 461; 75 Me. 248; 82 Me. 45; 87 Me. 222.

**Sec. 39. Warrant for completion of collection of taxes. R. S. c. 10, § 39.** The warrant to be issued by the assessors for the completion of the collection of taxes under the provisions of sections thirty-six and thirty-eight shall be in substance as follows:

ss. A. B., constable or collector of the town of \_\_\_\_\_ within the county of \_\_\_\_\_ :

In the name of the State of Maine, you are hereby required to levy and collect of each of the several persons named in the list herewith committed unto you, his respective proportion therein set down, of the sum total of such list, amounting in the aggregate to \_\_\_\_\_ dollars and \_\_\_\_\_ cents, it being the unpaid portion of the taxes assessed in the town of \_\_\_\_\_ for the year \_\_\_\_\_, for state, county and town purposes, and to pay the same to \_\_\_\_\_ treasurer of said town of \_\_\_\_\_, or to his successor in office, and to complete and make an account of your collections of the whole sum on or before the \_\_\_\_\_ day of \_\_\_\_\_ next. And if any person refuses or neglects to pay the sum which he is assessed in said list, you will distrain his goods or chattels, to the value thereof. And in making such distress, and for want of goods and chattels, whereon to make distress, except such as are exempt by the provisions of section eight of chapter eleven of the revised statutes, you will in all matters proceed as prescribed in section eight of chapter eleven of the revised statutes as fully as if the same were herein set forth.

Given under our hands, by virtue of the law in such cases provided, this  
day of                    in the year of our Lord nineteen hundred and

Assessors.

**Sec. 40. Sums by him overpaid, to be restored.** R. S. c. 10, § 40. When it appears that such insane or disqualified constable or collector had paid to the treasurer a larger sum than he had collected from the persons in his list, the assessors in their warrant to such new constable or collector, shall direct him to pay such sum to the guardian of such insane, or to such disqualified constable or collector.

**Sec. 41. Treasurer of state may issue his warrant against a delinquent collector; renewal of unsatisfied warrants.** R. S. c. 10, §§ 41, 42. When the time for collecting a state tax has expired, and it is unpaid, the treasurer of state shall, at the request of the municipal officers of any town, issue a warrant of distress signed by him against any constable or collector of such town to whom the town's proportion of a state tax has been committed for collection, and who is negligent in paying to the town treasurer the money required within the time limited by law; such warrant shall be directed to the sheriff of the county in which the delinquent officer lives, or to his deputy, returnable in three months from its date, and shall require such sheriff or deputy to cause the sum due, with interest from the day fixed for payment, together with fifty cents for the warrant, and his own legal fees, to be levied by distress and sale of such delinquent officer's real or personal estate, returning any overplus that there may be; and for want of such real or personal estate, to commit him to jail until he pays said sums; and the sheriff shall obey such warrant. Warrants not satisfied may be renewed for the amount unpaid, and shall be of like validity and executed in like manner.

19 Me. 374; 69 Me. 458; 74 Me. 410; 82 Me. 45.

**Sec. 42. County treasurer may issue his warrant against a delinquent collector.** R. S. c. 10, § 43. When forty days after the time fixed for collecting a county tax has expired, and it is unpaid, the county treasurer shall, at the request of the municipal officers of any town in his county, issue his warrant of distress against any constable or collector of such town, to whom the town's proportion of a county tax has been committed for collection and who has not paid to the town treasurer the money required within the time limited by law, returnable in three months from its date, directed to the sheriff or his deputy, requiring him to collect the tax, with six per cent interest thereon from the time it was payable, fifty cents for the warrant, and his own legal fees.

**Sec. 43. Town to pay, when its collector fails.** R. S. c. 10, § 44. If a deficient constable or collector has no estate which can be distrained, and his person cannot be found within three months after a warrant of distress issues from the treasurer of state, or, if being committed to jail, he does not within three months satisfy it, his town shall, within three months more, pay to the state the sums due from him.

69 Me. 458.

**Sec. 44. Assessors to make a new assessment; otherwise, warrant to issue against them; if not paid within three months, warrant to be issued against**

## CHAP. 11

**inhabitants. R. S. c. 10, § 45.** The assessors having written notice from such treasurer of the failure of their constable or collector, shall forthwith, without any further warrant, assess the sum so due upon the inhabitants of their town as the sum so committed was assessed, and commit it to another constable or collector for collection; and if they neglect, the treasurer of state shall issue his warrant against them for the whole sum due from such constable or collector, which shall be executed by the sheriff or his deputy, as other warrants issued by such treasurer. If after such second assessment, the tax is not paid to the treasurer within three months from the date of its commitment, the treasurer may issue his warrant to the sheriff of the county requiring him to levy it on real and personal property of any inhabitants of the town, as hereinbefore provided.

69 Me. 458.

**Sec. 45. Collector responsible to inhabitants. R. S. c. 10, § 46.** Such deficient collector or constable shall at all times be answerable to such inhabitants for all sums which they have been obliged to pay by means of his deficiency, and for all consequent damages.

57 Me. 62; 69 Me. 457.

**Sec. 46. When collector dies, administrator to settle; failing to do so, chargeable with amount. R. S. c. 10, § 47.** If a collector or constable of a town dies without settling his accounts of taxes committed to him to collect, his executor or administrator, within two months after his acceptance of the trust, shall settle with such assessors for what was received by the deceased in his life time; with the amount so received, such executor or administrator is chargeable as the deceased would be if living; and if he fails so to settle, when he has sufficient assets in his hands, he shall be chargeable with the whole sum committed to the deceased for collection.

**Sec. 47. Treasurer to issue his warrant against delinquent collectors; form of warrant. R. S. c. 10, § 48.** If the constable or collector of any town, to whom taxes have been committed for collection, neglects to collect and pay them to the treasurer named in the warrant of the assessors by the time therein stated, such treasurer shall issue his warrant, returnable in ninety days, and in substance as follows, to the sheriff of the county or his deputy, who shall execute it.

A. B., treasurer of the \_\_\_\_\_ of \_\_\_\_\_, in the county of \_\_\_\_\_, to the sheriff of said county, or his deputy,

Greeting.

Whereas C. D., of \_\_\_\_\_ aforesaid, (addition) on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, being a \_\_\_\_\_ of taxes granted and agreed on by the \_\_\_\_\_ aforesaid, had a list of assessments duly made by the assessors of the \_\_\_\_\_ aforesaid, amounting to the sum of \$\_\_\_\_. —, committed to him with a warrant under their hands, directing and empowering him to collect the several sums in said assessment mentioned, and pay the same to the treasurer of the \_\_\_\_\_ aforesaid by the \_\_\_\_\_ day of \_\_\_\_\_, 19—, but the said C. D. has been remiss in his duty by law required, and has neglected to collect the several sums aforesaid, and pay them to the treasurer of the \_\_\_\_\_ aforesaid; and there still remains due thereof the sum of \$\_\_\_\_. —, and the said C. D. still neglects to pay it: You are hereby, in the name of

the state, required forthwith to levy the aforesaid sum of \$——. ——, by distress and sale of the estate, real or personal, of said C. D., and pay the same to the treasurer of said ——, returning the overplus, if any, to said C. D. And for want of such estate, to take the body of said C. D., and him commit to the jail in the county aforesaid, there to remain until he has paid the said sum of \$——. ——, with forty cents for this warrant, together with your fees, or he is otherwise discharged therefrom by order of law; and make return of this warrant to myself, or my successor, as treasurer of said ——, within ninety days from this time, with your doings therein.

Given under my hand, this —— day of ——, in the year nineteen hundred and ——.

———, Treasurer of ——.

17 Me. 447; 19 Me. 374; 33 Me. 483; 64 Me. 190; 73 Me. 181; 71 Me. 411;  
82 Me. 45.

**Sec. 48. Sheriff's duty respecting such warrants; treasurer may issue alias warrant. R. S. c. 10, § 49.** On each execution or warrant of distress issued by the treasurer of state, or by the treasurer of a county, or town against a constable or collector, or against the inhabitants of a town, and delivered to a sheriff or his deputy, he shall make return of his doings to such treasurer, within a reasonable time after the return day therein mentioned, with the money, if any, that he has received by virtue thereof; and if he neglects to comply with any direction of such warrant or execution, he shall pay the whole sum mentioned therein. When it is returned unsatisfied, or satisfied in part only, such treasurer may issue an alias for the sum due on the return of the first; and so on, as often as occasion occurs. A reasonable time after the return day shall be computed at the rate of forty-eight hours for every ten miles distance from the dwelling-house of the sheriff or his deputy to the place where the warrant is returnable.

**Sec. 49. Warrants to be issued to coroner, when sheriff is delinquent. R. S. c. 10, § 50.** When a sheriff or deputy is deficient as aforesaid, such treasurers may direct warrants to a coroner of the county, requiring him to distrain therefor upon the delinquent's real or personal estate; and the coroner shall execute such warrants as a sheriff does on deficient constables and collectors.

**Sec. 50. Property distrained, to be sold as on execution. R. S. c. 10, § 51.** Any officer selling personal property, distrained under a warrant from such treasurers against a sheriff, constable or collector, or against the inhabitants of a town, shall proceed as in the sale of such property on execution.

**Sec. 51. Notice of sale of real estate. R. S. c. 10, § 52.** When a warrant of distress from such treasurers is levied on the real estate of a deficient constable, collector, sheriff or deputy sheriff, or against the inhabitants of a town, for the purpose of sale, fourteen days' notice of the sale, and time and place shall be given, by posting advertisements in two or more public places in the town or place where the estate lies, and in two adjoining towns.

**Sec. 52. Proceedings at sale. R. S. c. 10, § 53.** At that time and place, the officer having such warrant shall sell, at public vendue, so much of such estate, in common and undivided with the residue, if any, as is necessary to

## CHAP. 11

satisfy the sum named in the warrant, with all legal charges; and execute to the purchaser a sufficient deed thereof, which shall be as effectual as if executed by the deficient owner.

**Sec. 53. Warrant not satisfied, collector may be arrested on an alias; has privileges of common debtor.** R. S. c. 10, § 54. If the proceeds of such sale do not satisfy such sum and legal charges, the treasurer who issued the warrant, shall issue an alias warrant for the sum remaining due; and the officer executing it shall arrest such deficient officer, and proceed as on an execution for debt; and such deficient officer shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor.

**Sec. 54. Assessors may demand copy of assessments of collector, and adjust amount.** R. S. c. 10, § 55. When any constable or collector of taxes is taken on execution under this chapter, the assessors may demand of him a true copy of the assessments, which he received of them and then has in his hands unsettled, with the evidence of all payments made thereon; and if he complies with this demand, he shall receive such credit as the assessors, on inspection of the assessment, adjudge him entitled to, and account for the balance; but if he refuses, he shall forthwith be committed to jail by the officer who so took him, or by a warrant from a justice of the peace, to remain there until he complies; and the assessors shall take and use copies of the record of assessments instead of the copies demanded of him.

62 Me. 461.

**Sec. 55. Towns may choose another collector.** R. S. c. 10, § 56. The same town may, at any time, proceed to the choice of another collector, to complete the collection of the assessments, who shall be sworn and give the security required of the first collector; and the assessors shall deliver to him the uncollected assessments, with a proper warrant for their collection, and he shall proceed as before prescribed.

See §§ 23, 36, 38, 57; 57 Me. 62; 62 Me. 461.

**Sec. 56. When a person claims to have paid tax, proceedings.** R. S. c. 10, § 57. When the tax of any person named in said assessment does not thereby appear to have been paid, but such person declares that it was paid to the former collector, the new collector shall not distrain or commit him, without a vote of such town first certified to him by its clerk.

57 Me. 62.

**Sec. 57. Sheriff to collect, when no collector is chosen.** R. S. c. 10, § 58. When a town neglects to choose and the selectmen to appoint any constable or collector to collect a state or county tax, the sheriff of the county shall collect it, on receiving an assessment thereof, with a warrant under the hands of the assessors of such town, duly chosen, or appointed by the county commissioners, as the case may be.

See §§ 36, 38; c. 4, §§ 14, 17, 145.

**Sec. 58. Plantations, proceedings by and against.** R. S. c. 10, § 59. When plantations neglect to choose constables or collectors, or those chosen and accepting their trust neglect their duty, such plantations shall be pro-

ceeded against as in the case of deficient towns; and such deficient constables or collectors are liable to the same penalties, and shall be removed in the same manner, as deficient constables and collectors of towns.

See c. 4, § 145; c. 10, § 102.

**Sec. 59. Proceedings by sheriff. R. S. c. 10, § 60.** The sheriff or his deputy, on receiving such assessment and warrant for collection as is mentioned in the two preceding sections, shall forthwith post in some public place in the town or plantation assessed, an attested copy of such assessment and warrant, and shall make no distress for any of such taxes until after thirty days therefrom; and any person paying his tax to such sheriff within that time, shall pay five per cent over and above his tax for sheriff's fees, and no more; but those who do not pay within that time shall be distrained or arrested by such officer, as by collectors; and the sheriff may require aid for the purpose, and the same fees shall be paid for travel and service of the sheriff, as in other cases of distress.

**Sec. 60. Proceedings, on arrest; rights and privileges of party arrested. R. S. c. 10, § 61.** When an officer appointed to collect assessments by virtue of a warrant, for want of property arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer, and certify, under his hand, the sum that he is to pay as his tax and the costs of arresting and committing, and that for want of goods and chattels whereon to make distress, he has arrested him; and such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody, until he pays his tax, charges, and thirty-three cents for the copy of the warrant; but he shall have the rights and privileges, mentioned in section fifty-three.

71 Me. 406; 77 Me. 24.

**Sec. 61. When discharged from arrest, town liable for state and county taxes. R. S. c. 10, § 62.** When a person, committed for non-payment of taxes due to the state or county, is discharged by virtue of any statute for the relief of poor prisoners confined in jail for taxes, the town whose assessors issued the warrant by which he was committed shall pay the whole tax required of it.

**Sec. 62. Collector liable for tax, unless he commits within a year. R. S. c. 10, § 63.** When a person imprisoned for not paying his tax, is discharged, the officer committing him shall not be discharged from such tax without a vote of the town, unless he imprisoned him within one year after the taxes were committed to him to collect.

61 Me. 557; 82 Me. 44.

**Sec. 63. Fees for commitment. R. S. c. 10, § 64.** For commitments for non-payment of taxes, the officer shall have the same fees as for levying executions, but his travel shall be computed only from his dwelling-house to the place of commitment.

**Sec. 64. Municipal officers may direct suit for taxes. R. S. c. 10, § 65. 1905, c. 21.** In addition to other provisions for the collection of taxes legally assessed, the mayor and treasurer of any city, the selectmen of any town, and the assessors of any plantation to which a tax is due, may in writing direct an action of debt to be commenced in the name of such city or of the

## CHAP. 11

inhabitants of such town or plantation, against the party liable; but no such defendant is liable for any costs of suit, unless it appears by the declaration and by proof, that payment of said tax had been duly demanded before suit. No execution issued on a judgment recovered for the collection of a poll-tax shall run against the body of the judgment debtor.

See §§ 27, 28, 32, 95.

66 Me. 198; 67 Me. 261; 70 Me. 304; 71 Me. 404; 74 Me. 283-4; 76 Me. 550; 78 Me. 278; 79 Me. 183; 82 Me. 157; 83 Me. 229; 84 Me. 505; 86 Me. 318, 364; 87 Me. 361; 89 Me. 154, 578, 582; 90 Me. 182; 98 Me. 491; 104 Me. 446; 109 Me. 478; 111 Me. 322.

## Special Provisions.

**Sec. 65. Abatement for voluntary payment of taxes, not exceeding ten per cent; notice shall be posted.** R. S. c. 10, § 66. At any meeting, when it votes to raise a tax, a town may agree on the abatement to be made to those who voluntarily pay their taxes to the collector or treasurer at certain periods, and the times within which they are so entitled; and a notification of such votes, and the time when such taxes must be paid to obtain the abatement, shall be posted by the treasurer in one or more public places in his town, within seven days after such commitment; and all who so pay their taxes are entitled to such abatement; but no person shall receive an abatement of more than ten per cent of his tax; and all taxes not so paid shall be collected by the collector or his deputy, under the other provisions of this chapter.

**Sec. 66. Collector or treasurer who is collector, may issue warrant to sheriff to collect taxes.** R. S. c. 10, § 67. The collector of taxes of any town or the treasurer of any town who is also a collector, may issue his warrant to the sheriff of any county, or his deputy or to a constable of his town, directing him to distrain the person or property of any person not paying his taxes within three months after the date of the original commitment which warrant shall be of the same tenor as that prescribed to be issued by municipal officers or assessors to collectors with the appropriate changes returnable to the collector or treasurer issuing the same in thirty, sixty or ninety days.

96 Me. 269; 113 Me. 446.

**Sec. 67. May distrain before tax is due, to prevent loss.** R. S. c. 10, § 68. When such collector or treasurer thinks that there is danger of losing by delay a tax assessed on any individual, he may distrain his person or property before the expiration of the time named in the preceding section.

See §§ 21, 22; 113 Me. 446.

**Sec. 68. Ten days' notice before distraining.** R. S. c. 10, § 69. Before such officer serves any such warrant, he shall deliver to the delinquent, or leave at his last and usual place of abode, a summons from said collector or treasurer, stating the amount of tax due, and that it must be paid within ten days from the time of leaving such summons, with twenty cents for the officer for leaving the same; and if not so paid, the officer shall serve such warrant the same as collectors of taxes may do, and shall receive the same fees as for levying executions in personal actions.

96 Me. 270; 113 Me. 446.

**Sec. 69. Affidavit of person posting notices of land sales, evidence.** R. S. c. 10, § 70. The affidavit of any disinterested person as to posting notifications required for the sale of any land to be sold by the sheriff or his deputy, constable or collector, in the execution of his office, may be used in evidence in any trial to prove the fact of notice; if such affidavit, made on one of the original advertisements, or on a copy of it, is filed in the registry of the county or district where the land lies, within six months.

**Sec. 70. Owners of estate taken for default of others, may recover its value; determination of value.** R. S. c. 10, § 71. When the estate of an inhabitant of a town, who is not an assessor thereof, is levied upon and taken as mentioned in sections eighty-nine, ninety-seven, ninety-eight or ninety-nine of chapter ten, or in sections five, seven or forty-four of this chapter, he may maintain an action against such town, and recover the full value of the estate so levied on, with interest at the rate of twenty per cent from the time it was taken, with costs; and such value may be proved by any other legal evidence, as well as by the result of the sale under such levy.

**Sec. 71. Warrants returnable in three months, and may be renewed.** R. S. c. 10, § 72. All warrants lawfully issued by a state or county treasurer, shall be made returnable in three months, and may be renewed for the collection of what appears due upon them when returned, including expenses incurred in attempting to collect them; and the power and duty of the sheriff shall be the same in executing such alias or pluries warrant, as if it were the original.

53 Me. 284.

#### Sales of Land for Taxes in Incorporated Places.

**Sec. 72. Sale of real estate for taxes; notices, how given; copy of notice to be lodged with clerk and recorded; certain irregularities will not vitiate sale; collector liable for certain irregularities.** R. S. c. 10, § 73. 1905, c. 178. 1907, c. 72; c. 173. If any tax assessed on real estate, or on equitable interests assessed under section three of chapter ten, remains unpaid on the first Monday in February next after said tax was assessed, the collector shall sell at public auction so much of such real estate or interest as is necessary for the payment of said tax, interest and all the charges, at nine o'clock in the forenoon of said first Monday in February, at the office of collector of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. In the case of the real estate of resident owners, the collector may give notice thereof and of his intention to sell so much of said real estate or interest as is necessary for the payment of said tax and all charges, by posting notices thereof in the same manner and at the same places that warrants for town meetings are therein required to be posted, at least six weeks and not more than seven weeks, before such first Monday in February, designating the name of the owner if known, the right, lot and range, the number of acres as nearly as may be, the amount of tax due, and such other short description as is necessary to render its identification certain and plain. And in the case of taxes assessed on the real estate of non-resident owners, he shall cause said notices to be published in some newspaper, if any, published in the county where said real estate

## CHAP. 11

lies, three weeks successively; such publication to begin at least six weeks before said first Monday in February; if no newspaper is published in said county, said notices shall be published in like manner, in the state paper; he shall, in the advertisements so published, state the name of the town, and if within three years it has been changed for the whole or a part of the territory, both the present and former name shall be stated; and that, if the taxes, interest and charges are not paid on or before such first Monday in February, so much of the estate as is sufficient to pay the amount due therefor with interest and charges, will be sold without further notice, at public auction, on said first Monday in February, at nine o'clock in the forenoon, at the office of the collector of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. The date of the commitment shall be stated in the advertisement. In all cases, said collector shall lodge with the town clerk a copy of each such notice, with his certificate thereon that he has given notice of the intended sale as required by law. Such copy and certificate shall be recorded by said clerk and the record so made shall be open to the inspection of all persons interested. The clerk shall furnish to any person desiring it an attested copy of such record, on receiving payment or tender of payment of a reasonable sum therefor; but notices of sales of real estate within any village corporation for unpaid taxes of said corporation may be given by notices thereof, posted in the same manner, and at the same places as warrants for corporation meetings, and by publication, as aforesaid. No irregularity, informality or omission in giving the notices required by this section, or in lodging copy of any of the same with the town clerk, as herein required, shall render such sale invalid, but such sale shall be deemed to be legal and valid, if made at the time and place herein provided, and in other respects according to law, except as to the matter of notice. For any irregularity, informality or omission in giving notice as required by this section, and in lodging copy of the same with the town clerk, the collector shall be liable to any person injured thereby.

See § 28.

1 Me. 307; 12 Me. 378; 26 Me. 231; 30 Me. 229, 326; 32 Me. 69; 35 Me. 554; 58 Me. 532, 533; 63 Me. 381; 70 Me. 279; 73 Me. 382; 74 Me. 284; 84 Me. 190, 377; 89 Me. 337; 95 Me. 124; 106 Me. 175; 110 Me. 365.

**Sec. 73. Notice for posting, form of.** R. S. c. 10, § 74. The notice for posting, or the advertisement, as the case may be, of the collector shall be in substance as follows:

Unpaid taxes on lands situated in the town of \_\_\_\_\_, in the county of \_\_\_\_\_, for the year \_\_\_\_\_ (N. B.) The name of the town was formerly \_\_\_\_\_, (to be stated in the case of change of name, as mentioned in the preceding section.) The following list of taxes on real estate of resident (or non-resident, as the case may be) owners in the town of \_\_\_\_\_, for the year \_\_\_\_\_, committed to me for collection for said town, on the \_\_\_\_\_ day of \_\_\_\_\_, remain unpaid; and notice is hereby given that if said taxes, interest and charges are not previously paid, so much of the

real estate taxed as is sufficient to pay the amount due therefor, including interest and charges, will be sold at public auction at \_\_\_\_\_, in said town, on the first Monday of February, 19\_\_\_\_, at nine o'clock A. M. (N. B. Here follows the list, a short description of each parcel taken from the inventory to be inserted in an additional column.)

C. D. Collector of taxes of the town of \_\_\_\_\_.

**Sec. 74. Owners or occupant to have written notice of time and place of sale. R. S. c. 10, § 75. 1913, c. 55.** After the land is so advertised, and at least ten days before the day of sale, the collector shall notify the owner, if resident, or the occupant thereof, if any, of the time and place of sale by delivering to him in person, or by registered mail with receipt demanded, or leaving at his last and usual place of abode, a written notice signed by him, stating the time and place of sale, and the amount of taxes due. In case of non-resident owners of real estate, such notice shall be sent by mail to the last and usual address, if known to the collector, at least ten days before the day of sale. If such tax is paid before the time of sale, the amount to be paid for such advertisement and notice shall not exceed one dollar, in addition to the sum paid the printer, if any.

73 Me. 382; 84 Me. 190; 106 Me. 176; 113 Me. 446.

**Sec. 75. Proceedings at sale; adjournment of sale; apportionment of costs. R. S. c. 10, § 76.** When no person appears to discharge the taxes duly assessed on any such real estate of resident or non-resident owners, with costs of advertising, on or before the time of sale, the collector shall proceed to sell at public auction, to the highest bidder, so much of such real estate or interest as is necessary to pay the tax due, with three dollars for advertising and selling it, the sum paid to the printer, twenty-five cents for each copy required to be lodged with the town clerk, twenty-five cents for the return required to be made to the town clerk, fifty cents for the town clerk for recording the same, and sixty-seven cents for the deed thereof and certificate of acknowledgment. If the bidding is for less than the whole, it shall be for a fractional part of the estate, and the bidder who will pay the sum due for the least fractional part shall be the purchaser. If more than one right, lot or parcel of land is so advertised and sold, said charge of three dollars, the twenty-five cents for each copy lodged with the town clerk, the twenty-five cents for the return made to the town clerk, and the fifty cents for the town clerk for recording the same, shall be divided equally among the several rights, lots or parcels advertised and sold at any one time; and in addition, the sum paid to the printer shall be divided equally among the non-resident rights, lots or parcels so advertised and sold; and the collector shall receive in addition, fifty cents on each parcel of real estate so advertised and sold, when more than one parcel is advertised and sold. The collector may, if necessary to complete the sales, adjourn the auction from day to day.

19 Me. 100, 369; 25 Me. 362; 27 Me. 356; 30 Me. 325; 32 Me. 69, 309; 34 Me. 268; 36 Me. 178, 435; 40 Me. 161; 43 Me. 311; 48 Me. 377; 58 Me. 533; 61 Me. 209; 68 Me. 395; 71 Me. 236; 74 Me. 222; 84 Me. 190; 97 Me. 447.

