

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

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

Augusta:

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

.....
1841.

CHAP. 98. devolve on the justices of the peace for the county, during the continuance of such disability, and until such proceedings, as are instituted during its continuance, shall have the final adjudication of such justices.

Expenses of the court, defrayed by the city.

SECT. 37. The city of Bangor shall raise and assess moneys for defraying the expenses of such court, and providing a suitable place for holding the same.

Judge, not to be counselor, nor attorney, &c.

SECT. 38. The judge shall not act as counsel or attorney in any case, within the jurisdiction of the court; nor in any cause or matter or thing, which may depend on, or relate to any cause cognizable by said court.

Repeal of inconsistent parts of the city charter.

SECT. 39. All parts of the act, entitled "an act to incorporate the city of Bangor," inconsistent with the provisions of this chapter are hereby repealed.

CHAPTER 99.

OF COUNTY COMMISSIONERS.

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| <p>SECT. 1, 2. Constitution of the board, and tenure of office.</p> <p>3. Their general powers and duties.</p> <p>4. To provide fire proof buildings, for records and offices.</p> <p>5. Jails to be erected and kept in repair.</p> <p>6. Prisoners for debt, to be kept separate from criminals.</p> <p>7. State of the prisons, to be examined.</p> <p>8. Times and places of stated meetings.</p> <p>9. Clerk of the board.</p> <p>10. Mode of keeping records, by a clerk pro tem.</p> <p>11. Of a quorum, and adjournments without a quorum.</p> | <p>SECT. 12. Petitioners to pay expenses, if prayer be not granted.</p> <p>13. Compeusation of the commissioners.</p> <p>14. Of the settlement of their accounts for services.</p> <p>15. The same to be published, and sent to the secretary of state.</p> <p>16. Commissioners not to be agents, in certain cases.</p> <p>17, 18. Of changing the location of county buildings.</p> <p>19. Officers to obey the precepts of the board.</p> <p>20. Of warrants of distress.</p> <p>21. Action of debt, on their judgments.</p> <p>22. Remedy for inhabitants of towns, making payments for their towns.</p> |
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Constitution of the board, and tenure of office. 1831, 500, § 1.

SECTION 1. The county commissioners, in the respective counties, shall continue in office, until the expiration of four years from the time of their appointment, unless before removed by the governor and council. The board shall consist of a chairman and two other members in each county, and citizens of, and residents in their respective counties.

Same subject. 1831, 500, § 1.

SECT. 2. Whenever vacancies shall occur in the office aforesaid, the governor, with advice of the council, shall appoint suitable persons to fill the same, citizens and residents as aforesaid, in the county for which they shall be appointed, who shall also hold their offices for the said term of four years, unless sooner removed by the governor and council. The chairman in each county shall be designated, as such, by his commission.

SECT. 3. The county commissioners, for their respective counties, shall have power to provide for the erecting and repairing of court houses, jails and other necessary public buildings, within and for the use of the county; to make estimates to be laid before the legislature, of the sums, which may, from time to time, be necessary to be assessed for defraying county charges, and to take the necessary and legal measures for apportioning and assessing the same; to examine, allow and settle all accounts of the receipts and expenditures of the moneys of the county; to represent their respective counties, and to have the care of the county property, and the management of the business and the concerns of the county; and, by their order of record, appoint an agent to sell and dispose of any real estate of said county, for and on behalf of the inhabitants of said county; to lay out, alter or discontinue highways or other ways, to award damages occasioned thereby, and do any thing else, which, by the laws of this state now in force, is authorized to be done by the county commissioners, or by a court of sessions.

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

SECT. 5. The commissioners shall assess such sums, as the legislature may, from time to time, require, on the polls and estates in their respective counties, to erect and keep in repair a good and sufficient jail in each town, where the supreme judicial court is by law required to be holden, if no other provision is made by law; and they shall, at their discretion, order and direct respecting the building and repairing the same.

SECT. 6. The said commissioners shall also provide, at the expense of their respective counties, sufficient and convenient apartments in said jails, for receiving and lodging prisoners for debt, separate from criminals.

SECT. 7. The commissioners shall also, at the beginning of each of their stated sessions, inquire into the state of the respective prisons in their counties, and take necessary precautions, as to their security from escape, infection or other sickness, and as to the condition and accommodation of all the prisoners.

