

MAINE STATE LEGISLATURE

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County Commissioners

Election and Tenure of Office. Salaries

Sec. 1. Constitution of board; chairman. R. S. c. 92, § 1. 1939, c. 297. There shall be a board of commissioners for each county consisting of a chairman and 2 other citizens, all resident in the county, who shall be elected, or, in case of a vacancy, appointed by the governor with the advice and consent of the council. The chairman shall be designated by them at their 1st meeting on or after the 1st day of January annually, to act for 1 year, except that in Androscoggin county the elected member whose term soonest expires shall be chairman. Provided, however, that if said elected member in Androscoggin county shall in writing decline the election as chairman, the board may, by ballot, elect either of the other members to be chairman.

See § 8, re clerk; § 10, re incompatible offices.

Sec. 2. Vacancies at expiration of term. R. S. c. 92, § 2. 1943, c. 307. Vacancies to occur by expiration of the term of office at the end of any year in which a biennial election is held shall be filled by election on the 2nd Monday of September in such year. The terms of office for a county commissioner shall be 6 years except when one is elected to fill out an unexpired term when it shall be for the remainder of the unexpired term. Where but one county commissioner is so to be elected, the nomination papers and official ballot shall specify simply the office of county commissioner. When, however, two or more county commissioners 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 or elected.

Sec. 3. Vacancies happening otherwise. R. S. c. 92, § 3. When no choice is effected or a vacancy happens in the office of county commissioner by death, resignation, or removal from the county, the governor with the advice and consent of the council shall appoint a person to fill the vacancy, who shall hold office until the 1st day of January after another has been chosen to fill the place.

50 Me. 609; 61 Me. 603.

Sec. 4. County commissioners in military or naval service; substitutes. 1941, c. 146, § 3. Whenever a county commissioner during his term of office shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, he shall not be deemed or held to have thereby resigned from or abandoned his said office, nor shall he be removable therefrom during the period of his said military or naval service except that his term of office shall not be held to have been lengthened by reason of the provisions of this section. From the time of his induction into such service, he shall be regarded as on leave of absence without pay from his said office, and the governor, with the advice and consent of the council, shall appoint a competent citizen, a resident of the county so affected, to fill said office while said county commissioner is in the federal service, but not for a longer period than the remaining portion of the term of said county commissioner. During the period of said military or naval service, the county shall pay to said substitute county commissioner a salary at the same rate as the rate of pay of the county commissioner, and amounts so paid shall be deducted from the salary of said county commissioner. The citizen so appointed to fill the temporary vacancy shall have the title of "substitute county commissioner" and shall possess all the rights and powers and be subject to all the duties and obligations of the county commissioner for whom he is substituting.

Sec. 5. Mode of election. R. S. c. 92, § 4. County commissioners shall be elected on the 2nd Monday of September, in each even-numbered year, by the written votes of electors qualified to vote for representatives. The votes shall be received, sorted, counted, and declared as votes for representatives are; the names of the persons voted for, the number of votes for each, and the whole number of ballots received shall be recorded by the clerk in the town records, and true copies thereof, sealed and attested as returns of votes for senators, shall be transmitted to the secretary of state within 30 days.

See c. 5, §§ 43, 50, 51, re elections and ballots; 64 Me. 592, 594.

Sec. 6. Salaries of county commissioners. R. S. c. 125, § 43. 1931, c. 70. 1939, c. 297. 1943, cc. 121, 165, 203, 207. The county commissioners in the

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several counties shall receive annual salaries from the treasuries of the counties in monthly payments paid on the last day of each month, as follows:

Androscoggin, \$1,000, except the chairman of said commission who shall devote each full working day to his duties, which shall be increased by adding to them the superintendence of the county buildings, and for all his services his annual salary shall be the sum of \$1,500.

Aroostook, \$1,100, except that 1 member of the board, to be designated by the board, who shall devote each full working day to his duties including superintendence of the county buildings, shall receive annually the sum of \$2,000.

Cumberland, \$1,750,
 Franklin, \$500,
 Hancock, \$750,
 Kennebec, \$1,000,
 Knox, \$400,
 Lincoln, \$500,
 Oxford, \$700,
 Penobscot, \$1,750,
 Piscataquis, \$500,
 Sagadahoc, \$600,
 Somerset, \$650,
 Waldo, \$500,

See 1943, c. 326, §§ 5, 11, re \$550 until July 9, 1945.

Washington, \$1,000,
 York, \$1,000.

Said salaries shall be in full for all services, expenses, and travel to and from the county seat, including the management of the jails and workshops and the sale of their products, except that when outside of the county seat on official business, including public hearings, inspection and supervising construction, snow removal, and maintenance of roads in unincorporated townships in their respective counties, they shall be allowed all necessary traveling and hotel expenses connected therewith; all bills for such expenses shall be approved by the clerk of courts and the county attorney of their county and paid by the treasurer of said county; and with the further exception of such expenses as are provided for in section 30.

Regular Sessions and Clerk

Sec. 7. Regular sessions, times, and places. R. S. c. 92, § 5. 1931, c. 6; c. 209, § 2. 1935, cc. 26, 115. The county commissioners shall hold annual sessions in the shire town of each county at the times following:

In the county of Androscoggin, on the 1st Tuesdays of April and October;
 Aroostook, on the 1st Tuesdays of January, March, May, July, September, and November;

Cumberland, terms of record on the 1st Tuesdays of January and June, and regular sessions on the 1st Tuesday of each month;

78 Me. 102.

Franklin, on the last Tuesdays of April and December;

Hancock, on the 2nd Tuesdays of April, September, and December;

Kennebec, on the 3rd Tuesdays of April, August, and December;

Knox, on the 1st Tuesdays of April and December, and the 3rd Tuesday of August;

Lincoln, on the 1st Tuesday of May, the 1st Tuesday of September, and the last Monday of December;

Oxford, on the 3rd Tuesdays of May, September, and December, at Paris;

Penobscot, on the 1st Tuesdays of January, April, July, and October;

Piscataquis, on the 1st Tuesdays of April, August, and December;

Sagadahoc, on the 1st Tuesdays of March, July, and November;

Somerset, on the 1st Tuesdays of March and August, and the 2nd Tuesday of December;

Waldo, on the 2nd Tuesday of April, and the 3rd Tuesdays of August and December;

Washington, at Machias, on the 2nd Tuesday of February and 2nd Tuesday of October, and at Calais, on the 2nd Tuesday of June;

York, terms of record on the 1st Tuesday of April and October at Alfred, and regular sessions shall be held on the 1st Tuesday of each month at Alfred.

136 Me. 432.

Sec. 8. Clerk of courts to be clerk of commissioners. R. S. c. 92, § 6. The clerk of the judicial courts in each county shall be the clerk of the county commissioners; and in counties having a deputy clerk or deputy clerks, such deputies shall each be a deputy clerk of the commissioners and in the absence of the clerk shall have the same powers and duties as those of such clerk. The clerk of the county commissioners shall be known as the county clerk, and each deputy clerk of the county commissioners shall be known as a deputy county clerk. When a clerk and his deputies are in attendance at any other court, the clerk may appoint a clerk pro tempore to the commissioners for whose doings he is responsible. Such clerks shall be sworn and shall make a daily record of the doings of the county commissioners; and said commissioners shall examine such records and, when correct, shall certify them; and they shall be copied into the records of the county commissioners by the stated clerk.