**Sec. 76. Collector to lodge with treasurer, certificate of sale and deed; proceedings, if redeemed; if not redeemed, grantee shall receive deed. R. S. c. 10, § 77. 1907, c. 18.** When real estate is so sold for taxes, the collector

## CHAP. 11

shall, within thirty days after the day of sale, lodge with the treasurer of his town a certificate under oath designating the quantity of land sold, the names of the owners of each parcel, and the names of the purchasers; what part of the amount of each was tax, and what was cost and charges; also a deed of each parcel sold, running to the purchasers. The treasurer shall not deliver the deeds to the grantees, but put them on file in his office, to be delivered at the expiration of two years from the day of sale, in the case of lands of resident owners, and one year from the day of sale in the case of lands of non-resident owners, if the owner does not within such time redeem his estate from the sale, by payment of the taxes, and all charges, and interest on the whole at the rate of ten per cent from the day of sale to the time of redemption, and costs as above provided, with sixty-seven cents for the deed and certificate of acknowledgment and all sums paid for internal revenue stamps affixed to such deed. If the deed of land of a non-resident owner is recorded within thirteen months after the day of sale, no intervening attachment or conveyance shall affect the title. If so redeemed, the treasurer shall give the owner a certificate thereof, cancel the deed, and pay to the grantee, on demand, the amount so received for him. If not so paid, he shall deliver to the grantee his deed, on payment of the fees, as aforesaid, for the deed and acknowledgment, and thirty cents more for receiving and paying out the proceeds of the sale. For the fidelity of the treasurer in discharging the duties herein required, the town is responsible, and has a remedy on his bond in case of default.

84 Me. 190; 96 Me. 500.

**Sec. 77. Stamps affixed to deed, deemed a part of costs.** R. S. c. 10, § 78. All sums paid by any collector of taxes, or treasurer, for internal revenue stamps to be affixed to any deed of real estate, or interest therein, sold for non-payment of a tax, shall be deemed a part of the costs and charges for making such sale.

**Sec. 78. All taxes paid by purchaser at sale refunded on redemption.** R. S. c. 10, § 79. The person interested in the estate, by purchase at the sale, may pay any tax assessed thereon, before or after that so advertised, and for which the estate remains liable, and on filing with the treasurer the receipt of the officer to whom it was paid, the amount so paid shall be added to that for which the estate was liable, and shall be paid by the owner redeeming the estate, with interest at the same rate as on the other sums. After the deed of land of a non-resident owner is so delivered, the owner has six months within which to redeem his estate, by paying to the purchaser the sum by him so paid, with interest at the rate of twenty per cent a year.

**Sec. 79. Collector to make return of sale to town clerk, who is to record.** R. S. c. 10, § 80. The collector making any sale of real estate for non-payment of taxes, shall, within thirty days after such sale make a return, with a particular statement of his doings in making such sale, to the clerk of his town, who shall record it in the town records; and said return, or if lost or destroyed, an attested copy of the record thereof, shall be evidence of the facts therein set forth in all cases where such collector is not personally interested. The collector's return to the town clerk shall be in substance as follows:

Pursuant to law, I caused the taxes assessed on the real estate of non-resident owners described herein, situated in the town of \_\_\_\_\_ for the year \_\_\_\_\_, to be advertised according to law by advertising in the \_\_\_\_\_ three weeks successively, the first publication being on the \_\_\_\_\_ day of \_\_\_\_\_, and at least six weeks before the day of sale; and caused the taxes assessed on the real estate of resident owners described herein, situated in the town of \_\_\_\_\_ for the year \_\_\_\_\_, to be advertised according to law by posting notice as required by law, at the following places, six weeks before the day of sale, being public and conspicuous places in said town. I also, at least ten days before the day of sale, gave to each resident owner of said lands, or the occupant thereof, if any, in hand, or forwarded to him by registered mail with receipt demanded, or left at his last and usual place of abode, and sent by mail to the last and usual address of each non-resident owner of said lands, whose address was known to me, written notice of the time and place of said sale, in the manner provided by law; and afterwards on the first Monday of February, 19\_\_\_\_, at nine o'clock, A. M., being the time and place of sale, I proceeded to sell, according to the tenor of the advertisement, the estates upon which the taxes so assessed remained unpaid; and in the schedules following is set forth each parcel of the estate so offered for sale, the amount of taxes, and the name of the purchaser; and I have made and executed deeds of the several parcels to the several persons entitled thereto, and placed them on file in the town treasurer's office, to be disposed of as the law requires.

SCHEDULE No. 1.  
NON-RESIDENT OWNERS.

Name of owner.	Description of property.	Amount of tax, interest and charges.	Quantity sold.	Name of purchaser.
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SCHEDULE No. 2.  
RESIDENT OWNERS.

Name of owner.	Description of property.	Amount of tax, interest and charges.	Quantity sold.	Name of purchaser.
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In witness of all which I have hereunto subscribed my name, this day of \_\_\_\_\_, 19\_\_\_\_.

C. D. Collector of taxes of the town of \_\_\_\_\_.

84 Me. 190; 95 Me. 124, 126.

**Sec. 80. Resident proprietors may redeem within two years; money to be received by treasurer, as property of purchaser. R. S. c. 10, § 81.** Any person to whom the right by law belongs, may, at any time within two years from the day of sale, redeem any real estate or interest of resident proprietors sold for taxes, on paying into the town treasury for the pur-

## CHAP. 11

chaser, the full amount so certified to be due, both taxes and cost, including the sum allowed for the deeds and stamps, with interest on the whole at the rate of ten per cent a year from the date of the sale, which shall be received and held by said treasurer as the property of the purchaser aforesaid; and the treasurer shall pay it to said purchaser, his heirs or assigns, on demand; and if not paid when demanded, the purchaser may recover it in any court of competent jurisdiction, with costs and interest at the rate of twenty per cent, after such demand. The sureties of the treasurer shall pay the same on failure of said treasurer. And in default of payment by either, the town or plantation shall pay the same with costs and interest as aforesaid.

84 Me. 190.

**Sec. 81. Deed to be delivered to purchaser, if not redeemed; penalty, if treasurer refuses to deliver deed.** R. S. c. 10, § 82. If no person having legal authority so to do redeems the same within the time aforesaid by paying the full amount required by this chapter, said treasurer shall deliver to the purchaser the deeds so lodged with him by the collector; and if he wilfully refuses to deliver such deed to said purchaser, on demand, after said two years and forfeiture of the land as aforesaid, he forfeits to said purchaser the full value of the property so to be conveyed, to be recovered in an action of debt, with costs and interest as in other cases; the sureties of said treasurer shall make good the payment here required, in default of payment by the principal; and on the failure of both, the town is liable.

**Sec. 82. When non-resident may commence suit.** R. S. c. 10, § 83. Any non-resident owner of real estate sold under section seventy-five, having paid the taxes, costs, charges and interest as aforesaid, may, at any time within one year after making such payment, commence a suit against the town to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The suit may be in the supreme judicial or superior court, and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than twenty dollars.

See § 31; c. 10, § 73; 58 Me. 391, 395; 68 Me. 357.

**Sec. 83. Treasurer's receipt is evidence of redemption.** R. S. c. 10, § 84. The treasurer's receipt or certificate of payment of a sufficient sum to redeem any lands taxed as aforesaid, shall be legal evidence of such payment and redemption.

#### Additional Provisions.

**Sec. 84. Estate may be bid off for town.** R. S. c. 10, § 85. The municipal officers may employ one of their own number, or some other person, to attend the sale for taxes of any real estate, in which their town is interested, and bid therefor a sum sufficient to pay the amount due and charges, in behalf of the town, and the deed shall be made to it.

61 Me. 551; 95 Me. 166.

**Sec. 85. Purchaser shall pay for land within twenty days after sale, or sale void.** 1905, c. 27. If the purchaser of land sold for taxes under section

seventy-five fails to pay the collector within twenty days after the sale the amount bid by him, the sale shall be void, and the city or town in which such sale was made shall be deemed to be the purchaser of the land so sold, the same as if purchased by some one in behalf of the city or town under the preceding section. If a city or town becomes a purchaser under this section, the deed to it shall set forth the fact that a sale was duly made, the amount bid for the land included in said deed and that the purchaser failed to pay the amount bid within twenty days after the sale; and the said deed shall confer upon said city or town the same rights and duties as if it had been the purchaser under section eighty-four.

**Sec. 86. Owner may redeem; amount received to be paid to person entitled.** R. S. c. 10, § 86. In all cases where real estate has been sold for state, county or town taxes, the owner may, within the time allowed by law, pay the sums necessary to redeem the same, into the treasury of the state, county or town to which the tax is to be paid, and such payment seasonably made shall redeem the estate. The treasurer shall pay the amount so received by him to the person entitled thereto according to the records and documents in his office.

**Sec. 87. In actions to test validity of sale of real estate for taxes, collector's or treasurer's deed, prima facie evidence; further proceedings.** R. S. c. 10, § 87. In the trial of any action at law or in equity, involving the validity of any sale of real estate for non-payment of taxes, it shall be sufficient for the party claiming under it, in the first instance, to produce in evidence the collector's or treasurer's deed, duly executed and recorded, which shall be prima facie evidence of his title, and if the other party claims and offers evidence to show that such sale was invalid and ineffectual to convey the title, the party claiming under it shall have judgment in his favor so far as relates to said tax title, if he then produces the assessment, signed by the assessors, and their warrant to the collector, and proves that such collector or treasurer complied with the requirements of law in selling such real estate; and in all such actions involving the validity of sales made after the twenty-sixth day of April, eighteen hundred and ninety-five, the collector's return to the town clerk, the town clerk's record, or if lost or destroyed, said clerk's attested copy of such record, as provided in section seventy-nine, shall be prima facie evidence of all facts therein set forth.

27 Me. 293; 33 Me. 82; 51 Me. 600; 57 Me. 517; 58 Me. 392, 396; 59 Me. 346; 61 Me. 208, 433; 63 Me. 311, 381; 64 Me. 452; 68 Me. 357, 395; 69 Me. 520, 521; 70 Me. 278; 71 Me. 237; 72 Me. 504; 73 Me. 383, 407; 74 Me. 25, 51; 84 Me. 379; 85 Me. 321; 89 Me. 337; 90 Me. 104.

### Collection of Taxes on Organized Plantations Taxed as Wild Lands.

**Sec. 88. Warrants for state and county taxes sent to assessors.** R. S. c. 10, § 88. 1905, c. 86, § 1. Warrants for state taxes on organized plantations taxed by the state as wild lands shall be sent by the treasurer of state to the assessors of each plantation in which such lands are situated in the month of April of each year. In the month of April of each year the county commissioners of each county shall issue to the assessors of each organized plantation taxed by the state as wild land their warrant for the amount of county taxes apportioned to said plantation.

## CHAP. 11

**Sec. 89. Plantation assessors shall assess state and county tax with assessment for plantation purposes.** R. S. c. 10, § 89. 1905, c. 86, § 2. The assessors of such plantation shall add the amounts of said state and county taxes certified to them by the treasurer of state and the county commissioners to their assessment for plantation purposes, and assess the same on the real and personal property in such plantation to the owner or person in possession in accordance with their valuation thereof, including such overlay, not exceeding five per cent thereof, as a fractional division renders convenient.

**Sec. 90. Commitment.** R. S. c. 10, § 90. 1905, c. 86, § 3. 1915, c. 150, § 12. In July of each year said assessors shall commit the same with a warrant in the usual form to a collector of taxes, to be elected by said plantation at its annual meeting, or in default thereof to be appointed by said assessors, directing him to collect and transmit the said state taxes to the treasurer of state by November first next after the date of commitment, and also directing him to collect and transmit the said county taxes to the county treasurer by November first next after the date of commitment.

109 Me. 476.

**Sec. 91. Collector shall give bond.** R. S. c. 10, § 91. 1905, c. 86, § 4. Said collector shall give bond to the plantation in such sum and with such sureties as the assessors thereof require, and said assessors shall agree with him as to his compensation, which shall be paid by the plantation.

**Sec. 92. Collector shall settle by November 10.** R. S. c. 10, § 92. 1905, c. 86, § 5. 1915, c. 150, § 13. Said collector shall settle with the assessors by the tenth day of November of each year, and return to them his collection list, showing the amounts received or unpaid on each tax in his list. On all such taxes then unpaid, interest shall be added from the first day of November preceding at twenty per cent until paid. The clerk of the plantation shall record in a book kept for that purpose such returned collector's list with the collector's return thereon showing the amounts received or unpaid on each tax in the list, which record shall be evidence of the facts therein stated.

**Sec. 93. Lien on real estate, how enforced.** R. S. c. 10, § 93. 1905, c. 86, § 6. The lien on real estate created by section three of chapter ten for the payment of taxes assessed under the five preceding sections may be enforced at any time within one year from the time when said collection lists are returned to said assessors, in the following manner: The assessors may order the collector to bring an action of debt in the name of the plantation, in the supreme judicial court in the county where the land lies, to collect such unpaid taxes with interest, against the person to whom the property is assessed, and the proceedings in such actions shall be the same as provided in section twenty-eight of this chapter, except that the preliminary notice and demand for payment of said tax as provided in said section shall not be required.

**Sec. 94. Ch. 10, §§ 37, 38, 39, 87, 89 applicable; Ch. 10, § 61 also applicable.** R. S. c. 10, § 94. Proceedings under the six preceding sections for the assessment and collection of taxes on organized plantations taxed by the state as wild lands, shall be in accordance with sections thirty-seven,

thirty-eight, thirty-nine, eighty-seven and eighty-nine of chapter ten, so far as said sections are applicable; section sixty-one of chapter ten shall apply to such plantations.

### Actions by Treasurer of State.

**Sec. 95. Treasurer of state may bring action to recover taxes. R. S. c. 10, § 95.** The treasurer of state may bring an action of debt in his own name to enforce the lien on real estate created by section three of chapter ten, to secure the payment of state and county taxes assessed under sections forty-one and forty-three of chapter ten upon lands not liable to be assessed in any town for which warrants are not issued under section eighty-eight of this chapter. Such action shall be begun after the expiration of eight months and within one year after the last publication of the advertisement named in section forty-four of chapter ten. The proceedings shall be in accordance with section twenty-eight of this chapter, except that the preliminary notice and demand for payment of said tax as provided in said section shall not be required.

See §§ 27, 28, 64.

**Sec. 96. Taxes on lands in unorganized townships, collected by treasurer of state in action of debt. 1909, c. 218.** In addition to the methods of collecting state, county and forestry district taxes provided by law, owners of lands in unorganized townships shall be liable to pay such taxes to the treasurer of state upon demand. If such taxes shall not be paid within thirty days after such demand, the treasurer of state may collect the same, with interest as provided by law, by an action of debt in the name of the state. Such action shall be brought in the supreme judicial court in the county where such unorganized townships are located, and the attorney-general may begin and prosecute such actions when thereto requested by the treasurer of state. The demand herein provided for shall be sufficient if made by a writing mailed to such land owner or his agent at his usual post-office address. In case such owner resides without the state, and has no agent within the state known to the treasurer of state, such demand shall be sufficient if made upon the land agent. Such action shall be brought not less than thirty days after the giving or mailing of the demand herein provided for. The beginning of such action, obtaining execution and collecting the same shall be deemed a waiver of the forfeiture provided by section forty-five of chapter ten.

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## CHAPTER 12.

### Registers of Deeds.

**Sec. 1. Chosen every four years.** R. S. c. 11, § 1. In each county and in each registry district a register of deeds shall be chosen by ballot, by persons qualified to vote for representatives at town meetings, on the second Monday of September eighteen hundred and eighty-two and every four years thereafter.

50 Me. 245; 64 Me. 599.

**Sec. 2. Election, how and when held; governor and council to examine lists of votes; shall issue certificates of election; tenure of office.** R. S. c. 11, § 2. The meetings for such election shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded in the same manner as votes for representatives, and fair copies of the lists of votes shall be attested by the municipal officers and clerks of towns, and sealed up in open town meeting; and town clerks shall cause them to be delivered into the office of the secretary of state within thirty days next succeeding such meeting. The governor and council shall, by the first day of December following, open and examine the same, and the list of votes of citizens in the military service returned to said office. They have the same power to correct errors as is conferred by section fifty-three of chapter seven; and they shall, forthwith, issue certificates of election to such persons as have a plurality of all the votes for each county or registry district; and the person thus elected, and giving the bond required in the following section, approved by the county commissioners, shall hold his office for four years from the first day of the next January and until another is chosen and qualified.

25 Me. 568; 64 Me. 599; See c 7. §§ 82-84.

**Sec. 3. Bond.** R. S. c. 11, § 3. He shall give bond, with sufficient sureties, to the county, in the sum of two thousand dollars for the faithful discharge of his duties.

See Const. of Me. Art. ix, § 1.

**Sec. 4. Vacancies.** R. S. c. 11, § 4. Vacancies shall be filled by election in manner aforesaid, at the next September election after their occurrence; and in the mean time the governor, with the advice and consent of the council, may fill vacancies by appointment, and the person so appointed shall hold his office until the first day of January, next after the election last mentioned.

64 Me. 599, 600.

**Sec. 5. May appoint clerk; clerk's oath and duties.** R. S. c. 11, § 5. Each register may appoint a clerk for whose doings and misdoings he shall be responsible, who shall be sworn. In case of sickness, absence, or any temporary disability of the register, such clerk shall make and sign for him all certificates, and make all entries and minutes required to be signed or made by the register, and such certificates, entries and minutes, shall be as valid as if made by the register.

**Sec. 6. Western district in county of Oxford.** R. S. c. 11, § 6. The towns of Hiram, Porter, Brownfield, Denmark, Fryeburg, Sweden, Lovell, Stoneham and Stowe, in the county of Oxford, compose the western registry district of Oxford county, and the register shall keep his office at Fryeburg.

**Sec. 7. Northern district in county of Aroostook.** R. S. c. 11, § 7. 1911, c. 52. All that part of the county of Aroostook lying north of a line commencing at the southeast corner of township F, in the first range, west from the east line of the state, thence west on the south line of said township and the south line of township K in the second range, to township numbered fifteen in the third range, thence north to the northeast corner of township number fifteen in the third range, thence west to the northwest corner of township numbered fifteen in the third range, thence south to the southwest corner of township numbered fifteen in the third range, thence west to the northwest corner of township numbered fourteen in the fourth range, thence south to the southwest corner of township numbered fourteen in the fourth range, thence west on the dividing line of townships thirteen and fourteen to the seventh range line, thence north to the northeast corner of township number fourteen in the eighth range, thence west to the west line of the state, compose the northern registry district of Aroostook county and the register shall keep his office in the town of Fort Kent.

109 Me. 48.

**Sec. 8. Office in shire town.** R. S. c. 11, § 19. The register of deeds in each county in which there is but one register, shall keep his office in the shire town.

**Sec. 9. In case of vacancy, clerk of courts to be register.** R. S. c. 11, § 8. In case of vacancy in the office of register and of his clerk in any county or registry district, the clerk of the judicial courts of the same county, being first sworn, shall perform all duties and services required of a register of deeds, during such vacancy; complete all unfinished business; receive the same compensation and be subject to the same liabilities as a register of deeds; and his certificate shall have the same effect as if made by the register.

See Constitution, Art. ix. § 2.

**Sec. 10. Clerk may appoint an assistant; sworn.** R. S. c. 11, §§ 9, 10. In any county where there are two or more registry districts, such clerk may appoint some suitable person under him to take charge and perform the duties of said office, during such vacancy, in the district or districts in which the registry is not kept in the shire town. The person so appointed shall be sworn, and said clerk shall be responsible in all cases for his doings.

**Sec. 11. Register may be removed for misconduct or incapacity.** R. S. c. 11, § 11. When on presentment of the grand jury or information of the attorney-general to the supreme judicial or superior court, any register of deeds, by default, confession, demurrer or verdict, after due notice, is found guilty of misconduct in his office, or incapable of discharging its duties, the court shall enter judgment for his removal from office, and issue a writ to the sheriff to take possession of all the books and papers belonging thereto, and deliver them to the clerk of said court, that he may perform the duties of register as prescribed in sections nine and ten.

60 Me. 66.

## CHAP. 12

**Sec. 12. Register's successors may complete records, and grant certificates.** R. S. c. 11, § 12. Such clerk or his substitute, or the newly appointed or elected register, or any successor within five years after the original vacancy occurred, shall complete, compare and certify any unfinished record or certificate required by law; and make all requisite certificates upon deeds and other papers recorded, which his removed predecessor should have done if such records and certificates had been completed by him, which certificates shall be as effectual in law as if made by his predecessor; for doing this, the minutes made by his predecessor upon such deeds or other papers, and the entries made by him in the books required to be kept for such purposes, shall be sufficient authority. If payment for such services has been made to his predecessor, he shall be paid for them out of the county treasury; and the former register and his sureties shall refund such payments to the county treasury, to be recovered by suit upon his official bond.

**Sec. 13. Certificates, conditions and requisites of.** R. S. c. 11, § 13. No such certificate shall be made, except upon comparison of the original instrument with the record thereof, by the register making the certificate, and such certificate shall state the date when it was made, the fact of comparison, and the date when the original instrument was left for record; but shall be only prima facie evidence of the last fact.

**Sec. 14. Recording officer shall not draft or aid in drafting any document he is required to record.** R. S. c. 11, § 14. 1913, c. 15. No city, town, county or state officer whose duty it is to record conveyances of any kind, assignments, certificates or other documents or papers whatsoever, shall draft or aid in drafting any conveyance, assignment, certificate or other document or paper which he is by law required to record, in full or in part; under a penalty of not exceeding one hundred dollars, to be recovered by any complainant by action of debt for his benefit or by indictment for the benefit of the county.

See c. 67, § 30; c. 84, § 15.

**Sec. 15. Records. Index.** R. S. c. 11, § 15. 1905, c. 139, § 1. 1907, c. 144. The records in each registry office shall be made on a paper of firm texture, well sized and finished, the principal ingredient of which is linen. The registers shall make an alphabetical index to the records without charge to the county, in the form known as ledger index, so that the same surnames shall be recorded together in each column of index, or in lieu of such book shall make a suitable card index. All indexes made under the provisions of this section shall show in addition to the names of the parties and the nature of the instrument, the date of the instrument, the date of its record and the name of the town, city or unincorporated place where the land conveyed is situated. As often as every ten years the register shall revise and consolidate such index in such manner that all deeds recorded since the last revision of the index shall be so indexed that the same surnames shall appear together, and all names in alphabetical order. Such revised and consolidated index shall contain all data as to each and every such deed or other instrument, as is above set forth. For this work the register shall receive a reasonable compensation to be approved by the county commissioners of

the respective counties, and drawn from the county treasury. Whenever for any cause it may become necessary to revise, renew or replace any index, the new volume shall be made in conformity with the provisions hereof.

**Sec. 16. Books for records of plans furnished at expense of county; description of books; plan shall be drawn on strong linen paper.** R. S. c. 11, § 16. 1905, c. 125. The county commissioners shall provide, at the expense of the several counties, suitable books at least twenty-four by thirty-three inches in dimension, of the best quality of strong linen drawing paper, alternated with pages of the best quality of tracing cloth, substantially bound, for the recording of such plans presented for record as may be traced or redrawn upon its pages; and shall provide other books of substantial binding with stubs for the insertion and preservation of such plans as may be presented for record drawn in ink upon muslin backed paper or parchment, that it may not be expedient to copy into the first book mentioned; no plan shall be accepted for record except to be redrawn upon the pages of said books, except said plan shall be drawn with ink upon strong linen paper or tracing cloth. Each register shall make a suitable index of all plans on record in his office.

**Sec. 17. Deeds considered recorded when minute of time of reception is made; records attested by volume.** R. S. c. 11, § 17. 1909, c. 46. Every register shall, at the time of receiving any deed or instrument for record, certify thereon the day and the time of day when it was received and filed; every such paper shall be considered as recorded at the time when it was received and such time shall be entered on the record thereof. Within one hour after its delivery to him, the register shall enter such time, the names of the grantor and grantee, and their places of residence, the nature of the instrument, the amount of the consideration named therein and the name of the town or unincorporated place as shown by the instrument, in which the property conveyed is located, in a book kept for that purpose, and open to inspection in business hours; and he shall suffer no deed or instrument for the conveyance of real estate to be altered, amended or withdrawn, until it is fully recorded and examined. The records may be attested by the volume, and it shall be deemed to be a sufficient attestation of such records, when each volume bears the attest with the written signature of the register or other person authorized by law to attest such records.

12 Me. 501; 17 Me. 395; 33 Me. 375; 35 Me. 557; 42 Me. 341; 81 Me. 302;  
97 Me. 223, 224, 227.

**Sec. 18. Miscellaneous records.** R. S. c. 11, § 18. 1905, c. 34. Registers shall receive and record all certificates in equity, copies of judgments and decrees certified by the clerk of courts in the county where the bill is pending, or the judgment or decree is rendered, certified copies of the proceedings of any court, corporation, municipal body or other tribunal, through or by which the right of eminent domain has been or may hereafter be exercised to affect the title to real estate, copies of portions of wills devising real estate situated in their respective counties or districts, and all other instruments which they are by law required to record. They shall receive all copies of seizures on execution, and special attachments made and attested by any officer, of real property situate in their respective counties or dis-

## CHAP. 12

tricts; and certify on them the time when they are received; also certificates of advertised stallions, and copies of processes against domestic corporations filed for service by officers in the registry, keep them on file for the inspection of parties interested, and enter them in suitable books, properly indexed.

See c. 4, § 88; c. 38, § 17; c. 61, § 12; c. 67, § 24; c. 80, § 15; c. 82, §§ 13, 30; c. 86, § 20; c. 96, § 39; c. 115, §§ 7, 10, 30, 62; c. 118, § 18.

