

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:

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1841.

Assessors to be in session to receive evidence of qualification of voters.

Duty of assessors and clerk.

Clerk to make a copy of the list of votes and names of voters, &c.

Annual meeting to be holden in March or April.

Liabilities for neglect or misconduct.

in the class or county of which said place may be a part. And it shall be the duty of said assessors to be present, at some convenient place to be stated in the warrant calling the meeting, on the day of election, as long before the hour of meeting as they shall deem necessary, to receive evidence of the qualifications of electors, and to amend their list accordingly.

SECT. 3. *Be it further enacted,* That said assessors shall preside impartially at said meeting and receive the votes of all qualified electors present, sort, count and declare them in open plantation meeting, and in the presence of the plantation clerk, who shall form a list of persons voted for, with the number of votes for each person against his name, [and] shall make a fair record thereof in the presence of the assessors, and in open plantation meeting. And the clerk shall make out fair copies of the list of votes, and names of voters, to be attested by the assessors and the clerk, and be sealed up in open plantation meeting, and cause the same to be delivered, within the time required by the constitution, to the respective authorities, whose duty it may be to receive the same. And votes, so thrown, shall be received and allowed for electors of president and vice president, for representative to congress, for governor, senators, representatives to state legislature, and county officers, in the same manner as votes thrown in any town in said class or county.

SECT. 4. *Be it further enacted,* That the organization, as aforesaid, of any plantation, for the purpose aforesaid, shall continue, the assessors and clerk afterwards be chosen, and the meetings be called and held annually in March or April, in the same manner in all other respects, as in towns. And said officers of said plantation shall be liable to all the penalties for official neglect or misconduct, respectively, that selectmen and clerks of towns are; by law; and the voters of said place shall be liable to the same penalties, that the voters of towns are in like circumstances.

SECT. 5. *Be it further enacted,* That this act shall take effect from and after its approval by the governor.

[APPROVED OCTOBER 2, 1840.]

PUBLIC LAWS

Passed in the year 1841.

AN ACT IN RELATION TO ORNAMENTAL TREES. [CHAP. 107.]

Towns may authorize part of their highway tax, not exceeding five per cent. to be expended for ornamental trees.

Be it enacted by the Senate and House of Representatives in Legislature assembled, That the surveyors of highways are hereby authorized, under the direction of the selectmen, mayor and aldermen of their respective towns and cities, to expend an amount, not exceeding five per cent. of the tax committed to said surveyors for

collection, in planting trees for shade and ornament, about the public burying grounds, commons, squares and highways, within the limits of their respective districts; provided, their respective towns and cities shall vote in favor of such expenditure, at their annual meeting in the month of March or April.

[APPROVED MARCH 2, 1841.]

AN ACT ADDITIONAL TO AN ACT, TO ABOLISH THE MUNICIPAL COURT IN THE CITY OF BANGOR, AND ESTABLISH A POLICE COURT FOR SAID CITY. [CHAP. III.]

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That the police court for the city of Bangor shall have, in addition to the jurisdiction given in the act to which this is additional, original and exclusive jurisdiction in all actions, civil and criminal, cognizable by justices of the peace, returnable within said city, excepting in such as the judge of said court may be interested. And said judge shall have jurisdiction of all cases of simple larceny, where the property, alleged to have been stolen, shall not exceed in value the sum of twenty dollars; and shall have power to try the same, and award sentence upon conviction, by fine not exceeding twenty dollars, and by imprisonment in the common jail, for a term not exceeding thirty days, in manner provided by law.

Civil and criminal jurisdiction of the court.

SECT. 2. *Be it further enacted,* That it shall be the duty of the judge of said court, to collect and receive all fees, which are, or may be by law payable to said court, and shall render an account thereof upon oath, and shall pay over the same, to the city treasurer, quarter yearly. And the said judge shall give bond to the city treasurer, and his successor in office, with sufficient surety, in such penal sum as the mayor and aldermen of said city may determine, conditioned for the faithful performance of the duties required of him by this, and the second section of the act to which it is additional. And the mayor, or such committee as he may appoint for that purpose, may inspect and examine the books, records and papers, belonging to said court; and it shall be the duty of said judge to exhibit the same, and give such information relative thereto, as may be required of him from time to time, as aforesaid.

Judge to account for all fees to the city treasurer, and to give bond.