67 Me. 436; 107 Me. 514; 115 Me. 154.

Powers and Duties, General

Sec. 9. Quorum. R. S. c. 92, § 7. Two commissioners constitute a quorum; when only one attends, he may adjourn to a convenient time and place; when no commissioner attends, the clerk may adjourn as provided in section 13 of chapter 94.

83 Me. 117; 136 Me. 432.

Sec. 10. Incompatible offices. R. S. c. 92, § 8. No person holding the office of county commissioner shall at the same time hold either the office of mayor or assessor of a city, or of selectman or assessor of a town.

Sec. 11. Officers to execute precepts. R. S. c. 92, § 9. Sheriffs and their deputies and constables shall execute all legal processes directed to them by the commissioners.

Sec. 12. Duties of county commissioners. R. S. c. 92, § 10. 1937, c. 206, § 1. The county commissioners shall make the county estimates and cause the taxes to be assessed; examine, allow, and settle accounts of the receipts and expenditures of the moneys of the county; represent it; have the care of its property and management of its business; by an order recorded, appoint an agent to convey its real estate; lay out, alter, or discontinue ways; keep their books and accounts

on such forms and in such manner as shall be approved by the state department of audit; and perform all other duties required by law.

See §§ 13, 32-59; c. 1, § 18, re compensation to owners for use of land by U. S. Coast Survey; c. 81, § 34, re tax illegal unless raised at legal meeting; c. 84, §§ 29-127, re ways; c. 21, § 17 et seq., re airports; c. 23, § 2, re department of institutional service; c. 74, § 18, re services of professional engineer required on certain public works; c. 84, § 63 et seq., re repair of ways; c. 84, § 125, re close roads for part of winter months; c. 89, § 1, re census of unincorporated townships; c. 106, §§ 10, 11, re public accounts; 53 Me. 218; 60 Me. 363; *69 Me. 364, 375; 90 Me. 88; 116 Me. 408; 137 Me. 233.

Sec. 13. County commissioners to make annual estimates for county taxes. R. S. c. 13, § 66. In order to assess a county tax, county commissioners, at their regular session next before the 1st 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 1 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.

See § 154.

Sec. 14. Estimates to be recorded and transmitted to secretary of state. R. S. c. 13, § 67. 1935, c. 107. 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 15th day of each February in which the legislature meets, together with the county reports for the 2 preceding years, to be by him laid before the legislature.

See §§ 12, 154; c. 16, § 3, sub-§ II, re duty of state department of audit.

Sec. 15. County commissioners to apportion sums to be assessed, and to issue warrants to assessors. R. S. c. 13, § 68. 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 1st day of the following September. They may add such sum above the sum so authorized, not exceeding 2% 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.

135 Me. 459.

Sec. 16. Duties as to court-houses, temporary court-rooms, jails, and rooms for records and papers of county officers; care of files and records. R. S. c. 92, § 11. 1931, c. 7. The county commissioners shall, in the shire town of their county, provide and keep in repair court-houses with a suitable room in each for the county law library; jails, with apartments for debtors separate from criminals; and fire-proof buildings of brick or stone for the safe-keeping of records and papers belonging to the offices of registers of deeds, and of probate and insolvency, and of the clerk of courts, with separate fire-proof rooms, and suitable alcoves, cases, or boxes for each office, and also any other necessary buildings. They may also in any town in which a nisi prius term of the superior court is held contribute such amount as in their judgment seems proper to the repair and upkeep of any room used for the holding of such term of court. If in the judgment of the county commissioners public convenience so requires, they may, at the expense of the county, cause the files and records of

the probate and other county courts to be rearranged, indexed, and docketed, the dockets which are worn or defaced to be renewed, and the indexes to be consolidated under the direction of their respective registers and clerks of said courts.

135 Me. 393.

Sec. 17. Duties as to copies of records. 1943, c. 73. The county commissioners in any county in the state are authorized to cause to be made at the expense of their respective counties, as and when requested by and under the supervision of the register of deeds or register of probate for the county concerned, by any photostatic, photographic, microfilm, or other mechanical process which produces a clear, accurate, and permanent copy thereof, a copy of any one, any portion, or all of the deeds, plans, documents, or writings relating to real estate or personal estate and the titles thereto, recorded now or hereafter in the office of the register of deeds or register of probate in their respective counties. Such copies, when so made, shall constitute a duplicate record and shall be filed in fire-resisting safe cabinets located separate and apart from the original records, or any additional reproductions may be filed in the same manner as original records, but within the same county.

See c. 100, §§ 144-146, re photostatic and photographic copies of records.

Sec. 18. May provide workshops, etc., for prisoners. R. S. c. 92, § 12. The county commissioners may make such additions in workshops, fences, and other suitable accommodations, in, adjoining, or appurtenant to the jails in the several counties as may be found necessary for the safe-keeping, governing, and employing of offenders committed thereto by authority of the state or the United States; and, for the better employing of such offenders, they may lease or purchase necessary lands or buildings anywhere within their respective counties and may authorize the employment on such lands for the benefit of the county or of dependent families of prisoners committed for crime, as provided in section 25 hereof. Whenever the county commissioners shall determine that the use of such land and buildings is unnecessary for such use, they may sell and dispose of the same in the manner required by law. The county commissioners may raise by loan of their several counties, or otherwise, a total sum not exceeding \$5,000 to make such purchases, alterations, and improvements, and may expend so much thereof as is necessary.

Sec. 19. To provide for employment of prisoners. R. S. c. 92, § 13. The county commissioners shall, at the expense of their several counties, unless county workshops are therein established, provide some suitable place, materials, and implements for the breaking of stone into suitable condition for the building and repair of highways, and shall cause all persons sentenced under the provisions of section 26 of chapter 124 to labor at breaking stone; and they may, at the expense of their several counties, provide suitable materials and implements sufficient to keep at work all persons committed to either of such jails, and may from time to time establish needful rules for employing, reforming, and governing the persons so committed, for preserving such materials and implements, and for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed, and may make all necessary contracts in behalf of their several counties.

See c. 23, § 40, re penalty for conveying any article to a convict; c. 23, §§ 41-45, re convicts and officers in county jails.

Sec. 20. Able-bodied male prisoners may be put to work on highways. R. S. c. 92, § 14. County commissioners may authorize the keepers of jails to put

able-bodied male prisoners to work on the building or repairing of highways within their county. They shall make rules and regulations and appoint overseers and keepers needful for the direction and safe-keeping of prisoners so employed, and such overseers and keepers shall have all authority conferred by law on masters of houses of correction and shall be responsible for the safe-keeping and return to jail of all prisoners in their custody, and shall be subject to the provisions of section 211. No prisoner shall be so employed who has been exempted therefrom by the magistrate imposing sentence, or if in the judgment of a physician expressed by a certificate he is unfit for such labor. The county commissioners shall supply all prisoners with all necessary and suitable clothing of such description as will not materially distinguish them from other workmen; they shall also furnish said prisoners with the required tools and implements and may employ such other labor and purchase such other material and equipment as may be necessary to properly carry out the objects of this section, and shall keep account of all expenses incident to such employment. Section 25 does not apply to this section and the 3 following sections.