**Sec. 19. Records of towns may be delivered to Maine Historical Society for safe keeping; certified copies may be used in evidence.** 1907, c. 108, § 1. All persons, other than registers of deeds, having possession of or owning the records of the original proprietors of any town or plantation in this state, may deliver the same to the Maine Historical Society for preservation and safe keeping. Said society shall cause a true copy thereof to be made and certified by the secretary of the society and the same shall then be filed in the registry of deeds in the county or registry district in which said town or plantation is situated, and be kept there as a public record. Any transcript from said copy of said records, certified by the register of deeds, may be used in evidence in all cases in which the same is material and with the same effect as though the original records were produced.

**Sec. 20. Owner of original records reimbursed for expenses.** 1907, c. 108, § 2. Whoever, having possession of, or owning any such original records, delivers them to the Maine Historical Society as provided in the preceding section, shall be paid from the state treasury the reasonable expenses incurred by him in obtaining possession or becoming the owner thereof, whenever the amount of such expenses shall have been certified by the Maine Historical Society to, and approved by the governor and council; and the cost of making said copy and of filing it in the registry of deeds shall be paid to said Maine Historical Society by the treasurer of state whenever said cost shall have been certified to and approved by the governor and council; provided, however, that the sums expended in any year under the provisions of this section shall not exceed in the aggregate the sum of five hundred dollars.

**Sec. 21. Plans of land lotted for sale shall be filed; penalty for neglect.** 1905, c. 139, § 2. Whoever lots or causes to be lotted for the purpose of sale, any tract of land, shall, before making any deed of such land or any part thereof, file with the register of deeds for the county or registry district wherein such land is situated, an accurate plan of such property, which plan shall give such courses, angles and distances as will be sufficient to enable a skilful surveyor to locate any lot shown thereby. If such party, after request by any interested party or by the register of deeds, fails to comply with this section, he shall be liable to a penalty of not exceeding fifty dollars, to be recovered in an action of debt in the name of the register of deeds for the benefit of the county.

**Sec. 22. Duplicates of plans on court files.** 1905, c. 139, § 3. Whenever in the settlement of any disputed line or in the division of any estate, any plans are made for filing in the office of the clerk of courts or the register of probate, duplicate plans shall in all cases be filed in the registry of deeds.

**Sec. 23. County commissioners may collect and preserve plans of townships; copies, how prepared; filing and indexing.** 1915, c. 130, §§ 1, 2. The

county commissioners shall, at the expense of their respective counties, procure such plans of the townships in their counties as may be in existence; and if the original plans are not in existence, or cannot be had at a reasonable price, they shall procure copies of the most authentic plans known to exist. All such copies shall be on the best quality of linen paper backed with cloth. Suitable filing cases shall be provided in each registry of deeds for the reception and preservation of such plans and a suitable index thereof shall be made.

**Sec. 24. May procure other plans of interest to county; exception.** 1915, c. 130, § 3. Said commissioners may at their discretion procure such plans, other than township plans, of properties within their counties, either originals or copies, as they deem for the interest of their counties to have preserved on the files of the registry of deeds. This section shall not be construed to allow of the purchase of any plan which the proprietor of any estate is required by law to file with the register of deeds.

**Sec. 25. Plans showing allotment of lands in cities and towns, recorded.** 1911, c. 56. The aldermen of any city and the selectmen of any town may, and upon the written request of three or more taxpayers of the city or town, shall cause any plans in the possession of the city or town, or otherwise available, showing the allotment of lands in said city or town, to be recorded in the registry of deeds in the county or registry district, wherein any such city or town is situated. Said plans shall be transcribed or copied upon mounted drawing paper of the best quality in a suitable book furnished by the register at the expense of the county.

**Sec. 26. Copies of transfers of wild lands sent to state assessors.** 1907, c. 93. In each county containing wild lands, so called, the register of deeds shall transmit to the board of state assessors certified copies of the record of all transfers of wild lands made after the twentieth day of March, nineteen hundred and seven, within ten days after such record is made. Such copies shall be placed on file and retained for future reference by the board of state assessors.

Additional Records in Registry of Deeds:  
 Copies of records of deeds in land office, c. 8, § 4;  
 Certificate discharging lien of inheritance tax, c. 69, § 10;  
 Release of lands sold by treasurer of state for taxes, c. 10, § 48;  
 Returns of Indian commissioners, c. 14, § 28.  
 Proceedings for location of lands reserved for public uses, c. 17, § 63.  
 Proceedings for location of drains and ditches, c. 22, § 32.  
 Proceedings for abolishment of grade crossings, c. 24, § 34;  
 Proceedings for taking of land by state highway commission, c. 25, § 11;  
 Order of commissioners of inland fisheries and game, setting apart waters for fish culture, c. 33, § 5.  
 Description of land taken for fish hatcheries, c. 33, § 8;  
 Proceedings for taking of land for cultivation of shell fish, c. 45, § 51.  
 Certificate of claim to lien for amount due on premium note given to mutual insurance company, c. 53, § 40.  
 Decree for judicial separation of husband and wife, c. 66, § 16.  
 Notices of election to waive will and claim share of estate, c. 80, § 15.  
 Judgment for partition, c. 93, § 21.

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## CHAPTER 13.

## County Treasurers.

**Sec. 1. Treasurers to be chosen biennially; persons not eligible.** R. S. c. 12, §§ 1, 5. 1915, c. 120. In each county some resident thereof shall be chosen treasurer at each biennial state election, by the ballots of persons authorized by the constitution to vote for representatives. Neither the attorney-general, county attorney, clerk of courts, sheriff of the county nor any of his deputies, shall be county treasurer.

See Constitution, Art. ix, § 2.

**Sec. 2. Elections, when and how held. Notice to county commissioners.** R. S. c. 12, § 2. The meetings for election of treasurers shall be notified, held, and all proceedings therein regulated, returns made, and proceedings thereon had, as provided in section two of chapter twelve; and the governor and council shall forthwith notify the county commissioners of the county where such person resides, of his election.

25 Me. 568.

**Sec. 3. Bond and tenure of office.** R. S. c. 12, § 3. The person so elected and accepting shall give bond to the county for the faithful discharge of his duties in such sum as the commissioners order, and with such sureties as they approve in writing thereon, and shall hold his office for two years from the first day of the next January, and until another is chosen and qualified in his place.

See c. 2, § 44; c. 138, § 14; 69 Me. 364, 366.

**Sec. 4. Vacancy filled by appointment.** R. S. c. 12, § 4. If a person so chosen declines to accept, or a vacancy occurs, the governor, with the advice and consent of the council, may appoint a suitable resident of the county, who, having accepted the trust, given bond, and been sworn, shall be treasurer for the remainder of the term and until another is chosen and qualified.

**Sec. 5. Treasurer to account to county commissioners; may enforce payment of taxes.** R. S. c. 12, §§ 6, 7. The treasurer shall apply all moneys received by him for the use of the county, toward defraying its expenses, as the county commissioners, and the supreme judicial or superior court by their written order direct; each treasurer shall account with the commissioners of his county for all receipts and payments. He may enforce payment of taxes, in the manner prescribed for the treasurer of state.

See c. 10, §§ 50, 61, 62, 89, 98, 99, 104; c. 11, §§ 42, 48, 49, 53, 71; 62 Me. 255.

**Sec. 6. Receive costs in favor of state.** R. S. c. 12, § 8. Costs in all civil actions in the name of the state on scire facias or other process, paid before execution issues, shall be paid to the clerk of the court where the suit is pending, and be by him paid without deduction, to the county treasurer.

**Sec. 7. Treasurers to make annual statement of financial standing; publish same for distribution.** R. S. c. 12, § 9. Each treasurer shall, at the end of each year, in connection with the commissioners, make a statement of the financial condition of the county, showing in detail all moneys received into

and paid out of its treasury, including a statement in detail of all sums received under section twenty-one of chapter seventy and other facts and statistics necessary to exhibit the true state of its finances, including the number of weeks' board and expense of clothing furnished prisoners, and shall publish in pamphlet form, a reasonable number of copies for distribution among its citizens.

See c. 3, § 15.

**Sec. 8. Payments to county law libraries.** R. S. c. 12, § 10. 1905, c. 157. 1907, c. 40. 1911, c. 128. 1915, c. 121. The treasurer of each county, except the county of Lincoln, shall annually pay to the treasurer of the law library association of his county, for the uses and benefits of the county law library, the sum of five hundred dollars. The treasurer of the county of Lincoln shall annually pay to the treasurer of the law library association of his county, the sum of two hundred and fifty dollars. 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.

**Sec. 9. Record of fines and bills of costs.** R. S. c. 12, § 11. He shall enter in a suitable book an account of all fines, forfeitures, and bills of costs accruing to the state, which are, from time to time, certified to him by the clerk of the judicial courts of the county, and he shall note in said book when any of said sums are paid.

See c. 138, § 1.

**Sec. 10. Annual schedule of securities taken on discharge of prisoners.** R. S. c. 12, § 12. He shall, within three months before the first Wednesday of each January, lay before the county commissioners a schedule of all notes and securities taken by the sheriff of such county for fines and costs on the liberation of poor convicts from prison, and by him delivered to said treasurer.

**Sec. 11. Also his own account, with county estimate.** R. S. c. 12, § 13. He shall, annually, prepare and deliver his account as treasurer to the close of every year, to the clerk of the county commissioners, to be by him enclosed with the estimates for county taxes made by said commissioners, and transmitted to the secretary of state.

See c. 10, §§ 70, 71.

**Sec. 12. Accountable to county commissioners.** R. S. c. 12, § 14. Every treasurer holding money or effects belonging to his county, shall, annually, and oftener if required, exhibit an account thereof to the county commissioners for adjustment.

69 Me. 364.

**Sec. 13. Account for money paid by U. S. for use of jails.** R. S. c. 12, § 15. He shall receive, for the county, all money paid by the United States for the use and keeping of county jails, and account therefor according to law.

**Note.** County treasurers; duties as to fines and costs in criminal cases, c. 138, §§ 11-14.

## CHAPTER 14.

### Indian Tribes.

**Sec. 1. Agents, appointment and tenure.** R. S. c. 13, § 1. Agents for the Penobscot and Passamaquoddy tribes of Indians shall be appointed by the governor, with the advice and consent of the council, and hold their office during the pleasure of the governor and council.

**Sec. 2. Vacancies.** R. S. c. 13, § 2. Vacancies shall be filled by the governor with the advice and consent of the council, but there shall never be more than three agents for each tribe.

**Sec. 3. Bond of agents; duties.** R. S. c. 13, § 3. Such agents shall give bond to the state, with sureties or with a surety company authorized to do business in the state, as surety, to the satisfaction of the governor and council, for the faithful discharge of their duties, and have the care and management of the property belonging to the tribes for their benefit; each of said agents shall at least once in six months visit each Indian reservation within his agency limits where Indians reside, and incorporate into his annual report the dates of such visits, and the condition in which he found the Indians on each reservation at each visit.

See Const. of Me. Art. ix, § 1; see c. 117, § 55.

**Sec. 4. Record of proceedings; accounts of receipts and expenditures.** R. S. c. 13, § 4. The agents shall keep a true record of their proceedings, and correct accounts of all receipts and expenditures of every kind; and shall annually, and oftener if required, lay them before the governor and council for inspection and adjustment, who may settle and adjust them, and draw warrants on the treasury for such sums as are, from time to time, found necessary to carry into effect all treaties with said tribes.

**Sec. 5. Agents not to exceed appropriations.** R. S. c. 13, § 5. Agents shall not exceed in their expenditure the appropriations for their tribes, without the written order of the governor, nor shall they be reimbursed for any excess.

See c. 2, § 103.

**Sec. 6. Agents' annual reports.** R. S. c. 13, § 6. The agents shall submit printed annual reports to the governor and council, on or before the fifteenth day of each December, with proper vouchers for the expenditure of moneys entrusted to them.

**Sec. 7. Contracts of Indians for timber and grass, void.** R. S. c. 13, § 7. Contracts relating to the sale or disposal of trees, timber or grass on the Indian lands, made with any Indian belonging to either of said tribes, unless examined and allowed by the agent of his tribe, are void.

24 Me. 409.

**Sec. 8. Limitations of leases and contracts made by agents.** R. S. c. 13, § 8. No lease of land, or contract for trees, timber or grass, made by the agent of either tribe, has effect for more than one year; nor shall an agent,

in any one year, sell or dispose of trees or timber of said Indians, to an amount exceeding five hundred dollars, except as provided in sections twenty-seven and forty.

**Sec. 9. Agents may sue in their own names.** R. S. c. 13, § 9. Such agents may, in their own names and capacity, maintain actions for money due to any Indians, and for injuries done to them or their property; and all sums or damages so recovered shall be distributed to the Indians of the tribe, according to their usages, or be invested in useful articles.

21 Me. 536. See special laws of 1867, c. 325.

#### Penobscot Tribe.

**Sec. 10. Tribal committee chosen annually; membership.** R. S. c. 13, § 10. A tribal committee of the Penobscot tribe of Indians shall be chosen annually, in the month of November, to consist of twelve members of said tribe. No member of said committee shall be less than twenty-one years of age. Six members thereof shall be chosen by the old party so called, and six members thereof by the new party, so called, at separate meetings held as hereinafter provided.

**Sec. 11. Meetings for election of committee; certificates of election; vacancies.** R. S. c. 13, § 11. Meetings of each of said parties for the election of members of said committee shall be called by the agent of said tribe, who shall give notice thereof in the same manner as notice of the meeting for the election of governor of said tribe is required to be given; and at such meeting said agent or some person appointed in writing by him shall preside, who shall receive, sort, count and declare in open meeting the vote given in for members of said committee. The said agent shall issue certificates of election to the persons thus elected, who shall hold office as such members, until a new election is had, unless their term of office is sooner terminated by resignation or by ceasing to be members of said tribe. Whenever any vacancy occurs in said committee, the agent shall call a meeting of the party entitled to fill the same, and said party shall fill such vacancy.

**Sec. 12. Committee may adopt person into tribe.** R. S. c. 13, § 12. Said tribal committee at any regularly held meeting may, by three-fourths vote of its total membership, adopt into said tribe any person who is in whole or in part of Indian blood, and who has had his or her residence for at least one year next preceding such adoption upon any reservation of said tribe; and the decision of said committee upon such residence and Indian descent shall be conclusive. The adoption of a child by any member of the tribe under ordinary legal process shall not of itself constitute such child a member of said tribe; but the power of adoption into the tribe shall in all cases rest with the aforesaid tribal committee.

**Sec. 13. Certificate of adoption shall be filed with agent.** R. S. c. 13, § 13. Whenever said tribal committee shall vote to adopt any person into said tribe, a certificate of such vote of adoption shall be signed by the person presiding at the meeting, and said certificate shall be filed with the agent of said tribe; and said adopted person shall thereafter be deemed and accepted to be a member of said tribe for all intents and purposes, and shall be enrolled as such upon the list of its members.

## CHAP. 14

**Sec. 14. Persons adopted, required to make oath.** R. S. c. 13, § 14. Every male person adopted as above provided, shall, within one month after such adoption, or if a minor within one month after becoming twenty-one years of age, make oath before the agent of said tribe that he will demean himself as a discreet, industrious and good member of said tribe, and will faithfully fulfil the duties incumbent upon him as such member.

**Sec. 15. Membership, how acquired.** R. S. c. 13, § 15. Membership in the Penobscot tribe of Indians may, after March twenty-two, nineteen hundred and one, be acquired only as follows:

I. By birth.

II. By adoption into the tribe as determined by its tribal committee, in accordance with the provisions of sections twelve and thirteen.

III. By marriage to a male member of said tribe; but membership by marriage can be acquired only by such persons as are in whole or in part of Indian blood, and it shall not include the previous issue of the person acquiring it.

**Sec. 16. Evidence of marriage.** R. S. c. 13, § 16. A certificate of marriage signed by the person solemnizing the same, or an attested copy of the record thereof, shall be sufficient evidence of such marriage.

**Sec. 17. Membership deemed lost when tribe is abandoned.** R. S. c. 13, § 17. If any member of said tribe shall abandon it and join another tribe of Indians, he shall be deemed to have lost his membership in the Penobscot tribe, and shall not be entitled to any share of dividends, rentals or other money thereafter apportioned among the members of said tribe, nor to any other subsequent rights of membership.

**Sec. 18. Any member residing for five years without limits of tribe shall not receive dividends.** R. S. c. 13, § 18. If any member of said tribe shall, after March twenty-two, nineteen hundred and one, reside for a period of five successive years without the limits of the tribal reservation, he shall not be entitled to receive any share accruing after the expiration of said period of the dividends, rentals or other moneys to be divided among said tribe; but any such shares accruing within said period, shall be paid to him or his legal representatives if applied for within one year after the expiration of said five years, unless the same have been used by the agent under the provisions of section twenty-one. All such shares not so used or applied for within said time shall be added to the general distributive fund of said tribe for apportionment by the agent.

**Sec. 19. Loss of membership does not affect membership of other members of the family.** R. S. c. 13, § 19. When any member loses his membership under section seventeen, or his right to share in dividends, rentals or other moneys under section eighteen, no member of his family to whom the provisions of said sections do not personally apply shall be deemed to have lost such membership or right.

**Sec. 20. Restoration to membership.** R. S. c. 13, § 20. Any person a member of said tribe on March twenty-two, nineteen hundred and one, as shown by the tribal census taken under the laws of the state, who shall forfeit any rights of membership, may regain said rights by residing for one continuous year upon the tribal reservation; but such renewal of rights

shall not entitle such person to any share of the dividends, rentals or moneys which previously thereto have come into the hands of the agent, nor have any other retrospective effect.

**Sec. 21. Money forfeited may be used for benefit of family. R. S. c. 13, § 21.** If any member of said tribe shall desert his family, or fail to provide properly for said family's support, the agent may in his discretion use for the benefit of such family any part or all of said member's dividends or share of rentals or any money assigned to him from state funds or coming to him in any way by apportionment or distribution through the hands of said agent.

**Sec. 22. Persons not belonging to tribe may be required to remove from reservation; proceedings; penalty if respondent does not comply with order to remove; costs. 1905, c. 102, § 1.** Any person residing or commorant upon the tribal reservation of the Penobscot tribe of Indians, not being a member, nor the husband, wife, or legally adopted child of a member of said tribe, may be required to remove therefrom by a written notice given to him in hand under the signature of the governor, or in his absence, the lieutenant governor and of the agent of said tribe. A copy of such notice attested by said agent, with a return of service thereon by any officer qualified to serve criminal precepts, or an affidavit of service by any other person, shall be filed with said agent and be sufficient evidence of such service. If the person so notified shall not remove from said reservation within two days after service of said notice upon him, the agent or any member of the tribe may make complaint to the judge of the Old Town municipal court, who shall cause a certified copy of said complaint with a notice of the time and place of hearing thereon to be given in hand to said person or left at his place of last and usual abode at least two days before the time fixed for said hearing, or may cause said person to be at once apprehended and brought before said court. After due hearing, said judge may, if he is satisfied that such removal is approved by the majority of the adult members of said tribe or is for any cause proper to be enforced, order the respondent to remove within a specified time beyond the tribal reservation limits. If the respondent fails to obey said order, or if within one year after the service of said notice he shall again become resident or commorant upon any reservation of said tribe without the consent of said agent and said governor or lieutenant governor, said judge may cause such person to be apprehended and brought before said court, and may punish him by fine of not more than twenty dollars or by imprisonment for not exceeding thirty days, or by both fine and imprisonment. The costs of all such court proceedings under this section may be included in the order or sentence of said judge; and if the respondent fails to pay the same, he may be committed to jail for not exceeding thirty days additional to any imprisonment otherwise imposed upon him; and in such case, or if the judge does not include said costs in his order or sentence, such costs shall be paid by said agent from the tribal fund. Costs shall be taxed as in ordinary proceedings upon complaint.

**Sec. 23. Relief of persons found destitute on reservation, not members of tribe. 1905, c. 102, § 2.** For all relief to any person not a member of

## CHAP. 14

the Penobscot tribe of Indians, nor having a pauper settlement in this state, found destitute and in distress upon any tribal reservation of said tribe, which has been furnished by the agent of said tribe or by the overseers of the poor of the town within whose territorial limits such person is so found, the state shall reimburse said agent or said town to such extent as the governor and council adjudge to have been necessarily expended therefor. The reasonable expenses and services of said overseers relative to said pauper shall be included in the amount to be so reimbursed.

**Sec. 24. Relief of members of tribe found destitute beyond tribal reservations. 1905, c. 102, § 3.** When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this state where he is so found, the overseers of the poor of said town may send to the agent a statement specifying the nature, dates and amounts of the supplies furnished, which shall be transmitted to the governor and council with such additional statements of fact as said agent may think proper; and the state shall reimburse said town for the relief so furnished, to such extent as the governor and council adjudge to have been necessarily expended therefor.

**Sec. 25. Payments by agent. R. S. c. 13, § 22.** The agent for the Penobscot tribe shall provide, furnish, pay and deliver to said tribe, on account of the state, such articles, goods, provisions and moneys, as from time to time become due under any treaty or law.

See Resolves 1867, c. 96.

**Sec. 26. School moneys of tribe, how expended. 1905, c. 102, § 4. 1911, c. 148.** All money appropriated for schools for the Penobscot tribe of Indians shall be expended under the supervision of the agent of said tribe, subject to the approval of the governor and council; said agent shall employ the teachers and fix their salaries, limited by such appropriation. The schools upon island number one, commonly called Indian Old Town island, shall be under the care and supervision of the superintendent of schools of the city of Old Town; and those within the territorial limits of any other town, under the care and supervision of the superintending school committee of such town. Said superintendent or school committee shall visit such schools at least three times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel, determine when any scholar of said tribe may properly be admitted or transferred to the public schools of said city or town; and make report to the agent once each year, noting therein such facts and information as may seem of importance in the interest of education among said tribe, or as may be required by the governor and council. The agent shall pay said superintendent or school committee from said school appropriation a reasonable compensation for services; but the compensation of the superintendent of schools of the city of Old Town for said services shall be not less than fifty dollars per year.

**Sec. 27. Islands of Penobscot tribe may be leased; assent. R. S. c. 13, § 23.** The islands belonging to said tribe, may be leased by their agents, for the benefit of such tribe, for a term not exceeding twelve years, if such lease, and the terms and conditions thereof are assented to by the governor and lieutenant governor of the tribe, and approved by the governor of the state; if such lease is on credit, it shall be at the risk of the agent, and

accounted for as money; and the avails thereof shall be placed by him in the state treasury, subject to the order of the governor and council according to law.

**Sec. 28. Returns and land certificates of Indian commissioners, to be recorded. R. S. c. 13, § 24.** The agent of the Penobscot tribe shall record the return of the Indian commissioners appointed by the governor and council under chapter one hundred and thirty-seven of the public laws of eighteen hundred and eighty-three, as made to him, as well as the certificates when issued by him upon such return, in suitable duplicate books having proper indexes, one of which shall be kept by said agent and his successors for reference, and the other shall be deposited in the registry of deeds of Penobscot county to be kept like other records.

**Sec. 29. Indian holding land under certificate, may convey same to another Indian of same tribe. R. S. c. 13, § 25.** Any Indian holding lands under a certificate issued as aforesaid, or by virtue of any assignment under the laws for the apportionment of the lands of said Penobscot tribe, may sell and convey the same to any member of the same tribe with the approval of the agent; provided, that no Indian shall purchase lands upon the reservation of said tribe beyond his fair proportion of such reservation.

**Sec. 30. Lots not to be sold or leased. R. S. c. 13, § 26.** No such Indian shall sell or lease his lot except as provided by law; and if he carries off the growth faster than is necessary for cultivation, except by permission of the agent, or commits strip or waste, he shall be dealt with as a trespasser.

69 Me. 477. See Resolves 1867, c. 133; 1878, c. 6.

**Sec. 31. Surveys and plans of islands deemed authentic; water privileges, and wood and timber lands reserved for public use of tribe. R. S. c. 13, § 27.** The surveys of the islands in Penobscot river from Old Town Falls to Mattawamkeag Point and field notes thereof, as made under chapter one hundred and fifty-eight of the public laws of eighteen hundred and thirty-five and chapter three hundred and ninety-six of the public laws of eighteen hundred and thirty-nine, plans of which were returned to the land office and to the Indian agent, shall be deemed authentic in all matters to which they relate; and the water privileges belonging to said islands, valuable for mills, booms, fisheries, tracts of wood and timber land, and other lots indicated on said plans as reserved for public use, (except the public farm which is subject to allotment by chapter twenty-two, of the private and special laws of eighteen hundred and seventy-eight,) are not subject to assignment or distribution to members of said tribe, but shall remain for the benefit of the whole tribe.

**Sec. 32. Assignments of unassigned lands. R. S. c. 13, § 28.** The agent of said tribe, on application of any Indian thereof, male or female, twenty-one years of age or more, to whom his proportion of the tribe's lands has never been assigned, or has never come by inheritance, or who does not already hold by assignment, purchase or otherwise his fair share of said lands, may cause a lot suitable for cultivation to be surveyed to such applicant from the unassigned lands of the tribe, if any, and may assign the same to him and designate the same upon the plan aforesaid. All lots so desig-

## CHAP. 14

nated shall be limited by said plan and occupied accordingly, and any lot, when so assigned, shall be the property of the person to whom it is assigned, during the pleasure of the legislature.

**Sec. 33. Assignments accompanied by certificate of agent; form of certificate.** R. S. c. 13, § 29. Such assignments shall be accompanied by a certificate from the agent to be recorded as in section thirty-six, in form substantially as follows:

"Know all men by these presents, that I, \_\_\_\_\_, agent of the Penobscot tribe of Indians, have caused to be surveyed and set off to \_\_\_\_\_, a portion of the lands belonging to said tribe on the islands in Penobscot river, as contemplated by acts of the legislature, bounded and described as follows, viz.:-

\*            \*            \*            \*            \*            \*            \*

To have and to hold to him, his heirs and assigns, as contemplated by said acts, during the will of the legislature.