SECT. 8. The county commissioners shall statedly meet, in and for their respective counties, for the discharge of the duties of their office, at the time and places following, to wit:

In the county of York, at Alfred, on the Tuesday next preceding the last Monday of May, and on the second Tuesday of October;

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

In the county of Lincoln, at Wiscasset, on the second Tuesday of January; at Warren, on the second Tuesday of May; and at Topsham, on the first Monday of September;

In the county of Kennebec, at Augusta, on the last Tuesdays of April and December;

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Their general powers and duties. 1821, 46, § 3. 1821, 73, § 1. 1831, 500, § 3.

To provide fire proof buildings, for records and offices. 1821, 109, § 1.

Jails to be erected, and kept in repair. 1821, 110, § 1.

Prisoners for debt, to be kept separate from criminals. 1821, 110, § 1.

State of the prisons to be examined. 1821, 110, § 1.

Times and places for stated meetings.

York.

Cumberland.

Lincoln.

Kennebec.

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Hancock.

In the county of Somerset, at Norridgewock, on the third Tuesday of March, and the first Tuesday of October ;

Washington.

In the county of Hancock, at Ellsworth, on the last Tuesday of April, and on the Thursday following the third Tuesday of October ;

Oxford.

In the county of Washington, at Machias, on the first Wednesday next after the first Tuesday of March, and on the first Wednesday, next after the third Tuesday of September ;

Penobscot.

In the county of Oxford, at Paris, on the third Tuesday of June, and the last Tuesday of October ;

Waldo.

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

Franklin.

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

Piscataquis.

In the county of Franklin, at Farmington, on the last Tuesdays of April and December ;

Aroostook.

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

Clerk of the
board.
1825, 306, § 3, 4.

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

SECT. 9. The clerk of the judicial courts, in each county, shall be the clerk of the commissioners ; but, whenever the supreme judicial court, or the district court, shall be in session at the same time with the county commissioners, the said clerk may appoint some suitable person to act as clerk pro tempore to the commissioners, who shall be sworn to the faithful discharge of his duties, and for whom he shall be accountable.

Mode of keep-
ing records, by
clerk pro tem.
1825, 306, § 4.

SECT. 10. The clerk pro tempore, appointed as aforesaid, shall make a daily record of the doings of said commissioners, which record they shall examine and certify, if correct, and, when thus certified, the same shall be, by the stated clerk, copied into the records of said commissioners.

Of a quorum,
and adjourn-
ments without
a quorum.
1825, 306, § 6.
1832, 42, § 4.

SECT. 11. At any meeting of the commissioners of any county, any two of the board shall be a quorum for the transaction of business ; but, if only one member be present, he shall have power to adjourn the meeting to any convenient time or place. If no commissioner shall attend, at any place and time of meeting duly appointed, the clerk shall have the same authority to adjourn the court, as is provided in like case, of the supreme judicial court.

Petitioners to
pay expenses, if
prayer be not
granted.
1832, 42, § 5.

SECT. 12. Whenever the county commissioners shall decide against the prayer of any petition, they shall order the petitioners to pay, into the county treasury, all expenses incurred by the county, by reason of said petition and the proceedings thereon, and fix a reasonable time for such payment ; and, if the same be not paid as aforesaid, they shall issue a warrant of distress against the petitioners.

Compensation
of the commis-
sioners,
1833, 79, § 5.

SECT. 13. The compensation of each county commissioner shall be two dollars and fifty cents, a day, and in that proportion for any part of a day, actually employed in the service of the county ; including time necessarily spent in making drafts or other labor, and exclusive of time spent in traveling, for which they shall be allowed ten cents a mile for the distance, actually traveled ; and the account shall specify the kind of service performed, each day or part of

day; and no additional charges shall be allowed for trouble or expenses of any kind, neither shall they be allowed for services or travel on more than one petition, or one case at the same time.

SECT. 14. Each commissioner shall keep an accurate account of his time spent, and actual travel, as aforesaid, specifying the places from, and to which, he traveled each day; and he shall not be allowed for any services, not so specified. Such account shall be audited and examined by the county attorney and clerk, who shall certify the amount allowed, one of them having first sworn such commissioner to the truth of his account; and no further sum shall be paid on such account by the county, than is thus certified.