See §§ 21, 22.

Sec. 21. Application for services of prisoners. R. S. c. 92, § 15. The state highway commission and municipal officers of towns may make application for the services of prisoners as aforesaid and may enter into an agreement as to the cost and compensation to be paid to the county for such services, and the sum agreed on may be paid out of moneys appropriated for highway purposes. All such labor shall be under the general direction of the board or persons charged with the work.

137 Me. 233.

Sec. 22. Voters may request employment of prisoners. R. S. c. 92, § 16. When a written petition signed by at least 3% of the voters in any county, as determined by the number of votes cast therein for governor at the last preceding election, is presented to the county commissioners of said county requesting the employment of prisoners as above provided, said commissioners shall act thereon and shall designate the prisoners available for work under the conditions provided in section 20.

137 Me. 233.

Sec. 23. Contracts subject to cancellation or suspension. R. S. c. 92, § 17. Any contract for the employment of prisoners not provided for in the 3 preceding sections, which may be made by the county commissioners of any county with any person, firm, or corporation, shall be made subject to the right of the said county commissioners to withdraw, cancel, or suspend said contract in whole or in part.

137 Me. 233.

Sec. 24. Removal of site of county buildings; towns to vote thereon. R. S. c. 92, § 18. The county commissioners shall not remove a county building in the shire town or erect a new one instead of it more than $\frac{1}{2}$ a mile from the former location, without first giving notice of their intentions and of the place where they propose to locate it to the municipal officers of each town in the county. The said municipal officers shall present the same to the town at its next annual meeting for choice of state or town officers, and receive, sort, and count the votes for and against the proposal; and they and the clerks shall

certify and return such votes to the clerk of said commissioners, who shall examine them and act according to the decision of a majority.

87 Me. 88.

Sec. 25. To examine jails and may authorize employment of prisoners for benefit of their families. R. S. c. 92, § 19. At the commencement of each session required by law, the county commissioners shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness and for their accommodation; they may authorize the employment for the benefit of the county, or of dependent families, of prisoners committed for crime, in some suitable manner not inconsistent with their security and the discipline of the prison, and may pay the proceeds of such labor, less a reasonable sum to be deducted therefrom for the cost of maintenance of said prisoners, to the families of such person or persons as may be dependent upon them for support.

See §§ 16-19; c. 125, § 4, re disposal of earnings of persons sentenced; c. 22, § 4; c. 23, §§ 2, 15, re inspecting and licensing of institutions; transfer of prisoners.

Sec. 26. Power to obtain loans, restricted. R. S. c. 92, § 20. The county commissioners may obtain loans of money for the use of their county and cause notes or obligations, with coupons for lawful interest, to be issued for payment thereof at such times as they deem expedient; but such loans shall not exceed \$10,000, without first obtaining the consent of the county, substantially as provided in section 24.

See § 27, re temporary loans; 87 Me. 88.

Sec. 27. County commissioners may provide for temporary loans. R. S. c. 92, § 21. 1933, c. 11. 1935, c. 59. 1943, c. 5. The county commissioners of Cumberland, Washington, and Kennebec counties may, without obtaining the consent of their respective counties, raise, by temporary loan to be paid within 1 year from the time when the same is contracted out of money raised during the current year by taxes, sums not exceeding \$175,000, \$75,000, and \$50,000, respectively, in any year for use of their respective counties and cause notes or obligations of their respective counties with coupons for lawful interest to be issued for payment thereof as aforesaid. The county commissioners of each and every other county may without obtaining the consent of their county raise by temporary loans to be paid within 1 year from the time when the same is contracted out of money raised during the current year by taxes not exceeding $1/5$ of 1% of the assessed valuation of their respective counties.

Sec. 28. Warrants of distress, when and how to be issued on judgments of the board; actions of debt thereon. R. S. c. 92, §§ 23, 24. Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within 2 years after judgment, and made returnable to the clerk's office within 90 days from their date. New warrants may be issued within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied. No warrant shall be originally issued against a town until 20 days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages shall be included and collected by such warrants as in executions. A party, for whose benefit a judgment is rendered by them, may recover the amount in an action of debt founded on such judgment.

37 Me. 36; 53 Me. 218; 64 Me. 331; 83 Me. 115; 93 Me. 131; 137 Me. 233.

Sec. 29. Not to be agent to expend money. R. S. c. 92, § 25. No commissioner shall be appointed to expend money assessed or raised for any purpose by the board of which he is a member.

Sec. 30. Services in condemnation cases. R. S. c. 92, § 26. For services performed by county commissioners in the assessment of damages for land or easement sought to be taken or acquired by private corporations, they shall charge \$3 a day and actual traveling expenses and certify the same in a bill of items to the county attorney, who shall collect the sums so charged of the party seeking to exercise the right of eminent domain and forthwith pay the same to the county treasurer. The county treasurer shall pay to said commissioners actual traveling expenses aforesaid when collected by the county attorney.

Sec. 31. Annual financial report to be published. R. S. c. 92, § 27. At the end of each year, the commissioners of each county shall make a statement of its financial condition, showing in detail all moneys received into and paid out of its treasury and such other facts and statistics as may be necessary to exhibit the true state of its finances; and publish in pamphlet form, a reasonable number of copies for distribution among the citizens thereof.

See § 150, re annual financial report of treasurers; c. 95, § 55, re county offices may be closed on legal holidays.

County commissioners of Cumberland county authorized to appoint chaplain for jail, P. & S. L., 1907, c. 411.

County commissioners of Penobscot county authorized to maintain county farm, P. & S. L., 1913, c. 191.

County commissioners required to itemize and verify under oath, expense accounts, c. 106, § 11.

Powers and Duties Regarding Ways

Sec. 32. County commissioners may lay out, alter, or discontinue all county roads. R. S. c. 27, § 1. County commissioners may lay out, alter, or discontinue highways leading from town to town, and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter, or discontinue county roads within the limits thereof. Responsible persons may present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading, or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description, without adhering strictly to its bounds.

See c. 32, § 22, re ways in state parks, etc.

Authority of commissioners. 11 Me. 276; *15 Me. 22; 19 Me. 343; *26 Me. 356, 409; 31 Me. 270; 32 Me. 568; 37 Me. 559; 39 Me. 584; 40 Me. 437; 42 Me. 401; 59 Me. 89; 64 Me. 457; 70 Me. 408; 77 Me. 130; 78 Me. 156; 79 Me. 526; 87 Me. 151; 102 Me. 161; 106 Me. 131; *110 Me. 506.

Petition. 2 Me. 53; 3 Me. 105; 26 Me. 356, 408; 32 Me. 568; 37 Me. 119; 63 Me. 114; *68 Me. 407, 497; 78 Me. 537; *80 Me. 44.