In witness whereof I have hereunto set my hand and seal as agent of the Penobscot tribe of Indians, this \_\_\_\_\_ day of \_\_\_\_\_, nineteen hundred and \_\_\_\_\_."

**Sec. 34. Abandonment of tribe forfeits lands.** R. S. c. 13, § 30. Any member of said tribe who abandons it and joins any other tribe, forfeits all lands assigned to him, and the same may be assigned anew, as provided in section thirty-two.

**Sec. 35. Death of owner and description of lots to be recorded.** R. S. c. 13, § 31. Said agent shall enter upon his record a memorandum of the death of any Indian owning lands, the date thereof, a description of the lots owned by the deceased, and the names of those persons, so far as ascertainable, who are entitled to such lands by inheritance.

**Sec. 36. Conveyances to be by release deed; record; lots on Old Town island.** R. S. c. 13, § 32. Conveyances made by virtue of section twenty-nine shall be by release deed, executed and acknowledged, and the approval of the agent shall be written thereon; said deed and approval shall be recorded by the agent without fee, in a suitable book kept by him; also by the register of deeds of Penobscot county in a like book kept in the registry of deeds in said county, upon payment of twenty-five cents for each deed so recorded. And until recorded as herein provided, no deed made as aforesaid shall pass any title. This chapter applies to house lots on the point of Old Town island, as well as to lands allotted for agricultural purposes.

**Sec. 37. Deeds made and deposited with agent may be delivered after death of grantor.** R. S. c. 13, § 33. Deeds made by any Indian of the Penobscot tribe as provided in the preceding section, may be deposited with said agent to be delivered by him to the grantee named therein, after the death of the grantor, if the fact that such deed is so deposited to be so delivered, appears by the deed itself; and when delivered by said agent, it shall pass all the title of the grantor in the premises at the time of his death.

**Sec. 38. Copies of deeds are evidence.** R. S. c. 13, § 34. Copies of deeds or certificates recorded as provided in this chapter, duly attested by the register of deeds or by the agent of said tribe, shall be evidence in all actions or controversies relating to title to lands between members of said tribe.

**Sec. 39. Lease of island shores; proceedings; rents of shores, how appropriated.** R. S. c. 13, § 35. The shores of the islands in the Penobscot river belonging to said tribe shall be leased for booming or hitching logs, under the orders of the governor and council. Such leases shall not run longer than five years. Notices of the time and place of leasing shall be given by publishing the same in one of the daily papers of Bangor for thirty days, and shall specify the shores to be leased and the limits of each lot. All sums received from rent of said shores shall be paid to the treasurer of state, to be held in trust, and paid to said tribe on warrant of the governor and council as provided in section one, chapter two hundred and sixty-seven, of the special laws of eighteen hundred and seventy-three.

See special laws of 1873, c. 267.

**Sec. 40. Agents may lease privileges for mills, booms and fisheries.** R. S. c. 13, § 36. The agent may, with the approval of the governor and council, lease any reserved privileges for mills, booms and fisheries, for a term sufficiently long to induce persons to take leases of them; and all rents shall be paid into the treasury, to be expended for the benefit of the tribe, under the direction of the governor and council.

**Sec. 41. Warrants for interest on four townships purchased; also for rents.** R. S. c. 13, § 37. The governor and council may draw warrants on the treasury for any sum not exceeding the interest on the price of the four townships purchased by the state of the Penobscot tribe in June, eighteen hundred and thirty-three, and of any other money paid into the treasury; and for the full amount of rents paid in as aforesaid; and when the whole amount of such sums, in the opinion of the governor and council, is more than is necessary for said tribe, the excess may be invested for their benefit.

**Sec. 42. Census of Penobscot Indians; annual meeting with school committee of Old Town; notices; tribal committee shall meet school committee; persons entitled to membership shall be reported; correction of lists; compensation of committee.** R. S. c. 13, § 38. An accurate census of the Penobscot tribe shall be taken early each January by one or more of the superintending school committee of the town of Old Town, upon the best information which they can obtain, as hereinafter provided, stating, as nearly as may be, the name, sex and age of each Indian as it existed on the first day of such January, each family by itself. On or before the tenth day of January, annually, the original, certified under oath, shall be delivered to the agent, and a copy thereof to the governor of said tribe for their use. On the first Wednesday of January, annually, said committee shall hold a meeting with said tribe on Old Town island, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons and the correctness of names; due notice in writing of the time and place of which meeting shall be given by said committee. The tribal committee shall meet the said superintending school committee at the time and place so appointed. At said meeting any member of said school committee shall preside, and fifteen of said tribal committee shall constitute a quorum thereof; and on said first Wednesday of January annually the names of all persons entitled to membership under section fifteen

## CHAP. 14

shall be reported by the tribal committee to the person authorized by law to take the census of said tribe, and shall thereupon be placed on the census roll.

Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the agent, and he shall correct his list accordingly. This list, so corrected, shall, with his account, be returned to the governor and council. A reasonable compensation shall be paid to the committee by the agent and charged in his account, and allowed and paid to him out of the state treasury.

**Sec. 43. Biennial election of tribe. R. S. c. 13, § 39.** On the first Tuesday of November, eighteen hundred and eighty-four and biennially thereafter, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative to the legislature of this state. The agent of said tribe shall give notice of the time and place, seven days before said day of election by posting notices thereof, one at his office and one in some conspicuous place on Old Town island. Said agent shall receive, sort and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected, certificates thereof.

Note. The Penobscot tribe authorized to establish and maintain a ferry between Indian Island and the city of Old Town, P. & S. L., 1913, c. 132.

#### Passamaquoddy Tribe.

**Sec. 44. Agent may sell timber on Indian township; surveyor to be sworn. R. S. c. 13, § 40.** The agent of the Passamaquoddy tribe may sell to the best advantage, at public or private sale, to a citizen of the state, the timber and grass from township numbered two on the St. Croix river, usually called the Indian township, to the amount of one thousand dollars annually; expressly retaining in the written contract of sale a lien on the timber and grass cut, until the amount due for stumpage thereon is paid. Every surveyor appointed by such agent to scale or survey the lumber so sold, before entering on his duties, shall be sworn to the faithful performance of his trust, and shall file a certificate of his oath with the agent.

**Sec. 45. No sale or permit to a foreigner. R. S. c. 13, § 41.** No citizen or subject of a foreign government shall purchase, cut or carry off trees, timber or grass, from the township reserved for the benefit of the Passamaquoddy tribe; and if their agent gives to such citizen or subject a permit for such unlawful purpose, he forfeits not exceeding five hundred, nor less than one hundred dollars, to be recovered by action of debt, half to the state and half to the prosecutor.

13 Me. 385.

**Sec. 46. Lands in Indian township may be leased or sold. R. S. c. 13, § 42.** The governor and council may, at the expense of the state, and for the benefit of the Passamaquoddy tribe, lease or sell the whole or any part of the Indian township, on such terms as they deem just, and all sums received from such leases or sales shall be credited to the funds of said tribe.

Note. By c. 84 of the private and special laws of 1899, the governor and council were authorized to lease or sell the whole or any part of the Indian reservation in the town of Perry.

**Sec. 47. Payments of income.** R. S. c. 13, § 43. Out of the interest accruing upon the funds belonging to said tribe, the agent shall, in person, pay to said Indians one thousand dollars annually, as follows: four hundred dollars in May, and three hundred dollars in November, in an equal proportion to each member of the tribe; and he shall personally distribute three hundred dollars to the distressed poor of the tribe, in sums not exceeding fifty dollars in one month, in such portions to each of them, as his circumstances demand.

**Sec. 48. Agent may remove distressed poor to reservation.** P. & S. L. 1907, c. 208. Any member of the Passamaquoddy tribe, requiring assistance under the provisions of the preceding section, relating to aid to the distressed poor of said tribe, may be removed by the agent of said tribe from any place in which he may be residing, or be found, to either of the Indian reservations provided for said tribe, or may be removed from one of such reservations to another such reservation, whenever, in the judgment of the agent, such removal should be made.

#### General Provisions.

**Sec. 49. Warrants, how drawn.** R. S. c. 13, § 44. The governor and council may draw warrants on the treasurer for such sums as are payable to the Indians, for the salary of the agent, and for the bounties on agricultural products as hereinafter provided.

**Sec. 50. Penalty for selling or giving liquor to Indians.** R. S. c. 13, § 45. Whoever sells or gives to an Indian intoxicating liquors, forfeits not less than five, nor more than twenty dollars, half to the state, and half to the complainant.

**Sec. 51. Bounties on produce.** R. S. c. 13, § 46. Bounties shall be paid to every Indian of either of said tribes for produce raised by him either on his own land, or on land belonging to the tribe, as follows:

- I. For every bushel of wheat, twenty cents.
- II. For every bushel of rye, oats, barley, buckwheat, peas or beans, ten cents.
- III. For every bushel of potatoes, turnips, parsnips, beets or carrots, five cents.

**Sec. 52. Proof made to agent.** R. S. c. 13, § 47. Before any bounty is paid to such Indian, he shall prove to the satisfaction of the agent the number of bushels of each article before named, raised by him on such land.

**Sec. 53. Agent to settle account annually.** R. S. c. 13, § 48. Agents shall keep an account of money so paid out, and present it duly certified to the governor and council in January annually, for examination and allowance.

Note. By c. 493 of the private and special laws of 1885, the governor was authorized to appoint special constables in each of the Indian tribes of the state.

By c. 49 of the private and special laws of 1899, as amended by c. 108 of the private and special laws of 1915, provision was made for the election of a policeman by the Penobscot tribe, and c. 493 above mentioned was superseded as to that tribe.

By c. 56 of the resolves of 1887, provision was made for an agricultural superintendent for the Passamaquoddy tribe.

## CHAPTER 15.

### The Military Law.

Sections	1- 5	Enrolment and Exemptions.
Sections	6- 8	Active and Reserve Militia. Commander-in-chief and Staff.
Sections	9- 16	Calls for Service.
Sections	17- 26	Staff Departments.
Sections	27- 30	Purchases of Military Property.
Sections	31- 41	Organization of National Guard.
Sections	42- 46	Naval Militia.
Sections	47- 59	Officers, their Election and Qualifications.
Sections	60- 65	Discharge and Retirement of Officers.
Sections	66- 73	Enlistments and Discharge of Enlisted Men.
Sections	74- 83	Discipline and Instruction.
Sections	84- 86	Compensation.
Sections	87- 89	Military Accounts.
Sections	90- 98	Armories, Drill Rooms and Ranges.
Sections	99-113	Courts-Martial.
Sections	114-127	Uniform, Arms and Equipment.
Sections	128-133	Regulations and Articles of Government.

### Enrolment and Exemptions.

**Sec. 1. Persons subject to military duty. Persons exempt. 1909, c. 206,**  
§ 1. The militia of the state shall consist of every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is a resident of this state and who is more than eighteen and less than forty-five years of age, subject to the following exceptions:

Persons exempted by the laws of the United States, to wit:

The vice-president of the United States, the officers, judicial and executive, of the government of the United States, the members and officers of each House of Congress, persons in the military or naval service of the United States, all custom house officers, with their clerks, postmasters and persons employed by the United States in the transmission of the mail, ferrymen employed at any ferry on a post road, artificers and workmen employed in the armories and arsenals of the United States, pilots, mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who are exempted by the laws of the respective states or territories shall be exempted from militia duty, without regard to age.

Persons exempted by the laws of the state, to wit:

Justices of the supreme judicial court; ministers of the gospel; persons of the denomination of Quakers and Shakers; and officers of the militia who have been honorably discharged.

**Sec. 2. Enrolment. 1909, c. 206, § 2. 1911, c. 81, § 1.** All male citizens who are more than eighteen and less than forty-five years of age, excepting idiots, lunatics, paupers, vagabonds, habitual drunkards, and persons convicted of infamous crimes, and who are resident in this state, shall, whenever the governor may deem necessary, be enrolled by the assessors in the several cities, towns and plantations in which they reside, in such manner and according to such regulations as the governor shall prescribe. On such enrolment and opposite the name of each person who is exempt from duty under section one, or who is serving in the active militia, or who is unable by reason of physical disability to perform military duty, the assessors shall write the word "exempt" and state in each case the cause of exemption. The assessors shall subscribe said list and make oath that the same is true to the best of their knowledge and belief; and shall file the same with the clerk of the city, town or plantation forthwith; and each clerk shall, within ten days, make a certified statement of the total number enrolled, the number marked exempt, the number belonging to the active militia and the number marked disabled, and forward the same to the office of the adjutant general.

**Sec. 3. Persons claiming exemption must establish right thereto. 1909, c. 206, § 3.** Any person claiming exemption shall satisfy the enrolling officer of his right thereto, and in case of doubt the burden of proof shall be upon the person claiming exemption, and the enrolling officer may require him to submit to examination on oath, and may administer such oath.

**Sec. 4. Penalty for refusing or giving false information to assessor. 1909, c. 206, § 4.** Any person knowingly and wilfully refusing information or giving false information to an assessor or other authorized person making the enrolment, respecting the name, age, residence, occupation, military service, physical or mental condition, or other proper subject of inquiry, of himself or any person within his knowledge liable to be enrolled, shall for each such concealment, refusal, or giving of false information be guilty of a misdemeanor. The officer making the enrolment shall, within ten days, report all persons violating this section to the adjutant general.

**Sec. 5. Neglect of assessor or clerk constitutes misdemeanor; appointment of substitutes. 1909, c. 206, § 5.** Any assessor neglecting or refusing faithfully to perform the duties of enrolling officer as required by law, or making any false entry upon said rolls, or committing any other fraud therein, and any clerk neglecting to make and forward the statement required by section two, shall be guilty of a misdemeanor. Upon the failure of the assessors to make the enrolment of the militia as required by law, the governor may appoint some person to make it at the expense of the city, town or plantation, and the person so appointed shall have all the powers and be subject to the same duties as are prescribed in the case of assessors.

#### Active and Reserve Militia. Commander-in-chief and Staff.

**Sec. 6. Division of militia into active and reserve. 1909, c. 206, § 6.** The militia shall be divided into two classes, the active and the reserve militia. The active militia of this state shall consist of the regularly en-

**CHAP. 15**

listed, organized, and uniformed military forces, who have heretofore participated or shall hereafter participate in the apportionment of the annual appropriation provided by section sixteen hundred and sixty-one of the revised statutes of the United States, as amended, and shall be known as the national guard; and of the regularly enlisted, organized, and uniformed naval forces, which shall be known as the naval militia. The reserve militia shall consist of all those liable to service in the militia, but not serving in the active militia of the state.

**Sec. 7. Commander-in-chief.** 1909, c. 206, § 7. The governor is the constitutional commander-in-chief of the militia, except of such portions as may be at times in the service of the United States.

**Sec. 8. Staff of the governor; appointed from active militia; commissioned by governor's tenure.** 1909, c. 206, § 8. 1911, c. 81, § 2. 1915, c. 145, § 1. The staff of the commander-in-chief shall consist of the adjutant general who shall be ex-officio chief of staff, quartermaster general, and paymaster general, with rank of brigadier general, the senior officer on duty with each of the staff departments, and four aides-de-camp, with the rank of captain, and one naval aide with rank of lieutenant. All officers must be at the time of their appointment, commissioned officers in the active militia, on the active or retired list of or above the grade of captain, but no officers shall be appointed from the retired list who shall have had less than eight years of service in the active militia, the last year of which shall have been within ten years immediately preceding the appointment. The four aides-de-camp and naval aide may be detailed from the commissioned officers of the active militia of the grade above specified, but officers so detailed shall not be relieved thereby from their regular duties in the active militia except when on duty with the commander-in-chief. Provided that nothing herein shall be construed as terminating the commissions of the aides-de-camp and naval aide serving on the staff of the commander-in-chief on the third day of July, nineteen hundred and fifteen.

All officers of the staff of the commander-in-chief excepting the senior officer on duty in each of the staff departments shall be appointed and commissioned by the governor and shall hold office during his pleasure and until their successors are appointed and qualified.

### Calls for Service.

**Sec. 9. Governor may order out militia; when called into U. S. service.** 1909, c. 206, § 9. In case of insurrection, invasion, tumult, riot, a mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or of the United States, or of imminent danger thereof, or in the event of public disaster resulting from flood, conflagration, or tempest, the governor may order into the active service of the state any part of the militia that he may deem proper. And whenever the militia of this state or a part thereof is called forth under the constitution and laws of the United States, the governor shall, unless the order for the call specifies otherwise, order out for service the active militia or such part thereof as may be required; and if the number available be insufficient he shall order

out the reserve militia or such part as may be necessary. The designations of organizations called into the service of the United States shall not, during such service, be given to new organizations.

**Sec. 10. Drafts or volunteers from reserve militia.** 1909, c. 206, § 10. Whenever it shall be necessary to call into active service the reserve militia, or any part thereof, the governor shall direct his order to the chief municipal officer of any city, town, or plantation, who, upon the receipt of the same, shall proceed to draft by lot, as many of the reserve militia or accept as many volunteers as are required by the governor, and shall forthwith forward to the adjutant general a list of the persons so drafted or accepted as volunteers.

**Sec. 11. Punishment for failure to appear at place designated.** 1909, c. 206, § 11. Every member of the active militia ordered out, and every member of the reserve militia who volunteers or who is drafted and notified thereof, under the provisions of the preceding section, who does not appear at the time and place designated by his commanding officer, or the chief municipal officer, within twenty-four hours from such time, or who does not produce from a physician in good standing a sworn certificate of physical disability to so appear, shall be deemed a deserter and dealt with as prescribed in the articles of war of the United States.

**Sec. 12. Period of service of reserve militia in U. S. service; organization and equipment; appointment of officers.** 1909, c. 206, § 12. Whenever any portion of the reserve militia is called forth under the constitution and laws of the United States, the members thereof shall be immediately mustered into the service for three years, or such other period as the call may prescribe; and whenever any portion of such militia shall be ordered into the service of the state they shall be mustered into the service for such period, not exceeding three years, as the governor may direct. Such reserve militia, when so ordered into active service shall have, as far as practicable, the same system of organization, equipment, training and discipline as are or may thereafter be prescribed for the national guard. The governor may appoint the officers for any new organizations formed out of said reserve militia; he may, at his discretion, transfer and promote officers of the national guard to the organizations thus formed and order into active service for this purpose such retired officers of the national guard as may be efficient and available and in such number as he may deem necessary.

**Sec. 13. Governor may declare state of insurrection.** 1909, c. 206, § 13. Whenever any portion of the militia is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county, city, town or plantation in which the troops are serving or any specified portion thereof, to be in a state of insurrection.

**Sec. 14. Governor to be notified when militia is called forth by U. S. direct.** 1909, c. 206, § 14. Whenever reserve militia or the national guard, or both, or any number of them or either of them, shall be called forth under the constitution and laws of the United States, and the orders for that purpose shall not be issued to or transmitted through the governor of the state,

## CHAP. 15

any officer or officers of the militia or national guard receiving such orders not so issued or transmitted, shall communicate the same to the governor as soon as practicable.

**Sec. 15. Period of service under U. S. call.** 1909, c. 206, § 15. Whenever the President shall call forth the national guard, or any number of them to be employed in the service of the United States, and specifies in his call the period for which such service is required, the national guard, so called, shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President; provided, that no commissioned officer or enlisted man of the national guard shall be liable to service beyond the term of his existing commission or enlistment.

**Sec. 16. Relief from civil or criminal liability.** 1909, c. 206, § 16. No member of the militia ordered into the active service of the state shall be liable civilly or criminally for any act done, or caused, ordered, or directed to be done, by him in furtherance of and while in the performance of his military duty. When an action or proceeding of any nature shall be commenced in any court by any person against any officer or enlisted man of the militia for any act so done, or caused, ordered, or directed to be done, all the expenses of the defense of such proceeding or action, civil or criminal, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, shall be paid by the state, out of the military fund; and the attorney-general, either personally or by one or more assistants, shall defend such officer or soldier; provided, that where the action or proceeding is criminal the adjutant general shall designate a judge advocate of the national guard to conduct the defense of such member, or, if the services of a judge advocate be not available, then he shall select some other competent attorney to conduct such defense, and the judge advocate or other attorney so selected shall receive and be paid out of the military fund a reasonable compensation for his professional services. In any such action or proceeding the defendant may require the person instituting or prosecuting the same to file security for payment of costs that may be awarded the defendant, which costs if recovered in an action, the costs whereof have been paid out of the military fund shall be paid into the state treasury for the benefit of the military fund; and the defendant may, in every such action or proceeding, make a general denial and give the special matter in evidence.

### Staff Departments.

**Sec. 17. Adjutant general; his rank, duties, and relations with the war department; appointment of substitute.** 1909, c. 206, § 17. The adjutant general of the state shall have the rank of brigadier general, and shall be, ex-officio, chief of staff, quartermaster general, and paymaster general, of the state. For the purpose of establishing the relation between the war department and the various staff departments of the state, he shall be the chief of said departments; and the requisitions, purchases, and issues to be made

by the senior officer on duty in certain of said departments, as hereinafter prescribed, shall be made by them pursuant and in obedience to his directions and instructions.

(a) **Control over military department.** He shall control the military department subordinate only to the governor, and may adopt such methods of administration, not inconsistent with the laws, regulations, and customs of the service of the regular army so far as the same may be applicable, as he may deem necessary to render the department efficient.

(b) **Returns to war department and report to the governor.** He will superintend the preparation of all returns, reports, plans and estimates required of the state by the war department; and, on or before the thirty-first day of December of each year, shall make a report to the governor of the strength and condition of the active militia and of the business transactions of the department, including a detailed statement of expenditures for all military purposes.

(c) **Care and inspection of military property.** He shall be responsible for the care, preservation, and repair of all military property belonging or issued to the state for the arming and equipping of the militia; and he shall dispose of all military property of the state found unserviceable after a proper inspection, account for the proceeds thereof, and deposit the same into the state treasury to the credit of the military fund.

(d) **Duties as to ordnance and equipments of U. S.** He shall turn in, in such manner as the war department may require, such ordnance, accoutrements and equipments belonging to the United States and receive in substitution therefor such prescribed regulation ordnance and equipment, as may be necessary to conform to the standard required by the laws and regulations of the United States.

(e) **Equip active militia.** He shall, under the direction of the governor, prepare requisitions for, and make purchases and issues of, such military property as is necessary to equip the organizations of the active militia according to the standard that is now or may be hereafter prescribed by the laws and regulations of the United States, except such purchases and issues as are hereinafter required to be made by the senior officers on duty in the other staff departments; he shall approve the bills of all purchases by whomsoever made and all issues; but no such property shall be issued, or otherwise disposed of, to persons or organizations other than those of the active militia and portions of the reserve militia called into active service.

(f) **Account of expenses and annual statement, to governor.** He shall keep a just and true account of all expenses necessarily incurred, including pay, transportation and subsistence of officers and enlisted men of the militia and of all military property; and shall render annually to the governor a statement in detail showing the disposition of all clothing, ordnance, arms, ammunition, and other military property on hand and issued.

(g) **Sale of property to the militia, and account for same.** He may, upon approval of the governor, sell for cash to officers of the active militia, for their official use, and to organizations of the active militia, any military or naval property which is an article of issue by the state; and shall with

**CHAP. 15**

his annual report render to the governor a true account of the sales so made, and shall deposit the proceeds of the same in the state treasury to the credit of the military fund.

Whenever the adjutant general is absent from the state or is unable from any cause to perform his duties, the governor shall during his absence or disability designate an officer of the active militia present for duty in the state to perform the duties of the adjutant general.

**Sec. 18. Bond of adjutant general. 1909, c. 206, § 18.** The adjutant general shall give a bond to the state, approved by the governor and council, in the sum of ten thousand dollars, conditioned on the faithful performance of his duties as herein prescribed; and the costs and expenses incurred by entering into such bond shall be paid out of the military fund.

**Sec. 19. Duties of inspector general; report. 1909, c. 206, § 19.** The inspector general shall make an annual inspection and a detailed report upon the armories, property, books, records, financial condition, and the various organizations of the active militia, and such other inspections as the adjutant general may direct or the law require. He shall perform such other duties as are herein prescribed and submit to the adjutant general a report of the transactions of his office by the fifteenth day of December, annually.

**Sec. 20. Ordnance department, senior officer, his rank and duties; report to adjutant general; inspector of small arms practice, target ranges and shooting galleries. 1909, c. 206, § 20. 1911, c. 81, § 3. 1915, c. 145, § 2.** The senior officer on duty in the ordnance department shall have the rank of major and shall from time to time submit to the adjutant general requisitions for all ordnance property, equipment, and accoutrements and all range and target material, which requisitions when approved by the adjutant general, and submitted to and signed by the governor, shall, if they be for material issued to the state by the ordnance department, be forwarded to that department for supply, and if they be for material not so issued, then by direction of the adjutant general and in the manner prescribed in section twenty-seven, the senior ordnance officer shall purchase and direct the issue of such ordnance property and range material, certify all bills therefor as correct, and transmit them to the adjutant general.

He shall, when required or whenever he deems it necessary, report to the adjutant general upon the condition of the ordnance, arms and accoutrements on hand or issued to the national guard; he shall point out all deficiencies and, so far as he is vested with authority, he shall be responsible that all organizations are armed and equipped as prescribed or as may hereafter be prescribed by the war department.