Settlement of their accounts for services. 1833, 79, § 5.

SECT. 15. The clerk shall cause a copy of such account to be published in some newspaper, printed in the county, if any there be; and he shall also return a copy thereof to the secretary of the state, on or before the first day of January in each year.

The same to be published, and sent to the secretary of state. 1833, 79, § 5.

SECT. 16. No county commissioner shall be appointed on any agency, to lay out and expend, for any purpose, any sum or sums of money, assessed or raised by warrant of distress or otherwise, under the authority of the board, of which he is a member.

Commissioners not to be agents, in certain cases. 1836, 198, § 1.

SECT. 17. The commissioners in their respective counties shall not have power to remove any county building in the shire town of such county, nor to erect a new building as a substitute for any such building, to or at a distance, exceeding one half of a mile from the former location of such building, without giving notice of their intention, and the place where such building is proposed to be removed or erected, to the selectmen of each town, and the assessors of each organized plantation in such county, and obtaining the consent of the inhabitants of the county, in the manner provided in the next section.

Of changing the location of county buildings. 1822, 202, § 1.

SECT. 18. The selectmen and assessors aforesaid shall lay the said notice before such towns and plantations, respectively, at a meeting to be held on the day of their next annual meeting for the choice of state, town or plantation officers; and, at such meeting shall receive, sort and count the votes, that shall be given by the inhabitants qualified to vote in town or plantation affairs, in favor of, or against such proposed removal or erection. Returns of such votes, certified by the said selectmen or assessors, and the town or plantation clerks, respectively, shall be made by such clerks, within thirty days after such votes shall have been received, as aforesaid, to the office of the clerk of the county commissioners; and the said commissioners shall examine the returns aforesaid, and shall carry such removal or erection into effect, or not, according to the decision of the majority of such voters, ascertained from the returns made, as aforesaid.

Same subject. 1822, 202, § 1.

SECT. 19. All sheriffs, deputy sheriffs, coroners and constables shall serve and execute all legal warrants and processes, to them directed by said commissioners.

Officers to obey the precepts of the board.

SECT. 20. All warrants of distress, under the authority of any court of county commissioners, shall be originally issued within two years after the rendition of judgment, and made returnable to the clerk's office, in ninety days from the date thereof. If returned unsatisfied, in whole or in part, new warrants may be issued, from

Warrants of distress. 1833, 64, § 1. 1834, 133, § 5. 1836, 250.

CHAP. 99. time to time, for the sums remaining due; but no alias or pluries warrants of distress shall be thus issued, after the expiration of two years from the return day of the warrant, last preceding; provided, that no warrant of distress shall be originally granted on any judgment of such commissioners, against any town or plantation, until twenty days after a certificate of the rendition of such judgment shall have been transmitted by the clerk of the commissioners to the assessors of such town or plantation. The interest on damages, recovered in such judgment, shall be included and provided for in such warrants, as in case of executions under chapter, one hundred and fifteen.

Action of debt, or scire facias on their judgments. 1833, 64, § 2.

SECT. 21. The party, for whose benefit any judgment shall have been rendered by the commissioners of any county, shall have like remedy for the same and interest, by an action of debt upon such judgment, or scire facias, before any court of competent jurisdiction, as is provided for judgments, recovered before the judicial courts.

Remedy, for inhabitants making payments for their towns. 1833, 64, § 4. 1834, 133, § 1, 2, 3, 4.

SECT. 22. On all judgments rendered, or warrants of distress issued, by county commissioners against the inhabitants of any town or plantation in their respective counties, any such inhabitant, who shall voluntarily pay or be disposed to pay his due proportion of the same, or who shall have been compelled to satisfy the same, in whole or in part, shall be entitled to the like remedies and processes, as is provided in chapter, one hundred and seventeen, in relation to judgments or executions from the judicial courts.

CHAPTER 100.

OF CLERKS OF THE JUDICIAL COURTS.