Sec. 33. Notice, how given, proved, and recorded. R. S. c. 27, § 2. Being satisfied that the petitioners are responsible and that an inquiry into the merits is expedient, the county commissioners shall cause 30 days' notice to be given of the time and place of their meeting by posting copies of the petition, with their order thereon, in 3 public places in each town in which any part of the way is and serving one on the clerks of such towns and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested, and evidence thereof.

19 Me. 343; *30 Me. 305; 68 Me. 406, 497; *83 Me. 116; 105 Me. 560; 110 Me. 512.

Sec. 34. Costs paid by petitioners on failure. R. S. c. 27, § 3. When their decision is against the prayer of the petitioners, the county commissioners shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it; and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

2 Me. 54; 3 Me. 105; 68 Me. 497; 83 Me. 115.

Sec. 35. Proceedings before county commissioners; return; durable monuments erected. R. S. c. 27, § 4. The county commissioners shall meet at the time and place appointed, and view the way, and there, or at a place in the vicinity, hear the parties interested. If they judge the way to be of common convenience and necessity or that any existing way shall be altered, graded, or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way, and state in their return when it is to be done, the names of the persons to whom damages are allowed, the amount allowed to each, and when to be paid. When the way has been finally established and opened to travel, they shall cause durable monuments to be erected at the angles thereof.

Return. 12 Me. 212; 14 Me. 343; 23 Me. 13, 513; 26 Me. 409; 30 Me. 307; 35 Me. 377; 49 Me. 145; 51 Me. 384; 65 Me. 292; 72 Me. 430; 78 Me. 172; 79 Me. 528; 83 Me. 116; 89 Me. 252; 91 Me. 51; *105 Me. 186.

Angles and monuments. 25 Me. 304; *35 Me. 377; 49 Me. 148.

Validity of proceedings. *8 Me. 272, 293; 11 Me. 473; 19 Me. 343; *23 Me. 11, 513; 24 Me. 152; *26 Me. 356, 408; 30 Me. 306; 31 Me. 270; 32 Me. 568; 37 Me. 120, 559; 42 Me. 400; 49 Me. 145; 52 Me. 27; 68 Me. 407; 73 Me. 324; 81 Me. 411; 83 Me. 523.

Damages. 19 Me. 315; 45 Me. 424; 49 Me. 145; 52 Me. 27; 54 Me. 478; 60 Me. 540; 61 Me. 442; 63 Me. 28; *67 Me. 460, 464.

Sec. 36. Return to be filed with clerk; proceedings thereon; notice of appeal from estimate of damages; in case of appeal from location, when appeal on damages to be filed. R. S. c. 27, § 5. The return of the commissioners, made at their next regular statute session after the hearing provided for in the preceding section, shall be placed on file and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regular term of record, and at any time on or before the 3rd day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded, and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under the provisions of sections 32 to 44, inclusive, paid out of the county treasury except as provided in section 42. If an appeal from the location be taken in accordance with section 56, then notice of appeal on damages may be filed with the clerk of the county commissioners within 60 days after the final decision of the appellate court in favor of such way has been certified to him, to the superior court first held in the county where the land is situated, more than 30 days after such notice of appeal is filed, which court shall determine the same in the same manner as is provided in section 39, when no appeal on location is taken.

Filing and recording return. 31 Me. 272; 32 Me. 568; *42 Me. 399; *59 Me. 391; *63 Me. 28; 83 Me. 522.

Close of proceedings. 23 Me. 11; 25 Me. 304; *30 Me. 308; *59 Me. 391; 63 Me. 28; 78 Me. 101, 169.

Sec. 37. Proceedings before and after decision respecting increase of damages; exception. R. S. c. 27, § 6. When a notice of appeal for increase of damages is presented within the time allowed, the case shall be further continued

until a final decision respecting damages is made. If the county commissioners then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners, or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly; and the whole proceedings shall be recorded and become effectual; but the provisions of this section shall not apply when a location has been determined by a committee of the superior court upon appeal from the decision of the county commissioners thereon. In such case proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

See §§ 42, 56; 63 Me. 28; *78 Me. 173.

Sec. 38. Damages, how estimated; to whom awarded; when to be paid. R. S. c. 27, § 7. If any person's property is damaged by laying out, altering, or discontinuing a highway or town way, the county commissioners or the municipal officers of towns shall estimate the amount, and in their return state the share of each separately; damages shall be allowed to the owners of reversions and remainders and to tenants for life and for years in proportion to their interests in the estate taken; but said commissioners or officers shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the highway or alteration is located has been entered upon and possession taken for the purpose of construction or use.

71 Me. 140; 84 Me. 54; *91 Me. 51; *93 Me. 127; 105 Me. 580; *116 Me. 483.

Sec. 39. Appeal from commissioners. R. S. c. 27, § 8. Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time before the 3rd day of the regular term succeeding that at which the commissioners' return is made, to the term of the superior court, first held in the county where the land is situated, more than 30 days after the expiration of the time within which such appeal may be taken, excluding the 1st day of its session, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the 1st term of the court shall file a complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record, and order the damages therein recovered to be paid as provided in section 38. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts.

See § 56; 21 Me. 390; 77 Me. 181; *78 Me. 173; 83 Me. 535; 84 Me. 54; 89 Me. 313; 91 Me. 51; *96 Me. 249; *105 Me. 416; 106 Me. 147; 131 Me. 475; 136 Me. 447.

Sec. 40. Time allowed for removing growth, and opening way. R. S. c. 27, § 9. The owners of land taken under the provisions of the preceding 8 sections shall be allowed, not exceeding 1 year after the proceedings regarding the location are finally closed, to take off timber, wood, or any erection thereon. A time not exceeding 2 years shall be allowed for making and opening the way.

See § 47; 8 Me. 137; 39 Me. 116; 64 Me. 409; 84 Me. 100; 105 Me. 186, *580.

Sec. 41. Way discontinued before damages paid; proceedings. R. S. c. 27, § 10. When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as herein provided.

93 Me. 130.

Sec. 42. County commissioners to fix boundaries of highways or town ways; proceedings. R. S. c. 27, § 11. When the true boundaries of highways or town ways duly located, or of which the location is lost, or which can only be established by user, are doubtful, uncertain, or lost, the county commissioners of the county wherein such highway or town way is located, upon petition of the municipal officers of the town wherein the same lies, shall, after such notice thereon as is required for the location of new ways, proceed to hear the parties, examine said highway or town way, locate, and define its limits and boundaries by placing stakes on side lines at all apparent intersecting property lines, and at intervals of not more than 100 feet, and cause durable monuments to be erected at the angles thereof at the expense of the town wherein said highway or town way lies, make a correct return of their doings, signed by them, accompanied by an accurate plan of the way; and if any real estate is damaged by said action, they shall award damages to the owner as in laying out new highways, in the case of highways to be paid by the county and in the case of town ways to be paid by the town. Their return, made at the next regular statute session after the hearing, shall be placed on file and the case shall be continued to await a final decision respecting damages; sections 36 and 37 shall be applicable to appeals for increase of damages under this section. Said municipal officers shall maintain all highway or town way monuments, and replace them forthwith when destroyed. If any appeal for increase of damages is taken, and the commissioners are of opinion that their proceedings hereunder, or any part thereof, ought not to take effect, they shall enter a judgment that the prayer of the original petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county.