He shall be the inspector of and shall exercise general supervision over the small arms practice of the national guard. No target range or shooting gallery for the national guard shall be acquired, constructed, maintained or equipped, except upon his recommendation, unless the governor shall expressly order otherwise. Whenever ordered by the governor, he shall make or cause to be made, by the regimental inspectors of small arms practice, an inspection of all target ranges and shooting galleries used by the national guard, submit a report to the adjutant general of the condition and necessities of each; he shall make a detailed report of the transactions of

his office to the adjutant general on the fifteenth day of December annually.

**Sec. 21. Medical department, senior officer, his rank and duties; annual inspection of supplies; report.** 1909, c. 206, § 21. 1915, c. 145, § 3. The senior officer on duty in the medical department shall have the rank of major and, under the direction of the adjutant general and in the manner prescribed in section twenty-seven, shall purchase and direct the issue of all medical supplies and equipment, certify all bills therefor as correct and transmit them to the adjutant general. He shall make, or cause to be made by an officer of the medical department, an annual inspection and inventory of the stock of medical supplies on hand at general headquarters, make a list of the articles and qualities needed to equip the national guard in the manner prescribed by the war department, and transmit the same to the adjutant general for authority to supply the same; and he shall make to the adjutant general a detailed report of the transactions of his office and of the condition and quantity of medical supplies on hand, on the fifteenth day of December annually.

**Sec. 22. Subsistence department, senior officer, his rank and duties; report.** 1909, c. 206, § 22. 1915, c. 145, § 4. The senior officer on duty in the quartermaster corps shall have the rank of major and shall, under the direction of the adjutant general, purchase and issue in the manner prescribed in section twenty-seven, all subsistence stores and property, certify all bills therefor as correct and transmit them to the adjutant general; he shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

**Sec. 23. Judge advocate general's department; senior officer, his rank, qualifications and duties.** 1909, c. 206, § 23. 1915, c. 145, § 5. The senior officer on duty in the judge advocate general's department shall have the rank of major; he shall be an attorney-at-law of the supreme judicial court of this state, of at least five years' standing. He shall be, under the direction of the governor, charged with the supervision of all things relating to the administration of justice in the military forces of the state; he shall diligently scrutinize and examine the proceedings of all courts-martial and courts of inquiry which are submitted to him for review and report thereon to the adjutant general; he shall when directed act as judge advocate or recorder of any military court or board; he shall be the legal adviser of the military department, and to him may be referred for supervision all contracts, agreements, or other instruments to be drawn or executed in the course of the business thereof. He shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

**Sec. 24. Attorney general legal adviser.** 1909, c. 206, § 24. The attorney general of the state shall be the legal adviser of the governor, of the adjutant general, and of the armory commission.

**Sec. 25. Governor may appoint additional staff officers.** 1909, c. 206, § 25. 1915, c. 145, § 6. In time of war, insurrection, invasion or rebellion, or of imminent danger thereof, the governor may appoint such staff officers and create such chiefs of staff departments as may be necessary to provide for an increased active militia or to fill the vacancies caused by absence in

active service, or for both purposes; provided, that appointments in a staff department or corps shall be made from officers of the existing staff departments or corps as promotions so far as such officers are available; provided, also, that promotion in each staff department or corps and appointments to fill vacancies thus created shall be made as hereinafter prescribed. Provided further, that in time of peace, whenever the formations of the active militia shall require it, the governor may organize such additional staff departments as are thereby made necessary, and whenever such new departments are organized the senior officer on duty with the new staff department shall be ex-officio a member of the governor's staff.

**Sec. 26. Duties of staff officers when not otherwise prescribed.** 1909, c. 206, § 26. Officers of all staff departments and corps shall perform the duties required of them by law, and such others, not inconsistent with the laws of the state, as correspond to those which are now or may hereafter be required, of the corresponding staff departments or corps of the regular army by the customs of the service, the orders of the war department, and the laws and regulations of the United States.

#### **Purchases of Military Property.**

**Sec. 27. Purchase of military property; conditions of bids; bond; cases of emergency.** 1909, c. 206, § 27. Purchases of military property not exceeding one hundred dollars in value may be made in such manner as the purchasing officer may deem best. For other purchases not exceeding five hundred dollars, the purchasing officer shall procure written proposals from at least two parties. For purchases exceeding five hundred dollars in value the purchasing officer shall publicly advertise, for not less than ten days, for sealed proposals, to be opened at the place, day, and hour designated in such advertisement. All bids must be accompanied with a certified check for ten per cent of the amount of the bid; and he may require the person contracting to give bond in such sum and surety as he may direct, conditioned for faithful performance, in default of which such bond shall be prosecuted by the attorney-general, and all moneys recovered turned in to the state treasury for the benefit of the military fund; provided, that in case of emergency occasioned by war, invasion, riot, insurrection, resistance to the laws, or imminent danger thereof, or by flood, conflagration, or tempest, the governor may direct that such property as may be urgently required be purchased in open market. Provided, also, that the right is reserved to reject any or all bids.

**Sec. 28. Officers making purchases or sales must be disinterested.** 1909, c. 206, § 28. No officer herein authorized to make purchases or sales of military property shall be concerned, directly or indirectly, in the purchase or sale of any such property, except for and on account of the state; nor shall any such officer take or apply to his own use any gain or emolument for negotiating or transacting any business of his office, other than what is allowed by law.

**Sec. 29. Inspection of property purchased, before payment.** 1909, c. 206, § 29. All property purchased under the authority herein granted shall be inspected and no payment shall be made therefor until it shall appear by the certificate of the inspecting officer that the property is of the kind and quality specified in the agreement.

**Sec. 30. Indebtedness contracted in behalf of state, specially authorized.** 1909, c. 206, § 30. No officer or enlisted man shall contract, or presume to authorize the contracting of any indebtedness on behalf of the state, unless especially authorized to do so by this chapter or by the express order of the governor; and any person in the military service who shall violate the provisions of this section shall be dishonorably discharged, and suffer such other punishment as a court-martial may direct.

### Organization of National Guard.

**Sec. 31. Organization of National Guard; commander-in-chief may alter, create or disband organizations; selection of commander of brigade.** 1909, c. 206, § 31. The national guard of the state shall consist of the necessary staff departments, a medical department, a coast artillery corps, the commissioned officers heretofore or hereafter retired, the organizations forming the national guard at this date, and such others as may be organized hereafter and such persons as are or may be enlisted and commissioned therein. The commander-in-chief may alter, divide, consolidate, disband or reorganize any organizations or corps and create new organizations and corps whenever required by the provisions of this chapter or whenever in his judgment the efficiency of the state forces will be thereby increased and he shall change the organization of the state forces so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the militia; and for that purpose the number of the officers and non-commissioned officers of any grade may be increased or diminished, or their grades may be altered, whenever necessary to secure such uniformity. Whenever the national guard is organized, by order of the commander-in-chief, into a brigade, a brigadier general shall be selected as prescribed in section fifty, to command the same.

**Sec. 32. New organizations, how raised and officered.** 1909, c. 206, § 32. New organizations may be raised on petition to the governor, or by his order; and when the minimum number of persons required by law has been enlisted and notice thereof given to the governor, he may issue an order for the election of the commissioned officer; but whenever the governor shall have the authority to appoint officers of the line, he may raise new organizations and appoint the officers thereof whenever and in such manner as he may deem best for the service.

**Sec. 33. Strength of active militia on peace and war footing.** 1909, c. 206, § 33. The aggregate forces in the active militia in time of peace, fully armed, uniformed, and equipped shall not exceed three thousand men; but in case of war, insurrection, invasion, or rebellion, or imminent danger thereof, the governor may increase the forces beyond the said three thousand and organize them as is required by law.

## CHAP. 15

**Sec. 34. Organization, discipline and armament as prescribed by U. S. regulations.** 1909, c. 206, § 34. The organization, armament, and discipline of the national guard of this state and of the military units thereof shall be the same as that which is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia; and the commander-in-chief shall issue and prescribe from time to time such orders and regulations, and adopt such other means of administration, as shall maintain the prescribed standard of organization, armament and discipline; and shall prescribe such regulations and adopt such methods of administration, for the care, preservation, disposition of and accountability for all military property issued to the active militia and belonging to the United States; for procuring, disbursing, and accounting for all military funds allotted to the state; for arming, equipping, and supplying the active militia; and for arranging for such camps of instruction, field service, and rifle practice as shall meet the requirements that are now or may hereafter be prescribed by the laws and regulations of the United States. And such orders, regulations, and means adopted shall have the full force and effect of law.

**Sec. 35. Brigade, when constituted; staff of brigade commander.** 1909, c. 206, § 35. 1915, c. 145, § 7. The regiments and all other military units of the national guard shall, when so ordered by the governor, constitute a brigade, which shall be commanded by the brigadier general, or, in case of his absence or disability, by the senior line officer of the national guard. The staff of the brigade commander shall be constituted the same as is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia.

**Sec. 36. Staff departments. Officers and rank.** 1909, c. 206, § 36. 1915, c. 145, § 8. There shall be the following departments consisting of officers of number and rank specified necessary for the maintenance of the staff corps and departments of the national guard, namely: an inspector general's department, one major; a judge advocate general's department, one major; a quartermaster corps, one major, two captains and three sergeants, first class; an ordnance department, one major and one ordnance sergeant, and a medical department, organized as prescribed in the following section.

**Sec. 37. Medical department; its organization; promotion by seniority.** 1909, c. 206, § 37. 1915, c. 145, § 9. The medical department of the national guard shall consist of a medical corps, a medical reserve corps and the hospital corps. The medical corps shall consist of the officers necessary for the staff department, for service with the regiments, separate battalions and artillery corps of the national guard, and for the organization of such ambulance companies, field hospitals, and supply depots, as may be authorized or required as the proper complement for the national guard by the orders of the war department, or the laws and regulations of the United States governing the organized militia; and such officers shall have the same titles as those of corresponding grades in the United States army, and shall be of the same grades and numbers as are authorized or prescribed by the laws and regulations of the United States for service with the cor-

responding organizations of the regular army, or as authorized or prescribed by the said laws and regulations or orders of the war department for the government of the organized militia.

All promotions in the medical corps to fill vacancies in the several grades shall be made according to seniority and no person shall receive an appointment as first lieutenant in the medical corps unless he shall have been examined and approved by a medical board of the national guard as hereinafter prescribed.

**Sec. 38. Medical reserve corps, how constituted; number; rank; subject to regulations when called to active duty; pay.** 1909, c. 206, § 38. 1911, c. 81, § 4. For the purpose of securing competent medical practitioners to conduct the physical examination of applicants for enlistment and to render medical service to any organization when so ordered by the commander-in-chief the governor may issue commissions as first lieutenants of the medical reserve corps to such active licensed practitioners of medicine and surgery in this state as shall be favorably recommended by the senior officer of the medical corps, not to exceed one for each company or other organization so situated that the services of an officer of the medical corps cannot be effectively available. Such officers are not entitled to retirement, but the commission so given shall confer upon the holders all the authority, rights and privileges of commissioned officers of like grade in the medical corps of the national guard, except promotions, but only when engaged in active duty in examining recruits or under orders from the commander-in-chief. They shall have rank in said corps according to the date of their commissions therein, and when employed on active duty shall rank next below all officers of like grade in the active militia; provided that any officer of the medical reserve corps who fails to perform his duty as herein prescribed shall forfeit his commission and not be eligible to re-appointment.

Officers of the medical reserve corps when called into or engaged in active duty shall be subject to all the laws, regulations, and orders for the government of the active militia; and for conducting the physical examination of applicants for enlistment shall be entitled to such compensation as the governor in regulations may prescribe, and for all other services to the pay of first lieutenants of the medical corps.

**Sec. 39. Hospital corps; enlistments.** 1909, c. 206, § 39. The hospital corps shall consist of the sergeants first class, sergeants, corporals, privates first class and privates, required for service with the several organizations of the national guard, ambulance company, or field hospital; and such non-commissioned officers and privates shall be of the same grades and numbers as are authorized or prescribed for service with the corresponding organizations of the regular army or as authorized or prescribed by the orders of the war department, or laws and regulations of the United States for the government of the organized militia.

Enlistments in the hospital corps and the appointment of non-commissioned officers therein shall be as prescribed in regulations by the governor.

**Sec. 40. Coast artillery corps; organization and minimum strength.** 1909, c. 206, § 40. The governor may organize a coast artillery corps which shall belong to the line of the national guard and shall consist of such

## CHAP. 15

number of companies as the governor may determine. The number of field officers and sergeant-majors of coast artillery shall be in approximately the same proportion to the number of companies as obtains in the coast artillery corps of the regular army, and the number of master electricians, engineers, electrician sergeants first and second class, master gunners, firemen and other expert enlisted men shall be determined by the governor; but the minimum strength in the different grades for a coast artillery company of the national guard shall be as prescribed by the orders of the war department and the laws and regulations of the United States. The commander-in-chief may transfer to the coast artillery corps, under such regulations as he may prescribe, such existing organizations or such officers and men thereof as he may deem for the best interest of the service.

**Sec. 41. Civilian cooks authorized; regulations and pay. 1909, c. 206, § 41.** The commander-in-chief may authorize the employment of cooks to the number fixed in this chapter in organizations in which there are vacancies in enlisted cooks when such organizations are on duty under his orders or are called upon in aid of the civil authorities. The commander-in-chief may authorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized by this chapter. Cooks during such employment shall be subject to the laws and regulations for the government of the national guard and shall receive the same pay as enlisted cooks.

### Naval Militia.

**Sec. 42. Composition and strength of the naval militia. 1909, c. 206, § 42. 1915, c. 145, § 34.** The organizations forming the naval militia, now and hereafter organized and such persons as may be enlisted or as may be appointed or commissioned therein, shall constitute the naval militia of this state. In time of peace the naval militia shall consist of not more than one ship's company of not more than seven divisions, the total strength of which shall not exceed three hundred officers and men, but in time of war, invasion, insurrection, or imminent danger thereof, the governor may increase this force to double the authorized peace strength and organize it as the exigencies of the service may require; provided that in time of peace the total strength of the active militia shall not exceed the limits prescribed in section thirty-three.

**Sec. 43. Organization of the naval militia; system shall conform to U. S. navy; not attached to national guard except when specially ordered. 1909, c. 206, § 43.** The commander-in-chief may organize the forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize, or disband any or all of the organizations therein; and he may at any time change the organization of the naval militia so as to conform to any organization, system of drill or instruction which may be adopted for the navy of the United States, and increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and change their grades, titles, and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the navy of the United States; and the discipline and government thereof when not otherwise prescribed shall be according to the laws and regulations now or hereafter governing the national guard. No part of the naval militia shall be attached to any organization of the national guard except when especially ordered by the governor, in which case the senior officer present shall command the whole, unless the commander-in-chief shall direct otherwise.

**Sec. 44. Relative rank of officers.** 1909, c. 206, § 44. 1913, c. 3, § 1. The relative rank between officers of the national guard and naval militia shall be the same as that now or hereafter existing between officers of the army and navy of the United States and the relative rank of petty officers in the naval militia and non-commissioned officers in the national guard will be as prescribed by the governor; seamen shall correspond to privates of infantry.

**Sec. 45. Pay and allowances of the naval militia.** 1909, c. 206, § 45. 1915, c. 145, § 10. The pay of officers and petty officers of the naval militia shall be the same as that of officers and non-commissioned officers of the same relative rank in the national guard; and seamen shall receive the pay of privates of infantry. The commanding officer of the ship's company shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of all state and United States property for which he may be accountable; each division commander shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of public property for which he is accountable; the executive officer of the ship's company, each division clerk and the third class yeomen of each division shall receive for their services a sum not exceeding twenty-five dollars per annum.

**Sec. 46. Qualifications and authority of commissioned officers; election.** 1909, c. 206, § 46. Commissioned officers of the naval militia shall have the same authority, rights, privileges, and qualifications, grade for grade, as commissioned officers of the national guard, and, if not otherwise prescribed, shall be elected or appointed in the same manner; but the board of examination, in the case of the election or appointment of an officer of the naval militia shall consist of at least one commissioned officer of the naval militia, active or retired. The commanding officer of the ship's company shall be elected by the division commanders, and the election of division commanders shall be as prescribed for the election of company officers of the national guard; but whenever the governor may appoint commissioned officers of the national guard he may appoint commissioned officers of the naval militia in like manner.

#### Officers, Their Election and Qualifications.

**Sec. 47. All officers commissioned by the governor; conform to U. S. army and navy regulations.** 1909, c. 206, § 47. All officers shall be commissioned by the governor at his discretion, but no one shall be commissioned unless the conditions and qualifications set forth in the following sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned and shall have taken

## CHAP. 15

the constitutional oath of office. The acceptance of a commission in the militia of this state shall be deemed a resignation by the person accepting the same of all other commissions held by him in such militia. In no case shall any officer in the active militia be commissioned to a higher grade than that prescribed for the corresponding command by the laws and regulations for the government of the regular army and navy of the United States or of the organized militia.

**Sec. 48. Eligibility for a commission; vacancies. 1909, c. 206, § 48.** Commissioned officers must be citizens of the United States and twenty-one years of age or over. No person who has been expelled or dishonorably discharged from any military or naval organization of this or any other state or of the United States shall be commissioned, and no person shall be commissioned unless he shall possess the additional requirements prescribed in this chapter for the particular office to which he is to be commissioned; provided that in time of war, insurrection, invasion, rebellion, or imminent danger thereof, the governor may fill any vacancy in any field grade by the appointment thereto of any officer on the active list of the army, navy or marine corps of the United States.

**Sec. 49. Rank and precedence. 1909, c. 206, § 49.** Rank and precedence of officers and non-commissioned officers of the national guard of this state, the relative rank between officers thereof and of the naval militia, the power of command and the commands appropriate to each grade, shall be as determined by the laws and regulations for the government of the regular army and navy of the United States; except that when an officer is commissioned to fill a vacancy caused by the expiration of his own term of service he shall take rank from the date of his original commission in that grade.

**Sec. 50. Election and promotion of line officers. Elective system to cease whenever section 1, article VII of state constitution shall be amended. 1909, c. 206, § 50. 1915, c. 145, § 11.** General, field, and company officers, of the line, shall be elected as follows: Brigadier generals by the written votes of the field officers of their respective brigades; field officers by the written votes of the captains and subalterns of their respective regiments or corps; captains and subalterns by the written votes of the members of their respective companies; subject to the age limit prescribed in section fifty-two: provided, that if section one, article seven of the constitution of the state shall be hereafter amended in such manner as to permit the legislature to prescribe the mode of selecting officers for the grades herein specified, then, on and after the first day of July next succeeding the adoption of such amendment, the said officers shall be promoted and appointed by the governor as follows and the elective system prescribed in this chapter shall cease to exist, otherwise to remain in full force and effect: Vacancies in the grade of brigadier general shall be filled by promoting the senior colonel; vacancies in the field grades of a regiment or corps by promoting the senior officer of the regiment or corps, of the next lower grade; vacancies in the grade of captain or lieutenant by promoting the senior officer of the company, of the next lower grade; subject in each case to examination as provided in section fifty-eight. Vacancies in the grade of second

lieutenant shall be filled in the following manner: All enlisted men of the company, and any battalion and regimental non-commissioned staff officer who was appointed from said company, shall if physically sound be eligible for appointment, and shall be permitted to appear before an examining board, for a physical and a competitive practical and theoretical examination; the enlisted man whom the board considers, after the competitive examination, to be the best qualified shall be appointed to fill the vacancy. The governor shall prescribe regulations as to the scope and the manner of conducting such examination, and if no such enlisted man appears or if none satisfactorily passes said examination, then the governor shall fill the vacancy by making an appointment from the enlisted men of the organization in which the vacancy occurred.

**Sec. 51. Elections; notification and proceedings; adjournment; failure to elect; acceptance of commission.** 1909, c. 206, § 51. The adjutant general shall issue orders for all elections, shall detail a suitable officer other than a candidate to preside thereat, and shall give or cause to be given by commissioned officers notification to all qualified voters when, where, and for what office the election is to be held, by written or printed notice given in hand, sent by mail, or left at the last and usual place of abode at least four days before the date of the election. The officer or officers serving such notice shall make a certified written return of the persons notified and of the manner of service, and present the same to the presiding officer before the polls are open. At the time fixed for the election the officer ordered to preside thereat, or in his absence a qualified officer authorized by him to act for him, or in the absence of such officer the commissioned officer highest in rank of those present not being a candidate, shall require the return of the service of notice, the roster of the brigade, regiment, or company from the legal custodian, and shall then open the polls. A majority of the votes of all persons present voting at an election shall be necessary for a choice, but in no case shall an election be held unless a majority of the qualified electors are present. The presiding officer shall be the judge of the election, shall canvass the result, forthwith notify in writing the successful candidate of his election, and report the proceedings in writing to the adjutant general.

If it shall appear at any election that legal notice has not been given in the manner aforesaid to all persons entitled to vote, the presiding officer shall adjourn the meeting, cause such notice to be given, set another date for an election not less than seven days later, and notify the adjutant general; but the presence of a person entitled to vote shall be a waiver of his right to legal notice.

If the electors neglect, refuse, or, after the election shall have been in progress for three hours, fail to elect, then this fact shall be certified by the presiding officer to the adjutant general, and the governor shall promote or appoint an officer in accordance with the preceding section, and if any person so elected or appointed neglect, refuse, or fail without cause to appear, when notified, for examination, or fail to pass the examination, a new election shall be held or appointment made.

## CHAP. 15

Every officer duly commissioned shall within ten days accept the commission and take the constitutional oath of office; such oath may be taken and subscribed before any officer authorized by law to administer an oath or before any military officer who has taken the oath himself; and in case of neglect or refusal to accept the commission or to take and subscribe the oath within the time mentioned, such commission shall be canceled by the governor, and a new election ordered or appointment made to fill the vacancy.

**Sec. 52. Age limit prescribed for each grade of the line and staff; adjutant general and chaplains excepted.** 1909, c. 206, § 52. 1911, c. 81, § 5. 1915, c. 145, § 12. No person shall be elected, appointed or commissioned to any of the following grades, who is over the age limit prescribed for each of the several grades, namely: brigadier general, colonel and lieutenant colonel, sixty-one years; major and captain, fifty-six years; first lieutenant, fifty years; second lieutenant, forty-five years. This section shall not apply to the adjutant general of the state nor to chaplains of the national guard.

**Sec. 53. Time limit of service in each grade of the line and staff; adjutant general excepted.** 1909, c. 206, § 53. 1911, c. 81, § 6. No officer of the active militia shall be permitted to serve in any of the following grades for a greater period than that prescribed for each of the several grades, namely: Brigadier general, five years; colonel, six years; lieutenant colonel, seven years; major, eight years; captain, nine years; first lieutenant, ten years; and second lieutenant, ten years. If any officer has been re-elected or re-appointed to the office which he held on the third day of July, one thousand, nine hundred and nine, the time limit of service in that grade shall be reckoned from the second day of April, one thousand nine hundred and nine. When an officer shall have served the prescribed time in any one grade he shall be placed on the retired list. This section shall not apply to the adjutant general of the state.

**Sec. 54. Vacancies in various grades, how filled.** 1909, c. 206, § 54. 1911, c. 81, § 7. 1915, c. 145, § 13. Vacancies occurring in the various grades, excepting the lowest, of the several staff departments and corps shall be filled by promoting and appointing the senior officer in the next lower grade of said department or corps. Vacancies occurring in the lowest grade thereof shall be filled in the following manner:

In the medical department appointments shall be made by the governor upon the recommendation of a board of examination consisting of three officers of the medical corps. Such boards of examination shall be convened by general orders from the adjutant general's office, which orders shall indicate the number of vacancies to be filled, and any active licensed practitioner of medicine and surgery in this state, who is physically sound, shall be permitted to appear for examination.

In all other staff departments and corps any vacancy shall be filled by the appointment thereto of any commissioned officer in the active militia on the active or retired list; but if from the active list, of at least five years' service, two of which shall have been as a commissioned officer, and if from the retired list, the last year of service on the active list shall have been within eight years immediately preceding the appointment.

Commanding officer of brigades, regiments and separate battalions shall appoint their respective staff officers subject to the provisions of sections forty-seven, forty-eight, fifty-seven and fifty-eight of this chapter, who shall hold office during the pleasure of the officer making the appointment and until their successors are appointed and qualified, subject at all times to the same laws and regulations as apply to other commissioned officers of the national guard.

Battalion staff officers are appointed by the regimental commanders upon recommendation of the battalion commander.

**Sec. 55. Chaplains and their qualifications.** 1909, c. 206, § 55. The governor may appoint, upon the recommendation of the several regimental commanders, chaplains in the national guard at the rate of one for each regiment, with the rank of captain; no person shall hereafter be appointed a chaplain who is more than fifty-five years of age, or until he has furnished proof that he is a regularly ordained minister of some religious denomination, in good standing.

**Sec. 56. Competitive examination for appointments.** 1909, c. 206, § 56. The governor may prescribe a system of examination to determine the enlisted man best qualified for appointment to the grade of second lieutenant as prescribed in section fifty-four, and the best qualified applicant for appointment to the lowest grade in the medical corps as prescribed in section fifty-four.

**Sec. 57. Examination upon original appointment or election.** 1909, c. 206, § 57. The governor shall prescribe a system of examination to determine the fitness for commission consequent on an original appointment or election of all persons, other than those provided for in the preceding section; and no person shall be commissioned consequent upon an original appointment or election until he shall have passed a satisfactory examination as to his physical, moral, educational, and general fitness for the service.