SECT. 3. *Be it further enacted,* That the judge of said court shall receive a yearly salary of four hundred dollars, in full compensation for his services, instead of the salary now established by law, to be paid quarterly out of the city treasury: provided however, that the salary shall, in no year, exceed the amount of fees, accruing in said court for the same year, so accounted for by the judge, as in this act is provided.

Right of mayor to examine books, records, &c.

Salary of judge.

SECT. 4. *Be it further enacted,* That no justice of the peace, within the city of Bangor, shall exercise any civil or criminal jurisdiction, except under the authority of the United States, in any civil or criminal process, wherein said judge is not a party or interested;

Jurisdiction of justices of the peace in Bangor, restricted.

and also excepting the cases provided for in the fourth section of the act to which this is additional; or accept or receive any fee therefor; under a penalty of twenty dollars, to be recovered by indictment in any court proper to try the same, for the use of the city of Bangor.

SECT. 5. *Be it further enacted*, That this act shall take effect, and be in force, from and after its approval.

[APPROVED MARCH 3, 1841.]

AN ACT TO SUSPEND THE OPERATION OF THE REVISED STATUTES.

[CHAP. 144.]

Revised statutes and general repealing act take effect, August 1, 1841. Exception.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled*, That the operation of an act, passed on the twenty second day of October, in the year, one thousand eight hundred and forty, entitled "an act for revising, arranging and amending the public laws of the state," and of another act, passed on the same day, entitled "an act to repeal all the acts, which are consolidated in the revised statutes," shall be suspended, until after the thirty first day of July next; except, as provided in the following section.

Chapter, sixteen, relating to the militia, to take effect, January 2, 1842.

SECT. 2. *Be it further enacted*, That chapter, sixteen, entitled "of the militia," in the second title of the act first before mentioned, and so much of the last mentioned act, as provides for the repeal of certain acts concerning the militia, which were revised or consolidated in the said chapter, shall not be in force, until from and after the first day of January next, notwithstanding the provisions of the preceding section.

SECT. 3. *Be it further enacted*, That this act shall take effect immediately upon its approval by the governor.

[APPROVED MARCH 31, 1841.]

AN ACT IN ADDITION TO AN ACT, TO REGULATE THE JURISDICTION AND PROCEEDINGS OF THE COURTS OF PROBATE. [CHAP. 149.]

When an executor, &c. is appointed judge of probate for the same county, jurisdiction transferred to the most ancient adjoining county.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled*, That, whenever a person being an executor, administrator or guardian, whose trust shall not have been fully executed at the time of appointment, has been, or shall be appointed and qualified as judge of the court of probate, in and for the county wherein his letters of executorship, administration or guardianship were granted, it shall be lawful for said executor, administrator or guardian to continue and fulfil his said trust; and all the proceedings and acts, to be had and done subsequent to his appointment as judge, by said executor, administrator or guardian in and by a court of probate, touching his said trust, shall be had and

done by a court of probate in the most ancient next adjoining county; and such courts of probate in such adjoining counties are vested with jurisdiction thereof: but the record of said proceedings and acts shall be made in the registry of probate in the county, wherein the letters aforesaid are recorded.

Records, where kept.

SECT. 2. *Be it further enacted,* That the judges of probate, in the respective counties, may appoint special courts, whenever cases occur which, in their judgment, render it necessary, in addition to the fixed days; which special courts are to be made known by public notification; and may adjourn their regular courts to any time, not beyond the next regular court day: and, in case of the absence of the judge, by reason of sickness or otherwise, or vacancy in the office of judge, the register of probate may adjourn the court by posting notification thereof at the probate office, till the judge can attend.

Power of judge to appoint special courts, or to adjourn a stated court. Register may adjourn in the absence of the judge.

SECT. 3. *Be it further enacted,* That, whenever any judge of any court of probate, within this state, may have been, or shall hereafter be removed from office by death or otherwise, and thereby have been prevented from signing any decree or decrees, by him made as judge of probate, or from certifying any other official act, by him performed, it shall be the duty of the register of probate in such county, to make record thereof in such manner, as if the same had been duly signed and certified by said judge in his life time, or while in office. And it shall be the duty of the judge of probate, who shall be appointed to fill the vacancy occasioned as aforesaid, upon accepting the trust, to examine said decrees and certificates, as soon as may be, and if the same, and the proceedings connected therewith, shall be found correct, and otherwise conformable to law, it shall be his duty to confirm and approve the same; and when so confirmed, shall be valid to all intents and purposes, and to the same extent, as they would have been, if the same had been duly signed by his predecessor, while in office.