*83 Me. 42; 111 Me. 257.

Sec. 43. Call of meeting; notices. R. S. c. 27, § 12. When a petition is presented respecting a way in two or more counties, the commissioners receiving the petition, being satisfied as aforesaid, may call a meeting of the commissioners of all the counties, to be held at a time and place named, by causing an attested copy of such petition and of their order thereon to be served upon their chairmen; and they shall give notice of such meeting by causing a like copy to be published in the state paper and in 1 paper, if any, printed in every such county, and by posting it in 3 public places in each town interested, and serving it on the clerk thereof. These notices shall be posted, served, and published 30 days before the time of meeting.

52 Me. 213; 65 Me. 214.

Sec. 44. Proceedings. R. S. c. 27, § 13. Each county must be represented at such meeting by a majority of its commissioners. A majority of those present may decide upon the whole matter. The duty of carrying that judgment into effect shall be performed in each county by its own commissioners in the manner respecting ways wholly within it. When each county is not so represented, those present may adjourn the meeting to another time.

25 Me. 292; 45 Me. 424; 52 Me. 213; 73 Me. 57; *117 Me. 131.

Sec. 45. Appeals. R. S. c. 27, § 14. When proceedings have been had by the county commissioners on a petition for laying out, altering, grading, or discontinuing a way in two or more counties, an appeal may be taken in the manner provided in case of a way wholly in 1 county.

See § 39; 117 Me. 131.

Sec. 46. Proceedings in cases of appeals. R. S. c. 27, § 15. When an appeal is taken as provided for in the preceding section, it shall be filed with the commissioners of, and subsequent proceedings shall be had in, the county where proceedings originated, and the commissioners with whom such appeal is filed shall immediately give notice of such appeal to the commissioners of all the counties interested, and the clerk of courts shall certify the final judgment of court to the commissioners of all said counties.

*86 Me. 142; 117 Me. 131.

Sec. 47. Way must be opened within time limited. R. S. c. 27, § 50. When a town way, private way, or highway is wholly or partly discontinued by the county commissioners, a time shall be fixed for it, and when laid out by them the way shall be regarded as discontinued if not opened within 6 years from the time allowed therefor. When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within 2 years after the laying out or alteration, the proceedings are void.

12 Me. 237; 43 Me. 428; 59 Me. 543; 71 Me. 240; 79 Me. 273; 91 Me. 138; 95 Me. 51; *105 Me. 580.

Sec. 48. Commissioners may cause highways to be opened when towns neglect; payment of expenses. R. S. c. 27, § 51. When a town way or highway is not opened and made passable by the town liable, or a hill therein has not been graded, within the time prescribed therefor by the commissioners, they may, after notice to the town, cause it to be done by an agent, not one of themselves, on petition of those interested. The agent shall make a written contract therefor and file a copy of it in the clerk's office; and the commissioners shall forthwith certify to the assessors of the town interested, the time when such contract is to be completed, and the amount to be paid therefor. They may examine the doings of their agent, and at pleasure remove him and appoint another. His account shall not be allowed without notice to the town. When the contract has been completed and the accounts allowed, the town shall pay the amount expended, with the expenses of the agent for superintendence, and for procuring the allowance of his account. If the town neglects to pay for 30 days, a warrant of distress shall be issued by the commissioners to collect the same.

25 Me. 303; 37 Me. 120, 555; 49 Me. 145; *59 Me. 84; 64 Me. 331; 71 Me. 240; 80 Me. 429; 83 Me. 115; 105 Me. 188; 110 Me. 517.

Sec. 49. Record location of highway when lost or disregarded by agent; proceedings to stop work. R. S. c. 27, § 52. When a highway is laid out

through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto, or said agent is not making said highway according to the record location, the municipal officers or town agent may file a bill in equity in the supreme judicial or superior court, setting forth the facts aforesaid and praying an injunction to stay the proceedings of said road agent; and any justice of either of said courts shall issue a summary notice to said road agent to appear before him to answer said petition; and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable; and subsequent proceedings on the bill shall be similar to proceedings in equity in other cases.

Sec. 50. Organized plantations liable as towns and have same powers. R. S. c. 27, § 53. Organized plantations have like powers and are subject to like liabilities and penalties as towns, respecting ways. Their assessors have like powers and shall perform like duties, as municipal officers of towns, respecting them.

See c. 89, § 10, re return of inventory of polls and estates for basis of taxation; 20 Me. 298.

Sec. 51. Damages. R. S. c. 27, § 54. A person entitled to receive payment of damages or costs may, after 30 days from demand on the treasurer of the county or town or on the party liable therefor, recover them in an action of debt.

45 Me. 429; 83 Me. 246; 93 Me. 231; *105 Me. 571.

Sec. 52. County commissioners may lay out, alter, or discontinue highways in unincorporated townships; notice of hearing; procedure. R. S. c. 27, §§ 55, 56, 57. 1941, c. 9. The county commissioners, on petition as provided in section 32, may lay out, alter, or discontinue a highway on any tract of land in their county not within any town or plantation required to raise money to make and repair highways; and all expenses for making and opening the same shall be paid by the owners thereof, excluding lands reserved for public uses, in proportion to their interest in the lands over any part of which it is laid, except as provided in section 60.

If the county commissioners think that there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor, by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, 14 days before that time, and if unknown, by a publication thereof in any paper published in the county, or in the state paper, if no paper is published in the county, for 6 successive weeks, the last, 30 days before that time. The names of the petitioners shall be printed by giving the name of the first signer and signifying how many others signed, as "John Doe and 20 others." No proceedings shall take place until it is proved that such notice has been given.

After hearing the parties at the time and place appointed, they may proceed as provided in section 35.

See c. 50, § 32, re money may be raised for highways in unincorporated townships; 3 Me. 133; 17 Me. 197; 27 Me. 294; *30 Me. 352; 33 Me. 458; 38 Me. 495; 46 Me. 346; 60 Me. 289; 63 Me. 255; *80 Me. 285; *83 Me. 517.

Sec. 53. Appeal; appointment of committee; its duties; proceedings on its report. R. S. c. 27, § 58. Any party interested in such decision under the provisions of section 52 may appeal therefrom to the superior court in said county, to be entered at the term thereof first held after such decision. All further pro-

ceedings before the commissioners shall be stayed until a decision is made in the appellate court. If no person appears at that term to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines, or becomes interested, the court shall appoint another in his place, and they shall cause notice to be given of the time and place of hearing before them, by publication thereof in the state paper for 6 successive weeks, the last publication to be 14 days, at least, before the day of hearing, and personal notice to the appellant and to the chairman of the county commissioners, 30 days, at least, before the time set for hearing; they shall view the route, hear the parties, and make their report at the next or 2nd term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed, or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. If the judgment of the commissioners in favor of laying out, grading, or altering a way as prayed for, is wholly reversed on appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole, or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court, in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed to the prevailing party and the fees of the committee shall be collected as provided in section 34.