**Sec. 58. Examination of all officers below grade of lieutenant colonel, for promotion or appointment to higher grade.** 1909, c. 206, § 58. The governor shall prescribe a system of examination of all officers of the active militia below the grade of lieutenant colonel to determine their physical, moral, professional and general fitness for promotion or for appointment other than the first, such examination to be conducted, if practicable, at such time anterior to the accruing of the right to promotion or to the issuing of the commission as may be best for the interest of the service; provided, that the governor may waive the examination for promotion or appointment to any grade in the case of any officer who in pursuance of existing laws has passed a satisfactory examination for such grade prior to the second day of April, one thousand nine hundred and nine; and provided that if any officer fail to pass a satisfactory examination and is reported unfit for promotion or appointment, the officer next below him in rank or standing next in the line of promotion, having passed said examination, shall receive the promotion, or if the office is elective the governor shall order another election; and provided that if the officer is found to be incapacitated for service by reason of physical disability, he shall be retired with the rank to which his seniority entitled him to be promoted, and should he fail for

**CHAP. 15**

any reason, other than lack of moral fitness, he shall be suspended from promotion or appointment to any office in the active militia for one year; and should he fail the second time to pass such examination, he shall be honorably discharged; but should he be found lacking in moral fitness, he shall, if the governor approve of such finding, be discharged for the good of the service; provided also that the examination into the professional fitness of a judge advocate and a chaplain shall extend no farther than to the special qualifications required of them. The board of examination under this and the two preceding sections shall have the same power to take evidence, administer oaths, and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial.

**Sec. 59. Brevet commissions; how and when conferred.** 1909, c. 206, § 59. The governor may, upon the recommendation of his commanding officer, confer a brevet commission of a grade next higher than that actually held by the officer so recommended, upon any officer of the national guard or naval militia in active service, for distinguished gallantry. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military and naval service of the United States.

#### Discharge and Retirement of Officers.

**Sec. 60. Honorable discharge of officer.** 1909, c. 206, § 60. 1915, c. 145, § 14. Any officer who shall reach the age prescribed in section sixty-two, or who shall fail in a second examination as prescribed in section fifty-eight, or who shall be rendered surplus by reduction or disbandment of his organization in any manner provided for in this chapter, or who accepts an appointment in the army, navy or marine corps of the United States, if in each case he is ineligible for retirement, or who tenders his resignation and the same is accepted, shall receive an honorable discharge; provided that he shall not be under arrest or returned to a military court for any deficiency or delinquency, and provided he is not indebted to the state in any manner, and that all his accounts for money and public property are correct.

**Sec. 61. Officers when discharged for the good of the service.** 1909, c. 206, § 61. 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. 62. Retirement of officers under age limit, or otherwise incapacitated.** 1909, c. 206, § 62. 1911, c. 81, § 8. 1915, c. 145, § 15. Any officer who is sixty-four years old, or who is found incapacitated for service by reason of physical disability under the provisions of section fifty-eight, or who hereafter shall serve in any one grade the time limit as prescribed in section

fifty-three, and be eligible for retirement due to length of service or other cause specified in this section, shall be withdrawn from active service and placed on the retired list.

Any officer who has served twenty-five years as a commissioned officer in the active militia of this state, or who is sixty years old, may be, by order of the commander-in-chief, withdrawn from active service and placed on the retired list.

Any officer who has served as a commissioned officer in the active militia of this state six consecutive years, or as such nine years not necessarily consecutive, or nine years either as an officer or soldier in which shall be counted honest and faithful service in the military or naval service of the United States, or both, provided six years of which have been service as a commissioned officer in the active militia of the state, shall, if he make application, be placed on the retired list with the highest rank held by him during his service.

Any officer who has served as a commissioned officer in the active militia of this state for a continuous period of fifteen years; honorable service in war to be counted double, may at his own request be placed upon the retired list with one grade higher rank than that held at the time of his retirement.

Retired officers shall be entitled to wear the uniform of the rank with which they were retired; they shall continue to be borne on the national guard register, shall be subject to military law, and may, in the discretion of the governor, be assigned to active duty.

**Sec. 63. Officers becoming disabled shall be retired; board convened to determine facts; board not necessary unless demanded. Any officer may be ordered before such board for examination. 1909, c. 206, § 63.** Any commissioned officer who has become or who shall hereafter become disabled and thereby incapable of performing the duties of his office shall be withdrawn from active service and placed on the retired list; and any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall upon the recommendation of his commanding officer or of an inspecting officer, be discharged for the good of the service, honorably discharged, or, if eligible thereto, retired, in the discretion of the commander-in-chief. 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 cause of incapacity of such officer as appears disabled or 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. The board, excepting the officer or officers of the medical corps, shall be composed, as far as may be, of seniors in rank to the officer whose incapacity is inquired of; it shall have the powers of courts-martial and courts of inquiry, and whenever it finds an officer incapacitated for active service, shall report such fact to the governor stating the cause of incapacity, whether from disability, unfitness, or incompetency, and if he approve such finding such officer shall be placed on the retired

**CHAP. 15**

list or discharged, as provided in this section; provided that it shall not be necessary to convene a board for action on any case arising under this section, unless the officer designated to be placed upon the retired list or discharged shall, within twenty days after being notified that he will be so retired or discharged, serve on the adjutant general of the state a notice in writing that he demands a hearing and examination before such board; and provided that no officer shall be so retired or discharged without having had a full and fair hearing before the board, if upon due notice he shall demand it.

Provided, further, that the commander-in-chief shall whenever he may deem the good of the service requires it, order any commissioned officer before a board of examination constituted as above, and such board shall examine into the moral character, capacity, and general fitness for the service of such commissioned officers, and record and return the testimony taken, and a record of its proceedings; and if the findings of such board be unfavorable to such officer, and be approved by the governor, he shall be discharged for the good of the service. Failure to appear when ordered before a board constituted under this section shall be sufficient ground for finding by such board that the officer ordered to appear be so discharged.

**Sec. 64. Dismissal of officer.** 1909, c. 206, § 64. An officer who shall have been absent without leave for a period of six months shall upon the recommendation of his immediate commanding officer be dismissed from the service by order of the commander-in-chief.

**Sec. 65. Removal from office.** 1909, c. 206, § 65. No officer shall be removed from office without his consent, except by sentence of a general court-martial or as provided in this chapter.

#### **Enlistments and Discharge of Enlisted Men.**

**Sec. 66. Enlistment of recruits; qualifications and age; minors must obtain consent of parent or guardian; term of enlistment. Discharge by reason of disbandment and for physical disability. Musicians.** 1909, c. 206, § 66. 1911, c. 81, § 9. Recruits enlisting in the active militia must be able-bodied men, free from disease, of good character and temperate habits, between the ages of eighteen and forty-five years; and in time of peace no person who is not a citizen of the United States and of this state, or who has not made a legal declaration of his intention to become a citizen or who cannot speak, read, and write the English language or who does not reside within a town where an organization of the active militia is stationed, or within a radius of twelve miles thereof, shall be enlisted in the active militia; provided that the character and the standard of the physical examination required for enlistment in the national guard shall be as prescribed in the regulations of the war department and the laws of the United States for the government of the organized militia, and provided that no person under the age of twenty-one years, having parent or guardian entitled to his custody shall be enlisted or mustered into the active militia of the state without the written consent of such parent or guardian.

No person not of the age specified above, no insane or intoxicated person, no deserter from the military or naval service of the United States or of this or any other state, and no person who has been convicted of a felony shall be enlisted in the active militia.

Hereafter all enlistments in the active militia shall be for a term of not less than three years, and no person shall again be enlisted whose service during the last enlistment in the active militia was not honest and faithful, or who has been dishonorably discharged or discharged without honor from any military or naval organization of the state or of the United States, unless he produces the written consent to such enlistment of the commanding officer of the organization in which he last served or from which he was dishonorably discharged or discharged without honor and unless such enlistment be approved by the adjutant general.

Men who have been discharged by reason of disbandment may be enlisted and shall then receive credit for the period served at the time of disbandment; and a man discharged for physical disability shall if such disability cease and he again enlists, receive credit for the period served prior to such discharge.

Chief and principal musicians, musicians, and privates of the hospital corps may be enlisted as such.

**Sec. 67. Re-enlistment and continuous service; re-enlistment of man over forty-five years of age.** 1909, c. 206, § 67. 1913, c. 151. When a soldier re-enlists within sixty days from the expiration of his last preceding enlistment, his services shall be considered as continuous and the re-enlistment shall be dated as of the day following such expiration; and when the term of service of any enlisted man expires during a period of furlough and while he is serving in the military or naval forces of the United States, should he re-enlist in the active militia within sixty days of his muster out of the service of the United States, his service shall be considered as continuous, and shall in like manner commence on the day following such expiration, and the re-enlistment shall be dated as of the day following such expiration. No man of forty-five years of age or over shall be re-enlisted unless he has served the full period of his last preceding enlistment, has the permission of the commanding officer of the organization in which he desires to enlist, and of the adjutant general and has passed the physical examination prescribed by regulations.

**Sec. 68. Enlistment papers.** 1909, c. 206, § 68. Every person who enlists or re-enlists shall sign and make oath to an enlistment paper which shall contain an oath of allegiance to the state and the United States, and be in such form as may be prescribed in the regulations issued under this chapter. Such oath shall be taken and subscribed to before a commissioned officer of the active militia, and all such commissioned officers are hereby authorized to administer such oaths and, when designated by the commanding officer of the company or other organization or by other proper military superior, to make and complete valid enlistments in the active militia. A person making a false oath as to any statement contained in such enlistment paper shall upon conviction be deemed guilty of perjury.

## CHAP. 15

**Sec. 69. Transfers of officers and enlisted men.** 1909, c. 206, § 69. The commander-in-chief may make and cause to be made such transfers of officers and enlisted men within a regiment, corps or separate organization, between regiments, corps or separate organizations, and between the line and the hospital corps, as may be for the best interests of the service, and may provide regulations therefor.

**Sec. 70. Appointment of non-commissioned officers.** 1909, c. 206, § 70. General, post, regimental and battalion non-commissioned staff officers, and non-commissioned officers of companies and bands, shall be appointed, promoted, reduced, and warranted in accordance with, and their duties defined by, the regulations under this chapter, which shall be the same, so far as may be, as the corresponding regulations governing the regular army. Chief petty officers and petty officers of the naval militia shall be appointed, promoted, reduced, and warranted in such manner as the commander-in-chief may prescribe.

**Sec. 71. Enlisted man may be dropped from the rolls.** 1909, c. 206, § 71. Any enlisted man, who shall remove his residence to such distance from the armory of his organization or the armory, post, or district at which he is detailed to serve, or enter into such employment as will render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, may be dropped from the rolls by authority of the adjutant general, upon recommendation of the company or corps commander; an enlisted man, dropped from the rolls by reason of removal or character of employment, may upon change in residence or employment be taken up at any time, upon his own application approved by the adjutant general. A man who has been dropped from the rolls, shall not be taken up until he has passed the physical examination required upon enlistment, and men thus taken up shall receive credit for the time served before having been dropped.

**Sec. 72. Discharge of enlisted man.** 1909, c. 206, § 72. 1915, c. 145, § 16. No enlisted man shall be discharged from the service without a discharge in writing signed by the regimental or corps commander and no discharge shall be given to any enlisted man before his term of service has expired, except by order of the commander-in-chief or adjutant general, upon personal application, by sentence of a general or special court-martial or military commission, on certificate of disability by direction of the adjutant general, and in compliance with an order of a court of competent jurisdiction, or a judge or justice thereof, on a writ of habeas corpus.

Discharges shall be of the following kinds:

1. Honorable discharge, which shall be given to every soldier whose service has been honest and faithful, his conduct having been such as to warrant his re-enlistment.

2. Discharge which shall be given to a soldier:

- (a) Without trial, on account of fraudulent enlistment.
- (b) Without trial, on account of having become disqualified for service, physically or in character, through his own misconduct.
- (c) On account of imprisonment under sentence of a civil court.
- (d) Where discharge without honor is specially ordered by the commander-in-chief for any other reason.

3. Dishonorable discharge, which may be given to a soldier:

(a) Sentenced to be so discharged by a court-martial or military commission.

(b) Convicted of felony.

(c) Whose commanding officer makes application to the adjutant general for his discharge for the good of the service, stating briefly the misconduct relied upon as a ground for the discharge; if the adjutant general, after investigation in which the soldier complained of shall be given a full and fair hearing, concurs in the application, he may issue his order for dishonorable discharge.

**Sec. 73. Certificate of merit to enlisted man.** 1909, c. 206, § 73. Hereafter when any enlisted man of the active militia shall have distinguished himself in the service for gallantry or for long and meritorious service in the active militia for a continuous period of fifteen years or for a period of twenty years not necessarily continuous, the governor may upon the recommendation of the commanding officer of the regiment or the senior officer of the corps to which such enlisted man belongs, grant him a certificate of merit; and a holder of such certificate shall be borne on the military register of the state for the remainder of his life; provided that meritorious service hereafter in time of actual war, insurrection, or rebellion, shall count double toward procuring such certificate.

#### Discipline and Instruction.

**Sec. 74. Military courtesy, command, and administration, shall be as prescribed for armies of U. S.** 1909, c. 206, § 74. Matters of military courtesy and discipline; precedence of regiments and corps; details and working parties; special duty; official designation and duties of officers; records; flags, colors and standards; instruction and administration of regiments, battalions and companies; interior economy of companies; rosters, detachments and daily service; honors, courtesies and ceremonies; guards; practical and theoretical instruction; care, accountability and responsibility for public property; surveys of property; staff administration and general duties of the staff corps; military correspondence; orders; muster rolls; return of troops and battle reports; arrest and confinement; and field service, shall, in general and so far as practicable and consistent with this chapter, be as now or hereafter prescribed in the regulations for the armies of the United States.

**Sec. 75. Inspection of companies; inspection by inspector general; by medical officer.** 1909, c. 206, § 75. 1911, c. 81, § 10. The commander-in-chief may in his discretion at such times and under such regulations as he may prescribe order each colonel commanding a regiment or corps, or, in case of his disability or when designated by him, the lieutenant colonel, and each major commanding a battalion, to parade, inspect, and report upon the general military efficiency of the several companies under his command at least once each year. In addition to the inspections provided for in this section, the inspector general shall make the inspection prescribed in section nineteen of this chapter; and the commander-in-chief may, whenever he deems it necessary, order an inspection by a medical officer of the officers and men, armories, clothes and equipments of the active militia.

## CHAP. 15

**Sec. 76. Schools of instruction; encampment, maneuvers, and field instruction; practice marches; no parade or drill on election day.** 1909, c. 206, § 76. The commander-in-chief shall prescribe for the officers and men of the regiments, corps and staff departments of the national guard and for the officers and men of the naval militia a course of theoretical and practical instruction, and shall organize such schools, designate such instructors, and make such regulations, as may be required to accomplish such instruction.

He may order all or any part of the national guard to participate in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or sea-coast defenses of the United States, whenever such participation shall have been provided for by the secretary of war; and he shall, during the year next preceding each annual allotment in accordance with section sixteen hundred and sixty-one of the Revised Statutes of the United States, as amended, require every company, troop, and battery in the national guard, to participate in practice marches or go into camps of instruction at least five consecutive days, and to assemble for drill and instruction at company, battalion, or regimental armories or rendezvous or for target practice not less than twenty-four times, and shall also during the same period require an inspection of each such company, troop, and battery to be made by an officer of such national guard or an officer of the regular army. No parade or drill of the active militia shall be ordered on any day during which any election shall be held, except in cases of riot, invasion or insurrection, or imminent danger thereof, or of public danger resulting from flood, conflagration, or tempest.

See c. 7, § 117.

**Sec. 77. Civil officers may call on commanding officer for aid, in case of tumult or riot.** 1909, c. 206, § 77. In case of a tumult, riot, mob, or body of men acting together by force with intent to commit felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state or the United States, or of imminent danger thereof, a justice of the supreme judicial court in term time or vacation or the sheriff of a county, may call for aid upon a commanding officer of the national guard or naval militia, and such call shall be in writing. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military or naval force or any part thereof under his command, and shall make an immediate report of the case to the adjutant general and to his immediate commanding officer. He shall receive only general directions from the civil authority requesting the aid, and shall remain strictly responsible to his military superior for the manner in which the troops shall be used to accomplish the desired end.

**Sec. 78. Command may be ordered out in case of public disaster.** 1909, c. 206, § 78. In the event of public danger resulting from flood, conflagration, or tempest the senior officer of a command may, upon request of the mayor of a city or the selectmen of a town, order out for the defense or protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the adjutant general and to his immediate commanding officer.

**Sec. 79. Commanding officer may close places where intoxicating liquor, arms or explosives are sold.** 1909, c. 206, § 79. Whenever any part of the active militia is on active duty, pursuant to the order of the governor or call of civil authority, to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the selling, bartering, lending, or giving away of any of said articles so long as any of the troops remain on duty in such places, or in the vicinity thereof, whether any civil officer has forbidden the same or not.

**Sec. 80. Notice for duty.** 1909, c. 206, § 80. Notices for duty at encampments, maneuvers and field instruction shall be given at least ten days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices shall be given orally or by written or printed notice in hand sent by mail or left at the last and usual place of abode; provided, that the posting of the copy of an order in a conspicuous place in the drill or business room of the company, at a regular meeting held not less than four days before the time fixed in such order for the performance of any duty shall be sufficient notice to all members of the company present at such meeting; and provided that when the days upon which the stated drills provided by law, orders, or regulations are to be held have been fixed, no further notice thereof to the members of the company shall be required.

**Sec. 81. Decorations and prizes for excellence in small arms practice; members of staff, corps or department may compete.** 1909, c. 206, § 81. To encourage marksmanship, the governor may offer annually a state decoration to those who shall excel in small arms practice, and prizes for competition among the organizations and corps of the national guard and naval militia armed with rifle and carbine. He may also in his discretion provide suitable decorations and prizes for proficiency in practice with light and heavy guns. All such prizes shall be competed for under regulations prescribed by the inspector of small arms practice, approved by the adjutant general. Members of any staff corps or department assigned to duty with any command shall be considered a part of such command for the purposes of the competition herein authorized.

**Sec. 82. Service medal and additional bars.** 1909, c. 206, § 82. Every officer and soldier who has rendered honorable service for nine years in the active militia of the state shall receive a service medal therefor and an additional bar or clasp for each additional three years service.

**Sec. 83. Medal and bar for perfect attendance.** 1909, c. 206, § 83. Every officer or enlisted man of a company or corps, who has a perfect record of attendance at every military duty for one calendar year, shall receive a suitable medal therefor, and a bar or clasp for each additional calendar year of perfect attendance, either continuous or otherwise.

#### Compensation.

**Sec. 84. Compensation for attendance at drills.** 1909, c. 206, § 84. 1911, c. 81, § 11. 1915, c. 145, § 34. Whenever in his opinion the state of the military fund and the appropriation to defray the current expenses of the naval militia will warrant the expenditure, the commander-in-chief may

## CHAP. 15

allow officers and enlisted men of the active militia reasonable compensation for attendance at drills under such regulations as he shall prescribe, such regulations to be prepared for his consideration by a special board consisting of the adjutant general, the commanding officer of the coast artillery corps, the commanding officer of the second infantry and the commanding officer of the ship's company, naval militia.

**Sec. 85. Duty pay; transportation and subsistence; regular army pay; when called to aid civil authorities, paid by county.** 1909, c. 206, § 85. 1915, c. 145, § 17. Each officer and enlisted man ordered for duty by the commander-in-chief, or under his authority, shall receive for every day actually on duty, the following pay: All officers of staff departments and corps, five dollars; brigadier general, six dollars; colonel, five dollars; lieutenant colonel, four dollars and fifty cents; major, four dollars; captain, three dollars and fifty cents; first lieutenant, three dollars; second lieutenant, two dollars and fifty cents; first class sergeant hospital corps, regimental sergeant major, quartermaster sergeant, commissary sergeant, and first sergeant, two dollars; battalion sergeant major, one dollar and ninety cents; color sergeant, one dollar and eighty-five cents; company quartermaster sergeant, sergeant, cook, one dollar and seventy-five cents; corporal, one dollar and fifty cents; first class private, hospital corps, one dollar and forty cents; private, hospital corps, one dollar and thirty cents; private, one dollar and twenty-five cents; members of the band, three dollars; and in addition thereto, there shall be allowed the necessary transportation and subsistence: provided that no pay or compensation shall be allowed when ordered for inspection or muster, small arms practice, drill, parade, review, field service, or practice marches, unless expressly authorized in the order for such duties, and provided further, that when ordered for encampment, maneuvers, field exercise, or small arms competitions, or when called forth in aid of the civil authority, commissioned officers of whatsoever grade, shall receive the pay proper for officers of the same grade in the regular army, and enlisted men shall receive the pay set forth in this section.

If the active militia, or any part of it, is ordered on duty for more than ten days, officers and men shall receive the same pay and allowances as the regular troops of the United States, but if when ordered the length of service is not given, they shall be paid for the first ten days as specified in this section, and after ten days, shall receive the same pay and allowances as the regular troops of the United States.

When the active militia, or any portion thereof, shall be called forth in aid of the civil authority, or assembled in obedience to such call, as provided for in sections seventy-seven and seventy-eight, all officers and men thereof shall receive the pay set forth in this section; and such compensation and the necessary expenses incurred in quartering, caring for, transporting, and subsisting the troops as well as the expense incurred for pay, care and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, shall be paid by the county where such service is rendered. The treasurer of such county shall, upon presentation to him of vouchers and pay-rolls for such expenses and compensation, certified by the commanding officer of the organization or corps on duty in

aid of the civil authority in such county or counties, and approved by the adjutant general, forthwith execute in behalf of and in the name of such county a certificate or certificates of indebtedness for the money required to pay such vouchers and pay-rolls; such certificates shall bear interest at the rate of not exceeding six per cent per annum, and shall be made payable on the first day of January following the expiration of two months from their issue, and the amount thereof shall be raised in the next tax budget of said county succeeding their issue, and applied to the payment of such certificates. Said county treasurer shall sell such certificates at public or private sale, and apply the proceeds thereof to the payment of such expenses and compensation. Any county treasurer or public officer, who shall neglect or refuse to perform any of the duties required by this section, shall be personally charged with the costs and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in such action or proceeding, to be fixed by the court.

**Sec. 86. Additional pay and allowances.** 1909, c. 206, § 86. 1911, c. 81, § 12. 1915, c. 145, § 18. In addition to all other pay and allowances herein provided, there shall be allowed, subject to such regulations as the commander-in-chief may prescribe, to an adjutant general on the staff of a brigade commander, to a regimental adjutant, to the senior officer of the inspector general's department, to the senior officer of the medical department, to the senior officer of the ordnance department, each, a sum not exceeding one hundred dollars per annum; to the senior officer of the quartermaster corps, not exceeding fifty dollars per annum; to each company commander or other officer who in the opinion of the adjutant general is entitled to such remuneration, for care and responsibility of military property, not exceeding fifty dollars per annum; to each company clerk, and to each company quartermaster sergeant, not exceeding twenty-five dollars per annum.

To all officers ordered to make inspection or other journeys necessary in the military service, there shall be allowed all actual and necessary expenses incident to the performance of said service, including such incidental expenditures as are allowed by law and regulations to officers of the regular army when inspecting the organized militia.

Whenever deemed necessary, the adjutant general may authorize the commutation of rations for enlisted men, which shall be at the rates fixed by the regulations of the United States in force at the time.

The adjutant general whenever necessary, and in such manner as he may deem best, shall provide suitable mounts for all officers and enlisted men required to perform mounted duty. He shall also approve all other just and reasonable claims, payments, and expenditures, legally made in behalf of the military service of the state.

#### Military Accounts.

**Sec. 87. Payment of military accounts.** 1909, c. 206, § 87. 1911, c. 81, § 13. All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the same and trans-

## CHAP. 15

mitted to the adjutant general for his examination and approval. They shall then be presented to the governor and council, and if found correct shall be certified to the paymaster general for payment, and a warrant shall be drawn for the amount thereof on the treasurer of state in favor of the paymaster general; accounts so allowed shall be paid by him to the persons to whom they are severally due, or to their order; provided that no payment whatever shall be made or allowed except for duty actually performed or services actually rendered; and provided that no payment of any sum authorized by this chapter shall be made to any person until there shall have been first deducted therefrom all amounts due by him to the state on any military account whatsoever; and provided further that whenever the governor shall deem it necessary, he may draw his warrant on the treasurer of state in favor of the paymaster general for such sums from the military fund or the appropriation for the support of the naval militia as may be required to meet immediate payments for current expenditures; such funds shall be accounted for separately on a monthly account current to be filed with the state auditor and any unused balance shall be covered into the state treasury whenever directed by the governor.

**Sec. 88. Annual appropriation; apportionment for naval militia. 1909, c. 206, § 88. 1911, c. 7. 1913, c. 3, § 2.** For the purpose of defraying the current expenses of the active militia there shall be appropriated annually the sum of forty-five thousand dollars of which sum at least five thousand dollars, or so much thereof as may be necessary, shall be apportioned by the paymaster general for the support of the naval militia. The appropriation thus made shall be a special and continuous military fund, from which special fund only, except where herein otherwise specified, shall be paid the expenses authorized by this chapter; payments shall be made upon vouchers approved as provided in section eighty-seven.

**Sec. 89. Pay and care of member of active militia when injured or disabled in service. 1907, c. 131. 1909, c. 206, § 89.** Any member of the active militia who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever called into active service of the state by order of the governor, or called in aid of the civil authorities, or when participating by order of the governor in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or sea-coast defenses of the United States, or when participating by order of the governor in practice marches or camps of instruction for at least five consecutive days, receive any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or who shall without fault or negligence on his part receive any wound or injury incident to and while performing any lawfully ordered duty, which shall temporarily incapacitate him from his usual business or occupation, shall during the period of such incapacity, receive the pay provided by section eighty-five, and actual and necessary expenses for care and medical attendance. No claim shall be allowed under this section unless the claimant within thirty days after receiving the injury or contracting the disease or disability upon which the claim is based, notifies in writing the adjutant general of his intention to make such claim.