Judge may confirm and sign decrees of his predecessor, not authenticated in form, on account of death, or removal from office.

SECT. 4. *Be it further enacted,* That this act shall take effect and be in force, from and after its approval by the governor.

[APPROVED APRIL 6, 1841.]

AN ACT, PROVIDING FOR THE APPOINTMENT OF A PERMANENT CHAPLAIN FOR THE MAINE STATE PRISON. [CHAP. 155.]

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That the governor, with advice of council, shall annually appoint a suitable person, to officiate as chaplain of the state prison, whose duty it shall be, to preach to the convicts two sermons, or perform other religious services equivalent thereto, each sabbath in the year; to visit the sick; to superintend the sabbath school; and, daily during the week, by private conversation with the prisoners, to use his utmost efforts for their moral and religious improvement. He shall also, if opportunity may offer, at other times, instruct them in the rudiments of learning.

Chaplain to be annually appointed. His regular duties.

SECT. 2. *Be it further enacted,* That the salary of the chaplain

His salary.

of the state prison shall be three hundred dollars per annum, instead of the salary now established by law; commencing on the first day of April, in the year of our Lord, one thousand eight hundred and forty one.

[APPROVED APRIL 9, 1841.]

AN ACT TO PREVENT BETTING OR WAGERING ON ELECTIONS.

[CHAP. 172.]

Forfeiture of a sum equal to the wager, to the town.

SECTION. 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled;* That any person or persons, who shall bet or wager any sum or sums of money upon any election, or the event of any election of president of the United States, or governor of this state, or any member of congress, or of any man to any office, shall forfeit a sum or sums equal to the sum or sums that he or they shall so bet or wager, to the use of the city, town or plantation, in which the person or persons, so betting or wagering, shall reside at the time of such betting or wagering, to be recovered by action of debt in any court competent to try the same.

Party losing may recover back the sum lost.

SECT. 2. *Be it further enacted,* That, if any person or persons shall, after the passage of this act, receive any sum or sums of money upon any bet or wagering aforesaid, he or they, so receiving, shall be liable to pay, to the person or persons losing the same, the amount so received; to be recovered by action of debt in any court competent to try the same, with interest from the time the money was so received.

Mayors of cities and treasurers of towns, &c. to sue for the penalty, named in the first section.

SECT. 3. *Be it further enacted,* That it shall be the duty of the mayors of the several cities, and the treasurers of the several towns and plantations in this state, to sue for and recover any sum or sums of money which may be forfeited by the first section of this act, in their respective cities, towns and plantations.

Goods, &c. pledged on wagers, forfeited to towns, &c.

SECT. 4. *Be it further enacted,* That any person or persons, who shall bet or wager upon any elections, named in the first section of this act, any goods, chattels, or personal estate of any kind, shall forfeit the same to the use of the city, town or plantation where he or they may reside at the time of betting or wagering; and the mayors of the several cities, and the treasurers of the several towns and plantations are, respectively, empowered and required to demand, and sue for by action of trover, any personal chattel, that may be so forfeited in their respective cities, towns and plantations.

Conveyances of real estate, in pursuance of wagers, void. Value thereof forfeited, &c.

SECT. 5. *Be it further enacted,* That all deeds or other instruments, by which any real estate shall hereafter be conveyed on account of, or by reason of, or in fulfilment of, or in compliance with, any betting or wagering upon any election, mentioned in the first section of this act, shall be void and of no effect; and the person or persons so conveying shall be liable to pay to the mayor of the city, or to the treasurer of the town or plantation, where he or they shall reside at the time of so conveying, to the use of said

city, town or plantation, a sum equal to the value of such real estate so conveyed; which sum shall be sued for and recovered in the same manner, as is provided by the third section of this act.

[APPROVED APRIL 16, 1841.]

AN ACT IN ADDITION TO AN ACT FOR REGULATING MARRIAGE, AND FOR THE ORDERLY SOLEMNIZATION THEREOF. [CHAP. 181.]