59 Me. 514; 63 Me. 570; 64 Me. 31; 72 Me. 248; 80 Me. 285; 91 Me. 103.

Sec. 54. No new petition for 1 year. R. S. c. 27, § 59. If the final decision of the commissioners or of the committee is against the prayer of the petition provided for in section 52, no new petition for the same road shall be entertained by the commissioners for 1 year thereafter.

78 Me. 537.

Sec. 55. County commissioners may lay out, alter, or discontinue highways, on same petition; proceedings; appeal. R. S. c. 27, § 60. County commissioners in their counties may, upon the same petition, lay out, alter, or discontinue highways through a town or towns or a plantation or plantations and tracts of land not in any town or plantation, and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to the provisions of section 52; in case of an appeal to the superior court, the appeal may be made at any time after the return of the commissioners has been placed on the files, and before the next term of said court in the county; and the proceedings upon the appeal shall be according to the provisions of section 53. If no appeal is made,

the case shall be continued to the next regular term after the regular term to which the return is made.

Sec. 56. Proceedings before commissioners, on petition for laying out highway; appeal; stay of proceedings. R. S. c. 27, § 61. Parties interested may appear, jointly or severally, at the time of hearing before the commissioners on a petition for laying out, altering, grading, or discontinuing a highway; and any such party may appeal from their decision thereon at any time after it has been placed on file and before the next term of the superior court in said county, at which term such appeal may be entered and prosecuted by him or by any other party who so appeared. All further proceedings before the commissioners shall be stayed until a decision is made in the appellate court.

See c. 84, § 72, re damages for land taken for highway purposes; 32 Me. 454; 42 Me. 400; 51 Me. 194, 385; 63 Me. 29, 570; 64 Me. 435, 437, 586; 68 Me. 407; 78 Me. 172, 538; 81 Me. 259; 83 Me. 437; *91 Me. 51; 131 Me. 475.

Sec. 57. Proceedings on appeal. R. S. c. 27, § 62. If no person appears at that term to prosecute the appeal provided for in section 56, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines, or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the route, hear the parties, and make their report at the next or 2nd term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

See c. 84, § 72, re damages for land taken for highway purposes; 8 Me. 146; 11 Me. 473; 31 Me. 447; 32 Me. 454; 33 Me. 370; 37 Me. 448; 42 Me. 400; 53 Me. 387, *434; 56 Me. 262; 59 Me. 263, *514; 63 Me. 111; 64 Me. 586; 67 Me. 531; *81 Me. 259; 83 Me. 435; *86 Me. 185; 112 Me. 319; 131 Me. 165.

Sec. 58. Judgment on appeal; its effect. R. S. c. 27, § 63. If the judgment of the commissioners in favor of laying out, grading, or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further; and in all cases when the judgment of the commissioners is reversed on appeal, no petition praying, substantially, for the same thing shall be entertained by them for 2 years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court; and in all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee provided for in section 57 shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed the prevailing party and the fees of the committee shall be collected as provided in section 34; provided, however, that this section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

See c. 84, § 72, re damages for land taken for highway purposes; 32 Me. 473; 42 Me. 401; 53 Me. 86; 59 Me. 451; 67 Me. 531; 68 Me. 485; *80 Me. 428; *83 Me. 435; *91 Me. 51.

Sec. 59. Committee, when to be sworn. R. S. c. 27, § 64. All such committees provided for in section 57, whether agreed on or appointed on appeal from

the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

See c. 84, § 72, re damages for land taken for highway purposes; 83 Me. 435.

Sec. 60. 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. 13, § 54. When a road is laid over lands under the provisions of section 52, 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 superior 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 2 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, 3 weeks successively, the last publication to be within 3 months from the date of the assessment.

See §§ 52-54; 17 Me. 198; 27 Me. 394; 29 Me. 201; 30 Me. 352; 33 Me. 458; 46 Me. 346; 72 Me. 248; 80 Me. 285; *83 Me. 517, 521.

Sec. 61. Owners may discharge their assessments by building roads. R. S. c. 13, § 55. If the owners make and open such road to the acceptance of the county 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. 62. Commissioners annually to inspect county roads, state and state aid highways in unincorporated places; assessments for repairs; agent to be appointed to superintend the repair of roads. R. S. c. 13, § 56. 1933, c. 216. 1939, c. 51. 1943, c. 305. Said county commissioners in September or October annually, by one or more of their board, shall make an inspection of all county roads, state and state aid highways, 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 for repairs, cutting bushes, maintenance, snow removal, and improvements, so as to comply with the provisions of the state highway laws, and to otherwise make them safe and convenient for public travel for the following year and assess thereon not exceeding 2% of the valuation thereof, and shall assess on the county the balance of said

amount if said amount of 2% is not sufficient to properly comply with the above requirements; and they shall make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, for the purpose of assessing not exceeding said 2% of the value thereof on the land owners, and shall assess upon each a sum proportionate to the value thereof as evidenced by the last Maine state valuation; and cause so much thereof, as they deem necessary for the purpose aforesaid, to be expended on said roads within 1 year from the date of assessment, which assessment shall create a lien thereon for the payment thereof. They shall make such assessment not later than April 1st of the following year and lists of said road repair taxes shall immediately be certified and transmitted by the county treasurer to the treasurer of state, to be by him collected and remitted to the county, in the same manner as provided for the county tax, provided, however, that the treasurer of state shall, when remitting to the county, remit the road repair tax and county tax in separate amounts and designate the amount of tax collected from each township. Collection of said road repair taxes shall be enforced in the same manner as provided for the enforcement of collection of county taxes. The county commissioners at the time the taxes provided by this section are assessed shall 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 60. Provided, however, that in deorganized towns, an assessment may be made of over 2% of the valuation thereof, in which case, the amount over the 2% shall be paid by the state out of the general highway fund on approval of the state highway commission.

*63 Me. 568; 87 Me. 503.

Sec. 63. Proceedings if owner fails to discharge his assessments. R. S. c. 13, § 57. If any owner fails to pay the sum so assessed on his land, for the expenses of making and opening such new roads, within 2 months from the time fixed therefor as provided in section 61 or fails within 2 months after the 15th 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, 3 weeks successively, the last publication to be at least 30 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 20% 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 2 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 20% 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.

27 Me. 294; *30 Me. 352; 33 Me. 458; 69 Me. 349; 74 Me. 55.

Sec. 64. Prima facie proof of title by purchase at such sale. R. S. c. 13, § 58. 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.

See c. 81, § 155, re collector's or treasurer's deed as evidence; 27 Me. 293; *101 Me. 234; *122 Me. 368.

Sec. 65. 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. 13, § 59. 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 60, if required, the whole expense whereof shall be added to their next assessment on said lands for repairs authorized by section 62, 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 aforeaid, shall be set down in the assessment in distinct items in a separate column and shall be enforced as is provided in section 63.