Under this section no disability shall be considered temporary which continues more than ninety days after the date of receiving the injury or of contracting or incurring the disease or disability, and pay and expenses for care and medical attendance for more than the said ninety days shall not be allowed. Where a claim is made under this section, the claimant shall, within thirty days after receiving the injury or contracting the disease or disability upon which the claim is made, or such further time as the adjutant general shall grant, submit to the adjutant general his proof by affidavit or otherwise as the adjutant general may direct. On examination thereof the adjutant general may allow or disallow the whole or any part of said claim, or he may refer the same to a medical examiner or to a board of three officers, at least one being a medical officer, to be appointed by the adjutant general, and such medical examiner or board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. The finding of the medical examiner or board shall be subject to the approval of the adjutant general, who may approve the whole or any part thereof, or he may return the proceedings for revision or for taking further testimony. The adjutant general may cause the examination of the claimant to be made from time to time by a medical officer or officers, designated for the purpose, and may direct the removal of a claimant to, and his treatment in, any hospital designated by the adjutant general, and if the claimant refuse to permit any examination herein provided for, or if he refuse to go to such hospital, or to follow the advice given or treatment prescribed for him therein, he shall thereby forfeit and be barred from all right to any claim or allowance under this section.

The amount found due such member by the adjutant general, either on his own investigation or on the report of a medical examiner or board to the extent approved by him, shall be a charge against and be paid in the manner provided in section eighty-five by the county in which such duty was rendered, in every case where a county is by said section made liable to pay for the performance of military duty; and in all other cases such amount shall be a claim against the state, and the adjutant general shall so certify to the governor and council who shall cause a warrant to be drawn for the amount so certified, and the treasurer of state shall pay said amount to the claimant from any moneys in the treasury not otherwise appropriated.

#### Armories, Drill Rooms and Ranges.

**Sec. 90.** Municipal officers to provide drill room and armory; armory commission shall determine suitability of rooms. 1909, c. 206, § 90. 1911, c. 81, § 14. 1913, c. 3, § 3. Municipal officers shall provide and maintain for each company of the active militia located within the limits of their respective towns a suitable drill room, offices, and armory, or place of deposit of all military equipment, and for the headquarters of each separate battalion, corps, regiment, and brigade established within said municipal limits suitable headquarters offices; and the suitability for the necessary

**CHAP. 15**

military purposes, of such drill rooms, armories and headquarters offices, shall be determined by the armory commission. A reasonable compensation to be fixed by the armory commission, after hearing and consulting with the responsible municipal officers, not to exceed three hundred dollars per annum for each company, other organization, band or separate headquarters shall be allowed as rent for such suitable building or buildings to the municipality providing and maintaining them, and paid by the state out of the appropriation for armory rentals; to carry out the provisions of this section the sum of ten thousand dollars annually is hereby appropriated from any money in the treasury not otherwise appropriated, payments to be made by the treasurer of state upon vouchers manifested by the armory commission to the state auditor.

**Sec. 91. Target ranges provided and maintained by municipal officers.** 1909, c. 206, § 91. 1915, c. 145, § 19. Municipal officers shall provide for each company of the active militia located within the limits of their respective towns a suitable target range, except where such range shall be provided out of the military fund appropriated by the congress of the United States and apportioned to the state for that purpose; and such municipal officers shall maintain and keep in good repair such target range for the use of the company or companies located within the limits of their municipality, irrespective of the method by which such range may have been obtained. The suitability of such target range for the necessary military purposes shall be determined by the inspector of small arms practice of the national guard and approved by the adjutant general. All ranges shall be open for the use of members of the national guard at any time, including Sundays, subject to the approval of the adjutant general.

**Sec. 92. Penalty when any municipal officer fails or refuses to perform duty prescribed.** 1909, c. 206, § 92. 1911, c. 81, § 15. Any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining such suitable drill rooms, offices, armories, or headquarters as prescribed in section ninety, and any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining a suitable target range as prescribed in section ninety-one, shall be guilty of a misdemeanor, prosecuted by complaint or indictment before a court of competent jurisdiction, and upon conviction shall be fined not less than one hundred dollars nor more than four hundred dollars, or imprisoned for not less than three months nor more than six months, or shall suffer both such fine and imprisonment, which fine shall be paid into the state treasury and credited to the military fund.

**Sec. 93. Authority granted municipalities to provide armories and ranges.** 1909, c. 206, § 93. All municipalities in this state may build or acquire by purchase, lease, gift, or otherwise, suitable armories, drill rooms, headquarters offices, and the land necessary therefor and for target ranges for such organizations of the active militia as may be stationed and located therein, and may provide for the maintenance and repair of the same; and all municipalities are hereby authorized, and it shall be the duty of the officers thereof, to raise money by taxation or otherwise for the purpose of providing suitable armories, drill rooms, headquarters offices and target

ranges for such organizations of the active militia as may be stationed and located therein, in such manner as is by law provided for the erection and maintenance of all municipal public buildings and improvements.

See c 4, § 54.

**Sec. 94. Armories and target ranges exempt from taxation. 1909, c. 206, § 94.** All armories, drill rooms, offices, headquarters offices, and target ranges, owned by the state or by any municipality, or by any organization of the active militia, and all buildings and lands leased by the state, or by any municipality, or by any officer or organization of the active militia, to be used as an armory, drill room, headquarters office, target range, or for other military purposes shall be exempt from taxation for all purposes during the period of such ownership, lease and use.

**Sec. 95. Armory commission created; duties; compensation. 1909, c. 206, § 95. 1911, c. 81, § 16.** The adjutant general, together with two officers of the line of the active militia of or above the grade of captain and two civilians appointed by the governor for a term of four years unless sooner relieved by proper authority, and eligible to re-appointment for a like period, shall constitute an armory commission of which the adjutant general shall be the chairman; they shall exercise general supervision and control over all armories, drill rooms, and headquarters offices, consult and co-operate with the municipal authorities, and devise effective means of obtaining and maintaining such armories, and fix, subject to the approval of the governor, the compensation to be allowed to the municipalities as rent for them; they shall have the power, after consulting and hearing the responsible municipal officers, to determine the administrative question of military suitability and adequate maintenance of all armories, drill rooms, offices, and headquarters offices; and they shall notify the responsible municipal officers of all deficiencies in these respects, and if such officers, fail, refuse, or neglect to take effective measures for providing such suitable buildings and their maintenance, the chairman of the commission shall initiate the prosecution prescribed by section ninety-two. For each day actually employed in the transaction of the business of the armory commission military members other than the adjutant general shall receive the pay of their rank as provided in section eighty-five and civilian members shall receive as compensation the sum of five dollars; and all members shall be reimbursed for actual traveling expenses, such accounts to be paid from the military fund in accordance with the provisions of section eighty-seven.

**Sec. 96. Armories for exclusive use of the active militia. 1909, c. 206, § 96.** All armories, drill rooms, offices, and headquarters offices, shall be subject always to the provisions of law and the regulations prescribed by proper authority; and said armories, drill rooms, offices, and headquarters offices, shall be held for the exclusive use of the active militia unless otherwise authorized by the general regulations for the government of armories prescribed by the armory commission, or by special authority of the chairman of said commission after application in special cases by the municipal authorities in writing. If any municipal officer uses such buildings without authority, or abuses the authority or privilege so granted, he shall be deemed guilty of a misdemeanor and shall be punished as prescribed in section ninety-two.

## CHAP. 15

**Sec. 97. Governor authorized to accept donations of lands and buildings, for the state.** 1909, c. 206, § 97. 1913, c. 3, § 4. The governor may accept in the name of the state donations of lands and buildings to be used for military purposes by the organized militia under such conditions as the donors may nominate; lands and buildings so donated shall be subject to the rules and regulations prescribed by the governor; and provided further that when any building is turned over to the state for use as an armory or drill shed the armory commission shall be authorized to approve for payment from the appropriation for armory rentals such sums as may be necessary for the upkeep of such building including repairs, furnishings, light, heat, water and janitor service.

**Sec. 98. State may erect armories.** 1909, c. 206, § 98. Whenever the military fund shall be sufficient to warrant such expenditures, the armory commission may, with the approval and by direction of the governor, erect upon lands donated to the state for the purpose either by municipalities, corporations or individuals, armories, drill rooms, headquarters offices or other buildings for military purposes; provided, that should such buildings cease to be held, used, or occupied for military purposes the buildings and improvements, thereon erected out of the military fund shall revert to the original donor, or donors, his or their successors, heirs, and assigns.

#### Courts-martial.

**Sec. 99. Rules of evidence in courts-martial; accused may testify.** 1909, c. 206, § 99. The rules of evidence in all courts-martial shall follow in general, so far as apposite, the common law rules of evidence as observed by the courts of this state in criminal cases, but a certain latitude in the introduction of evidence and the examination of witnesses by an avoidance of restrictive rules is permissible when it is in the interest of the administration of military justice. The accused shall, at his own request but not otherwise, be a competent witness; and his failure to make such request shall not create any presumption against him.

**Sec. 100. Court-martial proceedings.** 1909, c. 206, § 100. 1911, c. 81, § 17. 1915, c. 145, § 20. In all court-martial proceedings the judge advocate or summary court may issue in the name of the state an order directing any military person or persons or any sheriff or constable to arrest and produce the accused before the court, and the accused shall have the right to demand the nature and cause of the accusation against him, and to be presented with a copy of the charges. He shall have the right of being heard by himself or counsel or both; and shall have compulsory process for obtaining witnesses in his favor. The officer ordering a general, or special court-martial will, at the request of any prisoner who is to be arraigned, detail as his counsel a suitable officer who shall perform such duties as devolve upon counsel for defendant before civil courts in criminal cases.

**Sec. 101. Judge advocate may issue necessary process; service. Attendance of witnesses; punishment for neglect to appear or refusal to testify.** 1909, c. 206, § 101. The judge advocate of any court-martial, and any summary court, will summon the necessary witnesses for the trial, and for

that purpose may issue in the name of the state the necessary subpoenas; and every judge advocate of a court-martial may issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within this state may lawfully issue. Such writs and processes may be served and executed by a military person or persons designated to do so by the judge advocate, or they may be directed to any sheriff, constable, or other officer who shall serve or execute the same in the same manner in which like writs and processes are served and executed when issued by the civil courts of criminal jurisdiction in this state.

The attendance of witnesses in the military service of the state may be procured by the service of formal subpoena, or by the order of competent military authority; and every person in the military service of the state who being duly subpoenaed or ordered to appear as a witness before a court-martial, wilfully neglects or refuses to appear or refuses so to qualify as a witness, or to testify or produce documentary evidence, shall be deemed guilty of disobedience of orders and punished by a court-martial accordingly; and every person not belonging to the military service of the state who being duly subpoenaed to appear as a witness before a court-martial wilfully neglects or refuses to appear or refuses so to qualify, testify, or produce documentary evidence, shall be deemed guilty of a misdemeanor, and prosecuted like other misdemeanants in any court of competent jurisdiction and punished by a fine not exceeding one hundred dollars; but such witness may plead as a defense that he was not tendered one day's fee and mileage for the journey to and from the place of trial; all witnesses shall receive the fees prescribed in the supreme judicial court, to be paid by the adjutant general. No witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

**Sec. 102. Subpoenas and other process to extend throughout the state.** 1909, c. 206, § 102. Subpoenas and all other writs and process when issued by general courts-martial shall extend to every part of the state, but when issued by other military courts cannot be executed in any county other than the one in which issued, except they be indorsed by the governor, or an officer authorized to order a general court-martial, in which case they can be executed anywhere in this state. The indorsement shall be, in substance, "Let this process be executed in any county of the State of Maine," and shall be dated and signed by the officer making it.

**Sec. 103. Maximum limits of punishment; governor may prescribe within limit; confinement.** 1909, c. 206, § 103. Whenever by any of the articles of section one hundred and thirty-two, the punishment on conviction of any military offense is left to the discretion of the court-martial, the punishment shall not exceed, in the case of officers, dismissal from the service, a forfeiture of all pay and allowances, and a fine of two hundred dollars and costs of witnesses, and in the case of enlisted men, thirty days' confinement, dishonorable discharge, forfeiture of all pay and allowances, and a fine of fifty dollars and costs of witnesses. Within such maximum limit the governor may prescribe in the case of enlisted men a lesser limit which a court-martial shall not exceed, and if no such limit be prescribed any fine awarded

## CHAP. 15

shall not exceed the amount of forfeiture prescribed in the executive order establishing maximum limits of punishment for enlisted men in the regular army. But confinement shall in no case be awarded as a punishment except for an offense committed when on duty in any encampment, maneuvers, and field instruction ordered for at least five consecutive days, or when called out by the governor in case of insurrection, invasion, tumult, riot, mob, resistance to the laws of the state, or of imminent danger thereof, or when called out in aid of the civil power.

**Sec. 104. Warrants of commitment; costs of arrest and commitment, by whom paid.** 1909, c. 206, § 104. 1911, c. 81, § 18. 1915, c. 145, § 21. When the sentence of a court-martial adjudges a fine and costs against any person, and such sentence has been approved as provided in article one hundred and four of section one hundred and thirty-two of this chapter, or whenever a person in the military service is ordered confined to await trial or is sentenced to confinement by a court-martial, or whenever any person is ordered into confinement under the eighty-sixth article, at a place or station not provided with a guard-house or military prison, the governor, the court or officer ordering the court, or the officer commanding for the time being, as the case may be, shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held, directing him to take the body of the person so convicted and confine him in the county jail; and the sheriff shall take the body of the person convicted and confine him in the county jail for the time specified in the sentence, or for one day for any fine not exceeding one dollar, and one additional day for every dollar above that sum, and one additional day for each dollar of cost. The costs of arrest and commitment in all court-martial proceedings shall be the same as is prescribed in revised statutes of this state for such service in the courts of this state and shall be paid by the adjutant general from the military fund on presentation of all papers or copies of papers showing the service thereon. Such papers and copies shall be certified as correct by the judge advocate or summary court.

**Sec. 105. Jurisdiction presumed. Immunity of court.** 1909, c. 206, § 105. The jurisdiction of the courts and boards established by this chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

No action or proceedings shall be prosecuted or maintained against a member of the military forces of this state or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court.

**Sec. 106. Administration of oaths.** 1909, c. 206, § 106. Officers of the judge advocate general's department, judge advocates of courts-martial, and the trial officers of summary courts, are hereby authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same.

**Sec. 107. Report of trials to adjutant general.** 1909, c. 206, § 107. 1915, c. 145, § 22. Each summary court and the judge advocate of each special court shall, at the end of each month, make a report to the adjutant general of the cases tried, setting forth the offense committed and penalty awarded, which reports may be destroyed when no longer of use.

**Sec. 108. Provisions apply to naval militia.** 1909, c. 206, § 108. 1911, c. 81, § 19. The provisions in regard to courts and boards established by this chapter shall apply, so far as apposite, to the naval militia.

**Sec. 109. Exemption from arrest.** 1909, c. 206, § 109. Every person belonging to the active militia of the state shall in all cases, except felony and breach of the peace, be privileged from arrest while going to, remaining at, or returning from any place at which he may be required to attend for the election of officers or other military duty.

**Sec. 110. Exemption from jury duty.** 1909, c. 206, § 110. Every member of the active militia, every retired officer, and every enlisted man holding the certificate of merit shall be exempt from all jury duty; production of a certificate from the claimant's commanding officer showing that the holder is a member of the active militia, or of a certificate of retirement, or of a certificate of merit, or the sworn statement of the claimant that he is such member, retired officer, or holder of a certificate of merit, shall be prima facie proof that the claimant is entitled to the exemption.

**Sec. 111. Voluntary service prohibited.** 1909, c. 206, § 111. No organization of the active militia shall perform any voluntary military service except as authorized by this chapter or by the express orders of the governor.

**Sec. 112. Military organization not allowed to leave or enter state.** 1909, c. 206, § 112. No organization of the active militia shall leave the state, and no military organization of another state, unless acting under the authority of the United States, shall enter the state, except in each case by permission of the commander-in-chief.

**Sec. 113. Military parades by unauthorized bodies prohibited; exceptions; penalty.** 1909, c. 206, § 113. No body of men, other than the active militia and the troops of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state; nor shall any city or town raise or appropriate any money toward arming, equipping, uniforming or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers and soldiers honorably discharged from the service of the United States and the order known as the Sons of Veterans may parade at any time in public with firearms, having first obtained the written permission of the city or municipal officers of the town or city in which they reside to parade, and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their military instructors. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and punished by a fine not exceeding ten dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

### Uniform, Arms and Equipment.

**Sec. 114. Uniform of active militia; enlisted men uniformed and equipped by the state. Commissioned officers uniform and equip themselves. Clothes or equipment not subject to execution.** 1909, c. 206, § 114. 1911, c. 81, § 20. The uniform, arms, and equipment of the active militia shall be the same as those of the regular army and navy of the United States, except that on articles of uniform and equipment the distinguishing letters "Me." may be substituted for the letters "U. S."; each organization of the national guard and every enlisted man thereof shall be uniformed, armed, and equipped by the state, as is or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia, and no member or organization of the active militia, shall adopt, use or wear in the military service of the state any other uniform, arms, or equipment.

All commissioned officers shall provide themselves with such uniforms, arms, and equipment as are required of commissioned officers of the regular army; and the adjutant general may purchase and issue as state property on memorandum receipt to commissioned officers such articles of arms, uniform, and equipment as he may deem necessary.

The clothes, arms, military outfit, and accoutrements furnished by or through the state to a member of the active militia, and the uniforms, arms, and equipment required of commissioned officers shall not be subject to any suit, distress, execution, or sale, for debt or payment of taxes.

**Sec. 115. Unlawful wearing of uniform; punishment; exceptions.** 1909, c. 206, § 115. Every person, other than an officer or enlisted man of the active militia of this state, or of any other state, or of the United States army, navy, marine corps, or revenue or forest service, or a member of any service of the United States for whom such uniform has been prescribed by proper authority, or inmate of any veterans' or soldiers' home, or a member of the Grand Army of the Republic, or of the Sons of Veterans, who at any time wears the uniform of the United States army or navy or active militia of this state, or any part of such uniform, or a uniform or a part of a uniform similar thereto, within the limits of this state, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment; provided, that nothing in this chapter shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theatre while actually engaged in following said profession, and provided that nothing in this chapter shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room; and provided further, that whenever the active militia, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said active militia is in service.

**Sec. 116. Member of active militia shall suffer no injury in his employment because of being such member.** 1909, c. 206, § 116. Any person who, either by himself or with another, wilfully deprives a member of the national guard or naval militia of his employment, or prevents his being employed

by himself or another, or obstructs or annoys said member of said national guard or naval militia or his employer in respect of his trade, business, or employment, because said member of said national guard or naval militia is such member, or dissuades any person from enlisting in the said national guard or naval militia by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

**Sec. 117. Association shall not discriminate against member of active militia.** 1909, c. 206, § 117. No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard or naval militia because of such membership, in respect of the eligibility of such member of the national guard or naval militia to membership in such association or corporation, or in respect to his right to retain said last mentioned membership; and any person who aids in enforcing any such provisions against a member of the said national guard or naval militia with intent to discriminate against him because of such membership, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

**Sec. 118. Member of active militia not to be molested, while on duty.** 1909, c. 206, § 118. Whoever shall unlawfully molest, insult, or abuse any member of the national guard or naval militia, while in the performance of his military duty, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

**Sec. 119. Military equipment must not be disposed of.** 1909, c. 206, § 119. The clothes, arms, military outfits, and accoutrements furnished by or through the state to any member of the active militia shall not be sold, bartered, exchanged, pledged, loaned, or given away; and no person not a member of the military forces of this state or of the United States, or duly authorized officer or agent of the state or of the United States, who has possession of any such clothes, arms, military outfits, or accoutrements, so furnished, and which have been the subject of any such unlawful disposition, shall have any right, title, or interest therein; but the same shall be seized and taken wherever found by any officer of the state, civil or military, and shall thereupon be delivered to any commanding officer or other officer authorized to receive the same, who shall make an immediate report to the adjutant general. The possession of any such clothes, arms, military outfits, or accoutrements by any person not a member of the military forces of the state or of the United States shall be presumptive evidence of such sale, barter, exchange, pledge, loan, or gift.

**Sec. 120. Unlawful disposition of military equipment punished.** 1909, c. 206, § 120. Any person who shall sell, or offer for sale, barter, exchange,

**CHAP. 15**

pledge, loan, or give away, secrete or retain after demand made by any officer of the state, civil or military, any clothes, arms, military outfits, or accoutrements furnished by or through the state to a member of the active militia, or who shall receive by purchase, barter, exchange, pledge, loan, or gift, any such clothes, arms, military outfits, or accoutrements, shall be guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

**Sec. 121. Repair and renovation of military property. 1909, c. 206, § 121.** The adjutant general shall, whenever it may be necessary, make arrangements for the repair, cleansing, and renovation of all clothes, arms, military outfits, or accoutrements on hand or issued to any organization of the active militia; and when the necessity of such repair, cleansing, or renovation is due to the fault or negligence of any member of the active militia, the cost thereof shall be charged against any pay due or to become due such member or recovered in the same manner as a fine, forfeiture, or penalty, as prescribed by this chapter.

**Sec. 122. Military property unfit for use may be condemned, and sold. 1909, c. 206, § 122.** The inspector general or such other officer as the adjutant general may designate, shall inspect and condemn public military property which has become unfit for use; no property shall be sold until it has been so inspected and condemned, and such condemnation approved by the governor; and the proceeds of sales of condemned material, stores, supplies, or other public military property of every kind shall be deposited with the adjutant general, paid into the state treasury, and credited to the military fund.

**Sec. 123. Property furnished by state remains state property; officers receiving same held responsible. Wilful destruction of property punished; lost or destroyed property accounted for. 1909, c. 206, § 123. 1911, c. 81, § 21.** All property furnished by the state shall remain and continue to be the property of the state, to be used for military purposes only, and when not so in use shall be kept in the armories or designated places of deposit, provided, however, that upon order of the governor and council, the quartermaster general is authorized to issue to the municipal officers of any city or town field ordnance of obsolete pattern under such regulations as the governor and council may prescribe. Every officer receiving public property for military use shall be held responsible for the safe-keeping and the return of the same when called for; he shall account for and make such returns thereof as may be prescribed whenever called upon so to do by the governor or other proper authority; and every such officer shall, when required by the governor, give bond payable to the adjutant general of the state in such sum as he may direct, with good and sufficient sureties, conditioned to account for, safely keep, and return all military property of the state and the United States for which such officer may be accountable and responsible, and the costs and expenses incurred by entering into such bond shall be paid out of the military fund. Any officer, enlisted man or other person, who shall wilfully or maliciously destroy, injure or deface any article of military property belonging to the state, or

shall use it for other than military purposes, or shall have or retain the same in violation of law or regulations shall be punished by a fine not exceeding fifty dollars. And in case any officer or enlisted man of the national guard who has at any time through carelessness or inattention lost, destroyed, or suffered to be lost or destroyed, any state or government property which has been issued for his use, the paymaster general shall retain out of the pay or allowances or moneys due such officer or enlisted man for any military services whatsoever, an amount of money equal to the value of the property so lost or destroyed, and money so retained shall be credited to the account of such officers of the national guard as may be accountable to the state for said property. Such portion of said money as shall be for state property shall be turned in to the treasury of the state, to be credited to the military fund, and such portion as may be for United States property shall be turned in to the United States treasury to be credited to the state on its property returns.

**Sec. 124. Right of way when parading or performing military duty.** 1909, c. 206, § 124. The commanding officer of any portion of the active militia parading or performing any military duty in any street or highway, may require any or all persons in such street or highway, to yield the right of way to such militia; provided that the carriage of the United States mail, the legitimate functions of the police and the progress and operations of the hospital ambulances, fire engines and fire departments, and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay, or obstruct any portion of the active militia wherever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a misdemeanor.

**Sec. 125. Commanding officer may fix bounds and limits of his camp; intrusion may be punished; sale of intoxicating liquor, prohibited.** 1909, c. 206, § 125. Every commanding officer, when on duty as such, may fix necessary bounds and limits to his camp, or parade, not including a road so as to prevent passing. Whoever intrudes within the limits of the parade, camp, or armory, after being forbidden, or resists a sentinel who attempts to put him or keep him out of such limits, or in any manner interrupts or molests the orderly discharge of duty by those under arms, or disturbs, hinders, or prevents the passage of troops going to or returning from any duty, may, at the discretion of the commanding officer, be confined under guard not exceeding twenty-four hours. Such authority of an officer commanding a camp may be extended by order of the commander-in-chief to a distance not exceeding one-half mile around such camp; provided, that the owner or owners of the external space within such distance of the camp, and their agents or servants shall not be hindered or prevented from entering upon such space for the purpose of using, occupying, and improving the same, in the same manner in which they used, occupied, and improved the same at the time when the camp was established. The commanding officer of any camp or armory shall prohibit the introduction or sale of, or dealing in, beer, wine, or any intoxicating liquor, within the limits or extended limits of the camp or within the armory, and he may abate as common nuisances all such sales and introductions.

## CHAP. 15

**Sec. 126. Neglect or refusal of civil officers.** 1909, c. 206, § 126. Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall be guilty of misdemeanor.

**Sec. 127. Offenses punishable criminally; fines collected credited to military fund.** 1909, c. 206, § 127. Offenses against the provisions of this chapter, except when they are purely military and committed by a person subject to military jurisdiction, may, unless a different remedy is specially provided, be prosecuted by complaint or indictment before a court of competent criminal jurisdiction; and all fines and forfeitures collected under the provisions of this chapter, the disposition whereof is not otherwise specially provided for, shall be paid into the state treasury and credited to the military fund.