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| <p>SECT. 1. Present clerks to continue in office.</p> <p>2. Vacancies to be filled by appointment.</p> <p>3. Tenure of office.</p> <p>4. The same clerk, for all the judicial courts in the county.</p> <p>5. Oath and bond.</p> <p>6. To account with the county treasurer, for moneys received.</p> <p>7. When to pay over balances. Consequences of neglect.</p> <p>8. Of a clerk pro tem.</p> <p>9. To be sworn and give bonds, as the court may direct.</p> <p>10. Clerk to certify, to assessors, fines due from their towns.</p> | <p>SECT. 11. To record marriages, certified to him.</p> <p>12. To receive fines, &c. imposed by any judicial court for use of the state.</p> <p>13. To transmit a certificate of fines, &c. to the secretary of state.</p> <p>14. Judges to examine into the state of the records. Bond to be put in suit for default.</p> <p>15. Money recovered, to be appropriated to making up the records. Further liability of clerk, in case, &c.</p> <p>16. Penalty for exacting illegal fees.</p> |
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Present clerks to continue in office.

Vacancies to be filled by appointment.

SECTION 1. The clerks, now in office, shall continue to hold their offices, according to the tenor of their respective commissions.

SECT. 2. Whenever a vacancy in the office, in any county, shall occur, the governor, with advice of the council, shall appoint some person to fill the vacancy.

**The following page(s) from
“An Act to Amend the Revised Statutes”
include amendments to this chapter.**

may appeal therefrom to the next supreme judicial court to be held for the same county.

The same chapter shall be further amended in the fourteenth section, by inserting, at the close thereof, the following words :

If there shall not be, in the opinion of the court, a reasonable time for the party appealing to produce the sureties required, during the term of the court, the court may designate some justice of the peace, to take such recognizance, within ten days after the adjournment of the court, and the court shall order a stay of execution accordingly; and the recognizance, if so taken, and filed with the clerk, shall be as valid, as if taken in court.

Recognizance on an appeal may be taken by a justice of the peace in certain cases. 1831, 505, § 2, 3.

SECTION 13. The ninety ninth chapter shall be amended in the twenty first section, by striking out the words "or scire facias"; so that the section, as amended, shall be as follows:

R. S. ch. 99.

SECT. 21. The party, for whose benefit any judgment shall have been rendered by the commissioners of any county, shall have like remedy for the same and interest, by an action of debt upon such judgment, before any court of competent jurisdiction, as is provided for judgments recovered before the judicial courts.

Action of debt on a judgment of a court of county commissioners.

SECTION 14. The one hundred and fourth chapter shall be amended, in the twelfth section, by striking out, after the words "official bond," the following words: "for any neglects or misdoings, which may occur after such new bond shall have been filed and accepted," and inserting the last mentioned words at the close of the section; so that the section, as amended, shall be as follows:

R. S. ch. 104.

SECT. 12. Whenever any surety upon the official bond of any sheriff or coroner, or the heirs, executors or administrators of such surety, shall petition the county commissioners, in the county of such sheriff or coroner, to be discharged from such bond, the court shall cause such sheriff or coroner to be served with an attested copy of the petition, and may require him to give a new bond to their satisfaction; and, upon such new security being given, such surety or his legal representatives shall be free from any further responsibility on such bond, for any neglects or misdoings, which may occur after such new bond shall have been filed and accepted.

New bond may be required of a sheriff or coroner on application of his sureties.

The same chapter shall be amended in the twenty seventh section, by inserting, after the word "deputy," the words "coroner or constable"; so that the section, as amended, shall be as follows:

SECT. 27. Any sheriff or his deputy, coroner or constable, who shall unreasonably refuse or neglect to pay to any person moneys, received by him upon execution, to the use of such person, upon demand made therefor, shall pay five times the lawful interest of such money, so long as he shall unreasonably detain it.

Liability, if coroner or constable detain money collected, after demand.

SECTION 15. The one hundred and fifth chapter shall be amended in the eighteenth section, by striking out the words "as heir, legatee, creditor or debtor, or," and inserting, instead thereof, the words "either in his own right, or in trust, or in any other manner, or be"; and by inserting, after the words "jurisdiction of such estate," the following words: "or if he be interested at the time of his appointment to office"; and by inserting, at the end of said section, the following words: "and in all cases, where, by reason of the interest of the judge, or for any other cause, an estate shall be settled in an adjoining county, the register of probate of such adjoining county shall transmit to the probate office of the county where such estate should otherwise have been settled, copies of all records relating to said estate, to be recorded on the records of the county where such estate belongs"; so that the said eighteenth section, as amended, will be as follows:

R. S. ch. 105.