Sec. 66. Purchasers acquire state's title only, and have no claim on the state. R. S. c. 13, § 60. 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 the grantee the title of the state or of the county to the lands sold, subject to the conditions of sale, and no more.

See c. 81, §§ 101, 149, 155; *34 Me. 269; 121 Me. 121, 128.

Sec. 67. Part owner may redeem his share. R. S. c. 13, § 61. 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 20% a year, commencing at the expiration of 1 year from the date of the assessments, except when otherwise provided.

Sec. 68. County commissioners to notify state highway commission when location of certain highways is changed. 1943, c. 306, § 2. Whenever the location of any state, state aid, or third class highway is changed, added to, discontinued, or a new location is established within a county, the county commissioners

of said county shall place on file the description of such change, and shall notify the state highway commission of such change with an accurate description of the courses and distances within 1 year from such action. Provided, however, that whenever the state highway commission has previous record of such action, no notification by the county commissioners to the state highway commission shall be deemed necessary.

See c. 84, § 61, re municipal officers to notify county commissioners when location of certain highways is changed.

Powers and Duties Regarding Drainage of Swamps and Meadows

Sec. 69. Drains across adjacent lands or highways, how authorized. R. S. c. 25, § 28. Persons or corporations possessing land, swamp, meadow, quarries, or mines, which by reason of adjacent lands or highways cannot be approached, drained, or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

132 Me. 148.

Sec. 70. Petition to county commissioners; bond. R. S. c. 25, § 29. The party desiring to make such drains and ditches, as permitted in the preceding section, shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, the situation of the adjoining lands, and the names of the parties interested, if known, accompanied by a bond approved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

132 Me. 148.

Sec. 71. Notice; appointment and proceedings of committee. R. S. c. 25, § 30. The county commissioners thereupon shall order notice to all parties named therein, by serving on them an attested copy thereof with the order thereon, 14 days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three nor more than five disinterested persons and fix their daily compensation; they shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands is likely to sustain and report the same with all their proceedings to said commissioners; but before said committee proceeds to said examination they shall give 10 days' notice of the time and place of their meeting by posting notifications thereof in 2 public places in the town in which said lands lie.

132 Me. 148.

Sec. 72. Report. R. S. c. 25, § 31. At the next meeting of the county commissioners after the report of the committee is received, they may, if deemed reasonable, accept such report.

132 Me. 148.

Sec. 73. Final report to be recorded and damages tendered. R. S. c. 25, § 32. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated.

132 Me. 148.

Sec. 74. Repairs, how to be made. R. S. c. 25, § 33. The owners of a drain or ditch constructed for the purposes above named, or any one of them benefited thereby, may from time to time improve, deepen, and repair the same in such manner as is necessary to make it effective, and may remove and use any rock, earth, or other material necessary for such improvements, and may enter upon the lands through which such drain or ditch passes, for that purpose.

132 Me. 148.

Sec. 75. Damages, how to be settled. R. S. c. 25, § 34. All damages sustained by any person by reason of such improvement, including the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the persons or corporations taking said material, in an action on the case; or upon application to the county commissioners, at the election of the party injured, who shall assess the damages, and proceedings upon appeal may be conducted as provided in section 39.

132 Me. 148.

Sec. 76. Drains, how protected. R. S. c. 25, § 35. Whoever damages such works shall be punished as provided in chapter 118, for offenses of like nature.

132 Me. 148.

Powers and Duties Regarding Ferries and Toll-Bridges

Sec. 77. County commissioners may license ferries, establish tolls, take bond; property to be appraised on removal of ferryman. R. S. c. 31, § 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of state, with sureties, for the faithful performance of his duties. Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

*8 Me. 368; *42 Me. 20; 100 Me. 216.

Sec. 78. County commissioners may establish ferries to be supported by towns; penalty for neglect. R. S. c. 31, § 2. The county commissioners may establish ferries at such times and places as are necessary, and fix their tolls, and in case no person is found to keep them for said tolls, shall regulate and fix the compensation of the ferryman, and shall discontinue such ferries when, in their judgment, it may be expedient. When no person is found to keep them for the tolls, the towns in which they are established shall provide a person to be licensed to keep them, and shall pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they shall be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits \$40.

98 Me. 131; *100 Me. 214.

Sec. 79. Neglect to keep safe boat, and for neglect of attendance; penalty. R. S. c. 31, § 3. Every keeper of a ferry shall keep a suitable and safe boat or boats for use on the waters to be passed and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting

to keep such boat, he forfeits \$20, and for neglect of attendance, \$1, to the prosecutor in an action of debt; and is liable in an action on the case to the party injured for his damages.

Sec. 80. Action on ferryman's bond. R. S. c. 31, § 4. Anyone injured in person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs.

See § 180.

Sec. 81. Steam or horse ferry. R. S. c. 31, § 5. When a ferry, established by the legislature, is to be passed by a steam or horse boat, no other ferry shall be established on the same river within 1 mile above or below it.

121 Me. 109.

Sec. 82. Keeping a ferry, or conveying passengers or property, contrary to law; penalty. R. S. c. 31, § 6. A person who keeps a ferry contrary to the provisions of sections 77 or 78, or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire a boat or other craft for such purpose, forfeits \$4 for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place for damages sustained by him, in an action on the case.

*100 Me. 215; 121 Me. 109.

Sec. 83. Ice to be leveled and way kept in repair in winter. R. S. c. 31, § 7. When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them shall level the ice, and clear and repair the passageway from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds, and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners shall fix a reasonable compensation therefor, to be paid from the county treasury; or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

79 Me. 463.

Sec. 84. Penalty for neglect; liability. R. S. c. 31, § 8. The ferryman, or person so contracting, forfeits \$10 for each day's neglect to perform such duty, and is liable, in an action on the case, for damages to any person injured thereby.

Sec. 85. Use of horse or steamboats. R. S. c. 31, § 9. A licensed ferryman who uses at his ferry a boat propelled by steam or horse power forfeits his license, and is liable to any person or corporation for damages occasioned thereby.

Sec. 86. Use of other boats. R. S. c. 31, § 10. Persons required to use at a ferry steam or horse boats may, when the passage by them is dangerous, use other safe boats.

Sec. 87. Obstruction to ferries, prohibited; penalty. R. S. c. 31, § 11. Whoever places a weir or other obstacle, or without necessity anchors or places a raft, vessel, or water craft so as to obstruct the ordinary passageway of any

boat at a ferry licensed or established, forfeits \$20 to the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within 30 minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without unreasonable delay or wilful misconduct.

Sec. 88. Piers sunk to guide boats at ferries. R. S. c. 31, § 12. The proprietors of a ferry, to guide their boats, may sink piers near their ferry ways, above and below the same, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights.