### Regulations and Articles of Government.

**Sec. 128. Companies may make by-laws.** 1909, c. 206, § 128. Companies of the active militia may make by-laws, subject to the written approval of the adjutant general, not repugnant to law, orders, or regulations, and fix a sum to be paid by any member of such company for non-compliance therewith not exceeding five dollars. Any member who fails to pay such sum so fixed, within thirty days after notification that the same is due, shall be deemed guilty of conduct to the prejudice of good order and military discipline, and punished by a court-martial accordingly; and all forfeitures resulting therefrom shall be paid into the company treasury.

**Sec. 129. National Guard Association.** 1909, c. 206, § 129. The commissioned officers of the active militia may organize themselves into an association the name of which shall be The National Guard Association of the State of Maine. Such association may adopt a constitution and by-laws not repugnant to law, orders or regulations, and alter and amend the same, and may take and hold such real and personal property as may be necessary for the purposes of the association.

**Sec. 130. Governor may make rules and regulations.** 1909, c. 206, § 130. The governor may make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this chapter, and, as nearly as practicable, to those governing the United States army and navy, and when promulgated, shall have the same force and effect as the provisions of this chapter. The rules and regulations in force on the third day of July in the year one thousand nine hundred and nine and not inconsistent herewith, shall remain in force until new rules and regulations are approved and promulgated.

**Sec. 131. Articles of war of the U. S. to be in force in time of war.** 1909, c. 206, § 131. Whenever any portion of the militia not being in the service of the United States shall be on duty or ordered to assemble for duty by the governor in time of actual war, insurrection, invasion or rebellion, the articles of war governing the army of the United States, the articles for the government of the United States navy, and the regulations prescribed for the army and navy of the United States, so far as consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such

duty during such state of actual war, insurrection, invasion, or rebellion; but no punishment under such rules and articles which shall extend to the taking of life, shall in any case be inflicted until the approval by the governor of the sentence inflicting such punishment.

**Sec. 132. Articles for the government of military forces.** 1909, c. 206, § 132. 1911, c. 81, § 22. 1915, c. 145, §§ 23-33. Except as provided in the preceding section the officers and soldiers of any troops whether active or reserve militia of this state or otherwise, appointed, enlisted, mustered or drafted into the military forces of this state, shall, at all times, and in all places, be governed by the following rules and articles and shall be subject to be tried by courts-martial. The word "officer," as used therein, shall be understood to designate commissioned officers; the word "soldier" shall be understood to include non-commissioned officers, musicians, artificers, and privates, and other enlisted men, and the convictions mentioned therein shall be understood to be convictions by court-martial.

**Article 2. Enlistment.** Enlistment in the active militia of this state shall be voluntary, and every person who enlists therein shall take and subscribe an oath, or affirmation, in the following form:

I, \_\_\_\_\_, do solemnly swear, (or affirm,) that I will bear true faith and allegiance to the State of Maine and to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the governor of Maine and the orders of the officers appointed over me, according to the laws, rules and articles for the government of the military forces of the State of Maine.

**Article 3. Enlistment of minors.** Every officer who knowingly enlists or musters into the military service of this state any minor over the age of eighteen years without the written consent of his parent or guardian, or any minor under the age of eighteen years, or any insane or intoxicated person, or any deserter from the military service of this state or of the United States, or any person who has been convicted of any infamous crime, shall suffer such punishment as a court-martial may direct.

**Article 4. Discharge.** 1915, c. 145, § 23. No enlisted man, duly sworn, shall be discharged from service without a discharge in writing, signed by a field officer of the regiment to which he belongs, or by the commanding officer when no field officer is present; and no discharge shall be given to any enlisted man before his term of service has expired except by order of the governor, the adjutant general or by sentence of a general or special court-martial.

**Article 5. False muster.** Any officer who knowingly musters as a soldier a person who is not a soldier shall be deemed guilty of knowingly making a false muster and punished as a court-martial may direct.

**Article 6. Mustering officer shall not take money therefor.** Any officer who takes money or other thing, by way of gratification, on mustering any regiment, or company, or on signing muster rolls, shall be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military, in the service of the State of Maine, or suffer such other punishment as a court-martial may direct.

## CHAP. 15

Article 7. **Commanding officer shall make return.** Every commanding officer shall, in the beginning of December and June of each year, and oftener if required by the governor, transmit to the adjutant general an exact return of the troops under his command, specifying the names of the officers absent from their posts, with the reasons for and the time of their absence. And any such officers who, through neglect or design, omit to send such return, shall be punished as a court-martial may direct.

Article 8. **False return.** Every officer who knowingly makes a false return to the adjutant general or to any of his superior officers authorized to call for such returns, of the state of the regiment or company under his command; or of any arms, ammunition, clothing or other stores thereunto belonging, shall be punished as a court-martial may direct.

Article 10. **Commanding officer accountable for property.** Every officer commanding a troop, battery, or company, is charged with the arms, accoutrements, ammunition, clothing, or other military stores belonging to his command, and is accountable to the adjutant general in case of their being lost, spoiled or damaged otherwise than by unavoidable accident, or on actual service.

Article 13. **False certificate.** Every officer who signs a false certificate relating to the absence or pay of any officer or soldier shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

Article 14. **False muster of man or horse.** Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof, by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military in the service of the State of Maine.

Article 15. **Property lost or destroyed through neglect.** Any officer who, wilfully or through neglect, suffers to be lost, damaged or spoiled any military stores or supplies belonging to this state or to the United States which have been received for use of the military forces of this state, shall make good the loss or damage and suffer such punishment as a court-martial may direct.

Article 16. **Ammunition sold or wasted.** Any soldier who sells, or wilfully or through neglect wastes the ammunition delivered out to him, shall make good the loss and suffer such punishment as a court-martial may direct.

Article 17. **Property sold or spoiled through neglect.** Any soldier who sells or through neglect loses or spoils his horse, arms, clothing, or accoutrements or any other military stores or supplies issued to him for his use or in his charge, shall make good the loss or damage, and suffer such punishment as a court-martial may direct.

Article 20. **Disrespect shown superior officer.** Any officer or soldier who behaves himself with disrespect toward his superior officers shall be punished as a court-martial may direct.

Article 21. **Violence toward or disobedience to superior officer.** Any officer or soldier who, on any pretense whatsoever, strikes his superior offi-

cer, or draws or lifts up any weapon, or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct.

Article 22. **Exciting mutiny or sedition among troops.** Any officer or soldier who begins, excites, causes, or joins in any mutiny or sedition in any troop, battery, company, party, post, detachment, or guard, shall suffer such punishment as a court-martial may direct.

Article 23. **Officer not endeavoring to suppress mutiny or sedition.** Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition, does not, without delay, give information thereof to his commanding officer shall suffer such punishment as a court-martial may direct.

Article 24. **Officers to quell disorders, and may order into arrest and confinement.** All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or to another corps, regiment, troop, battery, or company, and to order officers into arrest, and non-commissioned officers and soldiers into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or non-commissioned officer or draws a weapon upon him, shall be punished as a court-martial may direct.

Article 26. **Dueling prohibited.** No officer or soldier shall send a challenge to another officer or soldier to fight a duel, or accept a challenge so sent. Any officer who so offends shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

Article 29. **Officer wronged may apply to adjutant general for redress.** 1911, c. 81, § 23. Any officer who thinks himself wronged by the commanding officer of his regiment or corps, and, upon due application to such commander, is refused redress, may complain to the adjutant general. The adjutant general shall examine into said complaint and take proper measures for redressing the wrong complained of.

Article 30. **Soldier wronged may complain to commanding officer of his regiment.** 1911, c. 81, § 23. 1915, c. 145, § 24. Any soldier who thinks himself wronged by any officer may complain to the commanding officer of his regiment or corps, who shall summon a special court-martial for the doing of justice to the complainant. Any party may appeal from such special court-martial to a general court-martial; but if, upon such second hearing, the appeal be groundless and vexatious, the party appealing shall be punished at the discretion of said general court-martial.

Article 32. **Absence without leave.** Any soldier who absents himself from his troop, battery, company, or detachment, without leave from his commanding officer, shall be punished as a court-martial may direct.

Article 33. **Absence from parade.** Any officer or soldier who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise or other rendezvous appointed by his

## CHAP. 15

commanding officer, or goes from the same, without leave from his commanding officer, before he is dismissed or relieved, shall be punished as a court-martial may direct.

Article 34. **Written leave to go one mile from camp.** Any soldier who is found one mile from camp, without leave in writing from his commanding officer, shall be punished as a court-martial may direct.

Article 36. **No soldier shall hire another to do his duty for him.** No soldier belonging to any regiment, troop, battery, or company shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or leave of absence. Every such soldier found guilty of hiring his duty and the person so hired to do another's duty, shall be punished as a court-martial may direct.

Article 37. **Conniving at hiring duty performed.** Every non-commissioned officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practice shall be punished as a court-martial may direct.

Article 38. **Officers drunk on guard.** Any officer who is found drunk on his guard, party, or other duty, shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

Article 39. **Sentinel sleeping upon his post.** Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court-martial may direct.

Article 40. **Officer or soldier who quits his guard without leave.** Any officer or soldier who quits his guard, platoon, or division, without leave from his superior officer, except in case of urgent necessity, shall be punished as a court-martial may direct.

Article 41. **False alarms.** Any officer who, by any means whatsoever, occasions false alarms in camp, command or quarters shall suffer such punishment as a court-martial may direct.

Article 42. **Misbehaving before enemy or abandoning post.** Any officer or soldier who misbehaves himself before the enemy, runs away, or shamefully abandons any place, post or guard, which he is commanded to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer such punishment as a court-martial may direct.

Article 47. **Deserter.** Any officer or soldier who, having been duly enlisted or drafted in the military service of this state, deserts the same, shall suffer such punishment as a court-martial may direct.

Article 48. **Deserter shall serve full term of enlistment.** Every soldier who deserts the military service of this state shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

Article 49. **Resignation tendered no excuse for absence.** Any officer who, having tendered his resignation, quits his post or proper duties without leave and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of the same, shall be deemed and punished as a deserter.

Article 50. **Soldier must be discharged before enlisting in another company.** No soldier shall enlist himself in any other regiment or company, without a regular discharge from the regiment or company in which he last served, on a penalty of being reputed a deserter and suffering accordingly. And in case any officer shall knowingly receive and entertain such soldier or shall not, after his being discovered to be a deserter, immediately give notice thereof to the command in which he last served, the said officer shall, by court-martial, be dismissed.

Article 59. **For crimes against citizen of state, soldier delivered to civil magistrate, except in time of war.** When any officer or soldier is accused of a capital crime, or of any offense against the person or property of any citizen of this state, which is punishable by the laws of this state, the commanding officer and the officers of the regiment, company, or detachment to which the person so accused belongs are required, except in time of war, upon application duly made by or in behalf of the party injured, to use their utmost endeavors to deliver him over to the civil magistrate, and to aid the officers of justice in apprehending and securing him, in order to bring him to trial. If, upon such application, any officer refuses or wilfully neglects, except in time of war, to deliver over such accused person to the civil magistrates, or to aid the officers of justice in apprehending him, he shall be dismissed from the service.

Article 60. **False claims against state or U. S. Misappropriation of government property or receiving same in pledge.** Any person in the military service of this state who makes or causes to be made any claim against this state or the United States, or any officer thereof, knowing such claims to be false or fraudulent; or

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against this state or the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who enters into any agreement or conspiracy to defraud this state or the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Who, for the purpose of obtaining, or aiding others to obtain the approval, allowance, or payment of any claim against this state or the United States, or against any officer thereof, makes or uses or procures or advises the making or use of any writing, or other papers, knowing the same to contain any false or fraudulent statement; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against this state or the United States or any officers thereof, makes or procures or advises the making of any oath to any fact or to any writing or other paper, knowing such oath to be false; or

## CHAP. 15

Who, for the purpose of obtaining, or aiding others to obtain the approval, allowance, or payment of any claim against this state or the United States or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of any signatures upon any writing or other paper, or uses or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of this state or the United States, furnished or intended for the military service of this state, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate, or receipt; or

Who, being authorized to make or deliver any papers certifying the receipt of any property of this state or the United States, furnished or intended for the military service of this state, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained, or with intent to defraud this state or the United States; or

Who steals, embezzles, knowingly and wilfully misappropriates, applies to his own use, or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence, stores, money or other property of this state or the United States, furnished or intended for the military service of this state; or

Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any soldier, officer or other person who is a part of or employed in said forces or service, any ordnance, arms, equipments, ammunition, clothing, subsistence stores or other property of this state or of the United States, such soldier or officer or other person not having lawful right to sell or pledge the same shall, on conviction thereof be punished by fine or imprisonment or by such other punishment as a court-martial may adjudge; or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid, while in the military service of this state receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentenced by a court-martial, in the same manner and to the same extent as if he had not received such discharge or been dismissed.

Article 61. **Unbecoming conduct.** Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

Article 62. **Crimes, disorders and neglects, not otherwise mentioned.** 1915, c. 145, § 25. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles are to be taken cognizance of by a general, or a special, or summary court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

Article 63. **Camp retainers are subject to rules.** All retainers to the camp, and all persons serving with the military forces of this state in the field, though not enlisted soldiers, shall be subject to these rules and articles in the same manner as enlisted men.

Article 65. **Officers charged with crime.** Officers charged with crime may be arrested and confined in their quarters or tents, or other place, and shall be deprived of their swords and command by the commanding officer. And any officer who leaves his confinement before he is set at liberty by his commanding officer shall be dismissed from the service, or suffer such other punishment as a court-martial may direct.

Article 66. **Soldiers charged with crime.** Soldiers charged with crime may be confined until tried by courts-martial or released by proper authority.

Article 67. **Refusal to receive or keep prisoner.** Any provost marshal or any officer commanding a guard who shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the military forces of the state, shall suffer such punishment as a court-martial may direct; provided the officer committing shall, at the same time, deliver a statement in writing, signed by himself, of the crime charged against the prisoner.

Article 68. **Officer to whom prisoner is committed shall report within twenty-four hours.** Every officer to whose charge a prisoner is committed shall, within twenty-four hours after such commitment, or as soon as he is relieved from his guard, report in writing, to the commanding officer, the name of such prisoner, the crime charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct.

Article 69. **Unauthorized release or escape of prisoner.** Any officer who presumes, without proper authority, to release a prisoner committed to his charge, or suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

Article 70. **Confinement limited.** No officer or soldier put in arrest shall be continued in confinement more than five days, or until such time as a court-martial can be assembled.

Article 71. **Copy of charges shall be served on officers.** When an officer is put in arrest for the purpose of trial, except at remote stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within five days after his arrest, and that he is brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said ten days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease.

Article 72. **Courts-martial of three kinds.** 1915, c. 145, § 26. Courts-martial shall be of three kinds, namely: First, general courts-martial; second, special courts-martial; and third, summary courts-martial.

General courts-martial may consist of any number of officers from five to thirteen, inclusive.

Special courts-martial may consist of any number of officers from three to five, inclusive.

A summary court-martial shall consist of one officer.

Article 73. **Appointment of general courts-martial by commander-in-chief; officers not eligible, when.** 1915, c. 145, § 27. The commander-in-

## CHAP. 15

chief may appoint general courts-martial whenever necessary; and the proceedings and sentence shall be sent directly to the adjutant general, by whom they shall be laid before the governor for his approval or orders in the case. When empowered by the commander-in-chief, the commanding officer of any district or of any force or body of troops, may appoint general courts-martial whenever necessary; but when any such commander is the accuser or the prosecutor of the person or persons to be tried the court shall be appointed by superior competent authority, and no officer shall be eligible to sit as a member of such court when he is the accuser, or a witness for the prosecution.

Article 74. **Commanding officers may appoint special courts-martial.** 1915, c. 145, § 28. The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command, larger than a company, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

Article 75. **Powers of general courts-martial.** 1915, c. 145, § 29. General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by the military law and any other person who by statute or by law of war is subject to trial by military tribunals.

Article 76. **Powers of special courts-martial.** 1915, c. 145, § 30. Special courts-martial shall have the power to try any person subject to military law, except an officer, for any crime or offense not capital made punishable by the military law.

Special courts-martial shall have concurrent jurisdiction with the summary court in all minor offenses and with the general court-martial in all offenses not capital. The order appointing the court shall designate the person or persons to be tried and the offense or offenses for which they are to be tried.

Said court-martial shall have power to adjudge punishment not to exceed thirty days' confinement, dishonorable discharge, forfeiture of all pay or allowances, and a fine of fifty dollars and cost of witnesses, or any or all of such confinement, forfeiture and pay.

Article 77. **Powers of summary courts-martial; punishments, which may be allowed.** 1915, c. 145, § 30. Summary courts-martial shall have power to try any soldier for any crime or offense not capital made punishable by the military law: provided, that non-commissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a general court-martial.

Summary courts-martial shall have power to adjudge punishment not to exceed thirty days' confinement, forfeiture of thirty dollars pay or a fine of thirty dollars, or any or all of such confinement, forfeiture of pay and fine, and in addition thereto, in case of non-commissioned officers, re-

duction to the ranks, and in the case of first-class privates reduction to second-class privates: Provided, that the summary court shall not adjudge confinement, forfeiture or fine in excess of ten days' confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture, and fine unless the accused shall before trial consent in writing to trial by said court; but in any case of refusal to so consent the trial may be had either by general or special court-martial, or by summary court, but in case of trial by said summary court without consent, as aforesaid, the court shall not adjudge more than ten days' confinement, forfeiture of ten dollars pay and a fine of ten dollars, or any or all of such confinement, forfeiture and pay.

Article 78. **Appointment of judge advocate.** 1915, c. 145, § 30. Officers who may appoint a court-martial, excepting summary courts, shall be competent to appoint a judge advocate for the same.

Article 79. **Officers tried by general courts-martial.** Officers shall be tried only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

Article 80. **Summary courts for trial of enlisted men.** 1915, c. 145, § 31. The commanding officer of each camp, station, or other place, regiment or corps, detached battalion, or company, or other detachment in the military forces of this state, shall have power to appoint for such place, command, or station, a summary court to consist of one officer to be designated by him, before whom enlisted men who are to be tried, shall be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable, except when the accused is to be tried by general court-martial; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not exceed ten days confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture of pay and fine; there shall be a summary court record kept at the headquarters of the proper command in the field, each regiment, or corps, detached battalion, or company at its home station, in which shall be entered a record of all cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court, or by the officer commanding for the time being: provided, that when but one commissioned officer is present with a command he shall hear and finally determine such cases; and provided further, that non-commissioned officers shall not, if they object thereto, be brought to trial before summary courts without the authority of the officer competent to order their trial by general court-martial, but shall in such cases be brought to trial before special or general courts-martial, as the case may be.

Article 84. **Oath of members of court.** 1915, c. 145, § 33. The judge advocate shall administer to each member of the court, before they proceed upon trial, the following oath, or affirmation, which shall also be taken by

## CHAP. 15

all members of a special court-martial: "You, A. B., do swear, (or affirm,) that you will well and truly try and determine according to evidence, the matter now before you, between the State of Maine and the prisoner to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the military forces of this state, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the customs of war in like cases, and you do further swear (or affirm) that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice in due course of law. So help you God."

Article 85. **Oath of judge advocate.** When the oath, or affirmation, has been administered to the members of a court-martial the president of the court shall administer to the judge advocate, or person officiating as such, an oath, or affirmation, in the following form: "You, A. B., do swear, (or affirm,) that you will not disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law; nor divulge the sentence of the court to any but the proper authority, until it shall be duly disclosed by the same. So help you God."

Article 86. **Menacing words or disturbance of court.** A court-martial may punish, at discretion, any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder.

Article 87. **Behavior of members.** All members of a court-martial are to behave with decency and calmness.

Article 88. **Members may be challenged.** Members of a court-martial may be challenged by a prisoner, but only for causes stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

Article 89. **When prisoner refuses to answer.** When a prisoner, arraigned before a court-martial, from obstinacy, and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

Article 90. **Who shall conduct prosecution; rights of prisoner protected.** The judge advocate or some person deputed by him, or by the governor, or general, or officer commanding the division, brigade, camp or other place, regiment, separate squadron or battery shall prosecute in the name of the State of Maine, but when the prisoner has made his plea he shall so far consider himself counsel for the prisoner as to object to any leading question to any of the witnesses and to any question to the prisoner the answer to which might tend to criminate himself.

Article 91. **Depositions.** The depositions of witnesses residing beyond the limits of this state, may be taken and read in evidence as provided by the laws of this state.

Article 92. **Oath of witness.** All persons who give evidence before a court-martial shall be examined on oath, or affirmation, which shall be administered by the judge advocate in the following form:

"You swear, (or affirm,) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

Article 93. **Continuance.** A court-martial shall, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just; provided, that if the prisoner be in close confinement the trial shall not be delayed for a period longer than thirty days.

Article 95. **How courts-martial shall vote.** Members of a court-martial, in giving their votes, shall begin with the youngest in commission.

Article 99. **Discharge or dismissal of officers.** No officer shall be discharged or dismissed from the service except by order of the governor or by sentence of a general court-martial.

Article 100. **Sentence of officers for cowardice or fraud.** When an officer is dismissed from the service for cowardice or fraud, the sentence shall direct that the crime, punishment, name and place of abode of the delinquent shall be published in the newspapers in and about the state and in the county in which the offender lives or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

Article 101. **Suspension from command.** When a court-martial suspends an officer from command, it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

Article 102. **No person twice tried for same offense.** No person shall be tried a second time for the same offense.

Article 103. **Time within which trial must be had. Trial for desertion in time of peace.** No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than one year before the issuing of the order for such trial, unless, by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

No person shall be tried or punished by a court-martial for desertion in time of peace and not in the face of an enemy, committed more than one year before the arraignment of such person for such offense, unless he shall meanwhile have absented himself from the state, in which case the time of his absence shall be excluded in computing the period of the limitation: Provided, that said limitation shall not begin until the end of the term for which said person was mustered into the service.

Article 104. **Sentence must be approved.** No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer ordering the court, or by the officer commanding for the time being:

Article 106. **Sentence confirmed by governor.** No sentence of a court-martial respecting a general officer, and no sentence of a court-martial directing the dismissal of any officer, shall be carried into execution until it shall have been confirmed by the governor.

## CHAP. 15

Article 109. **Execution of sentences when confirmation is not required.** All sentences of a court-martial may be confirmed and carried into execution by the officer ordering the court, or by the officer commanding for the time being, where confirmation by the governor is not required by these articles.

Article 112. **Power to pardon or mitigate punishment.** Any officer who is authorized to confirm and carry into execution the sentence of a court-martial shall have power to pardon or mitigate any punishment adjudged by it, except the punishment of dismissal of an officer; and the governor shall have power to pardon or mitigate any punishment adjudged by any court-martial.

Article 113. **Records of proceedings and sentence forwarded to adjutant general.** 1911, c. 81, § 26. Every judge advocate, or person acting as such, at any general court-martial, shall, with as much expedition as the opportunity of time and distance of place may admit, forward the original proceedings and sentence of such court to the adjutant general, in whose office they shall be carefully preserved.

Article 114. **Party tried, entitled to copy of proceedings.** 1911, c. 81, § 26. Every party tried by a general court-martial shall, upon demand thereof, made by himself or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

Article 115. **Court of inquiry may be ordered.** A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against any officer or soldier may be ordered by the commander-in-chief; but such courts of inquiry shall never be ordered by any commanding officer except upon a demand by the officer or soldier whose conduct is to be inquired of.

Article 116. **Membership of court of inquiry.** A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder to reduce the proceedings to writing.

Article 117. **Oath of members of court of inquiry.** The recorder of a court of inquiry shall administer to the members the following oath: "You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

Article 118. **Witnesses may be summoned.** A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the judge advocate thereof. Such witnesses shall take the same oath which is taken by witnesses before courts-martial and the party accused shall be permitted to examine and cross-examine them so as fully to investigate the circumstances in question.

Article 119. **Such court shall give no opinion.** A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

Article 120. **Proceedings authenticated.** The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president thereof, and delivered to the adjutant general.

Article 121. **Proceedings admitted as evidence.** The proceedings of a court of inquiry may be admitted as evidence by a court-martial in cases not extending to the dismissal of an officer; provided, that the circumstances are such that oral testimony can not be obtained.

Article 125. **On death of officer inventory of his effects shall be transmitted to adjutant general.** 1911, c. 81, § 27. In the case of death of any officer while engaged in field service for instruction or otherwise the second officer in command of the troops with which said officer was serving at the time of his death shall immediately secure all his effects then in camp and shall make and transmit to the adjutant general an inventory thereof.

Article 126. **On death of soldier inventory of his effects shall be transmitted to adjutant general.** 1911, c. 81, § 27. In the case of death of any soldier while engaged in field service for instruction or otherwise the commanding officer of his troop, battery, company or detachment shall immediately secure all his effects then in camp and shall, in the presence of two other officers, make an inventory thereof and transmit the same to the adjutant general.

Article 127. **Duty of officers charged with care of effects of deceased officers or soldiers.** 1911, c. 81, § 27. Officers charged with the care of the effects of deceased officers or soldiers shall account for and deliver the same in accordance with such instructions as may be given by the adjutant general. And no officer so charged shall be discharged until he has deposited in the hands of the commanding officer of his regiment or corps all the effects of such deceased officers or soldiers not so accounted for and delivered.

Article 128. **Articles read every twelve months.** The foregoing articles shall be read once in every twelve months to every company in the military service of this state, and shall be duly observed and obeyed by all officers and soldiers in said service.

**Sec. 133. Customs and usage of the U. S. army and navy.** All matters relating to the organization, discipline and government of the national guard and naval militia, not otherwise provided for in this chapter or in the general regulations, shall be decided by the custom and usage of the United States army and navy respectively.