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That the clerk of any plantation, organized for any purpose, is hereby authorized to publish the intentions of marriage between any persons, either of whom resides within the limits of such plantation, and to grant certificates thereof, in the same manner, and under the same restrictions, and with the like effect, as if such publication and certificate were by the clerk of any city or town within this state.

Clerks of plantations, organized for any purpose may publish intentions of marriage.

SECT. 2. *Be it further enacted,* That this act shall be in force from the time of its signature by the governor.

[APPROVED APRIL 16, 1841.]

AN ACT IN RELATION TO MANUFACTURING CORPORATIONS.

[CHAP. 192.]

Be it enacted by the Senate and House of Representatives in Legislature assembled, That the stockholders in any company, which now is, or may hereafter be incorporated, in this state, for the purpose of manufacturing cotton, wool, silk, iron, steel or other materials, shall not be liable, individually, for the debts of said company or corporation: Provided, the treasurer of said corporation shall annually publish in one or more of the public newspapers printed in the county, where said corporation is located, and, in case there is no newspaper printed in said county, in a public newspaper, printed in one of the adjoining counties, a true and correct statement, on oath, of the amount of capital, actually paid into said company or corporation, and also a correct statement, on oath, of the amount of debts due from said corporation; provided the debts of said corporation shall not exceed fifty per cent. of the capital stock of said corporation, actually assessed and paid in.

Individual members, not to be held liable for company debts, if the treasurer publish an annual statement of capital paid into, and debts due from the company.

Provided the debts do not exceed one half of the capital.

[APPROVED APRIL 16, 1841.]

AN ACT EXTENDING THE POWERS OF THE DISTRICT COURT.

[CHAP. 193.]

Be it enacted by the Senate and House of Representatives in Legislature assembled, That any justice of the district court be,

Power of the

court to grant reviews, where judgments were rendered in the late court of common pleas.

and hereby is authorized to grant reviews in all actions, in which judgment was rendered in the late court of common pleas within his district, and in which the said late court of common pleas had the power to grant reviews on the thirty first day of March, in the year one thousand eight hundred and thirty nine, by virtue of any laws then in force; provided, that application for such reviews shall be made within one year from the passage of this act; and that the same be also in conformity to the provisions of the seventh section of the act of February twenty fifth, eighteen hundred and thirty nine, abolishing the court of common pleas and establishing district courts.

[APPROVED APRIL 16, 1841.]

AN ADDITIONAL ACT, RELATING TO HIGHWAYS AND THE POWERS AND DUTIES OF COUNTY COMMISSIONERS. [CHAP. 196.]

Notice required, before locating highways across lands in unorganized places; and before making an assessment to repair any such way.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That, whenever any person or persons shall make application to the county commissioners, in any of the counties within this state, to locate and establish a public road or highway across any lands, not situated within the limits of any organized plantation or incorporated town, within this state, or to make an assessment upon such lands, for the purpose of making or repairing any such road, already located or that may hereafter be located, said commissioners, upon being satisfied that said petitioners ought to be heard touching the matter set forth in their petition, shall, before having any further proceedings thereon, order the petitioners to give notice of the pendency of their petition, and of the time and place appointed to consider the same and adjudicate thereon, by causing the owner or owners of said lands, over which said highway is or may be located, if known, to be served with an attested copy of their petition and the commissioners' order thereon, fourteen days at least before the time so appointed: and, if said owners are unknown, then notice shall be given them by publishing said petition, and the commissioners' order thereon, for the term of six weeks in the state paper, the last publication to be thirty days, at least, before the time appointed to consider the same as aforesaid. And no proceeding affecting the rights of said owners shall be had, until such order of notice shall have been complied with.

Appeal allowed in all cases, from the commissioners to the supreme judicial court.

SECT. 2. *Be it further enacted,* That any person or persons, corporation or corporations, aggrieved by any decision, adjudication or decree of any court of county commissioners within this state, may appeal to the justices of our supreme judicial court, who are hereby vested with appellate jurisdiction, with full power to revise, affirm, modify or annul the same, as justice to the parties and the public good may require, and discretionary power in regard to awarding costs: provided however, such appeal shall not be sustained, unless the clerk of the judicial courts in such county be notified that an appeal is claimed, within ten days from the publication of such decision, adjudication or decree, and requested to make record thereof.

[APPROVED APRIL 17, 1841.]