42 Me. 19.

Sec. 89. Eminent domain for ferries. R. S. c. 31, § 13. Corporations organized for the purpose of owning, controlling, operating, or managing any steam ferry boat regularly engaged in the transportation of persons or property for compensation upon tidal waters over regular routes between points within this state, and under the jurisdiction of the public utilities commission, are authorized and empowered to take and hold, as for public uses, such lands and easements as may be necessary for the proper location of any ferry wings or other structures designed and used in such transportation in the same manner as set forth in sections 11 to 22, inclusive, of chapter 48, provided, however, that such taking shall be approved and the public exigency determined by decree of the municipal officers of the city or town in which such land and easements are located, by the county commissioners of the county, and by the public utilities commission.

Sec. 90. Somerset commissioners, jurisdiction. R. S. c. 31, § 14. The commissioners of the county of Somerset have exclusive jurisdiction in all matters relating to ferries between the counties of Somerset and Kennebec.

Penalty for evading payment of fare on ferry, c. 42, § 8; for disorderly conduct, c. 42, §§ 70, 71.

Sec. 91. Free passage over toll-bridges. R. S. c. 31, § 15. All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, and all persons going to or from a funeral, or public worship on the Lord's day, may pass over toll-bridges, free of toll.

Sec. 92. Persons exempted, to inform toll-gatherer. R. S. c. 31, § 16. Every traveler claiming to pass any toll-bridge free shall communicate to the toll-gatherer his name and place of abode, if required. Whoever refuses or omits to do so, or wilfully renders a false answer, and thereby evades the payment of his legal toll, forfeits to the proprietors \$10 to be recovered in an action of debt.

Sec. 93. Restrictions on weight of teams, and on droves of cattle and horses. R. S. c. 31, § 17. If any person driving neat cattle or horses over any toll-bridge more than 50 feet in length from one abutment, pier, or trestle part to another, without the consent of the toll-gatherer or agent of the corporation owning it, permits more than 20 neat cattle or horses to be on such bridge at the same time, or drives or transports over it any loaded cart, wagon, or other carriage, the weight whereof exceeds 4,500 pounds, exclusive of the team and carriage, and thereby breaks it down or injures it, neither he nor the owner of any prop-

erty under his charge shall recover any damages against such corporation for his loss or injury.

79 Me. 565.

Sec. 94. Penalty for delaying passengers. R. S. c. 31, § 18. If a bridge corporation or its agent unreasonably delays or hinders any person driving a cart, wagon, sleigh, or other carriage from passing any toll-gate, such corporation forfeits to such person not less than \$2, nor more than \$20; to be recovered by an action on the case.

Sec. 95. Two persons and children can pass in carriage, toll free. R. S. c. 31, § 19. No more than 2 persons and children with them, not received for the purpose of evading the payment of toll, have a right to pass a toll-bridge in any carriage, free of the toll payable by foot passengers in addition to the toll due on the carriage.

Sec. 96. Injuring toll-gate or attempting to pass without paying toll; penalty. R. S. c. 31, § 20. 1941, c. 109. Whoever maliciously breaks down or otherwise destroys or injures any toll-gate, or toll-bridge, or passes or attempts to pass such gate with intent to avoid the payment of toll, when liable thereto, and it is demanded, forfeits not less than \$5, nor more than \$50, to the proprietors of the bridge, in addition to any actual damages caused by him; but no process shall be maintained to recover such penalty, unless the corporation has complied with its charter, and the bridge is in repair, as public safety and interest require. Whoever evades or attempts to evade the payment of the established fare over a toll-bridge, whether it be public or private, in addition to any other forfeitures therefor provided shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$50, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The use of, or the attempt to use, any ticket or coupon book, issued to any person other than the one tendering such ticket or coupon book to be used in paying the established fare for traveling over such bridge, unless otherwise provided by law, shall be deemed a violation of the provisions of this section.

28 Me. 304.

Sec. 97. Covered toll-bridges to be lighted. R. S. c. 31, § 21. Every toll-bridge, if in whole or in part covered, shall be suitably lighted with not less than 1 sufficient light for every 75 feet in length of the covered part, commencing within 20 minutes after sunset, and continuing until 10 o'clock in each evening; except at the seasons of the year, if any, when toll is not demanded; and for each evening's neglect or refusal to do so, the corporation forfeits \$2, to be recovered by an action of debt, in the county where any part of the bridge is situated, to the prosecutor; and is also liable, in a special action for damages, to any person injured thereby.

Sec. 98. Covered bridges to be snowed. R. S. c. 31, § 22. Persons and corporations maintaining covered bridges for public travel shall keep them snowed at all reasonable times.

Sec. 99. Surrender of toll-bridges to the county; appeal. R. S. c. 31, § 23. When a toll-bridge corporation offers to surrender its bridge, free of cost or encumbrance, to the county commissioners of the county or counties where it is established, and they think it for the public interest and convenience, they shall accept it, and it shall thereafter be the property of such county or counties and be maintained at their expense; but they shall not so accept a bridge con-

necting with a way not located and accepted by the town or county where it is situated. Any party aggrieved by the doings of the commissioners, as aforesaid, may have a committee or jury to determine the matter as provided in section 53.

See § 39.

Sec. 100. Owners of ferries and bridges may take land for tollhouses. R. S. c. 31, § 24. Towns, corporations, and individuals owning ferries and bridges authorized to receive toll may take and use land within the limits of the highway for the erection and maintenance of tollhouses, but not to obstruct the public travel.

Sec. 101. County commissioners may lay out road across toll-bridge; damages, how ascertained. R. S. c. 31, § 25. County commissioners, upon petition therefor, may lay out a road across any toll-bridge and the approaches thereto, in their county, after notice and hearing, in the manner required by law for the location of highways. Such petition, praying that said bridge may be taken as a county bridge, shall be signed by not less than 20 taxpayers, qualified voters of said county, and shall allege that the bridge is necessary to the accommodation of public travel and that the payment of tolls is burdensome to the traveling public. The damages for laying out such road shall be ascertained, determined, and paid in the same manner as in the case of land taken for highways, and persons aggrieved thereby shall have the same rights of appeal as in the case of highways.

Sec. 102. May maintain bridge as a toll-bridge; tolls to be set aside. R. S. c. 31, § 26. If the county commissioners decide to make said bridge a county bridge, they may, for the purpose of defraying the costs or damages for the taking and repair of said bridge, maintain the same for a period not exceeding 6 years as a toll-bridge. All money received for tolls after such taking shall be set aside as fast as accumulated, and, with interest and accretions, shall constitute a sinking fund for the payment of any bonds or other indebtedness incurred by the county for damages or expenses in taking said bridge.

Sec. 103. Apportionment of damages. R. S. c. 31, § 27. When the county commissioners have laid out a road across such toll-bridge and paid the damages therefor as in the case of highways, and abolished the tolls thereof, they may apportion not exceeding $\frac{1}{3}$ of the sum so expended for damages, aside from tolls received, among the several towns benefited, having regard to their valuation and circumstances, whether such bridge shall be within or partly within the boundaries of such town, or not; and thereafter such bridge and its approaches shall be a public highway, and shall be kept safe and convenient for public travel by said commissioners, and maintained by the county free of toll; and the several towns shall pay to the county treasurer the several sums apportioned to each, within such time as the county commissioners may order.

Sec. 104. Bridge in 2 counties, proceedings; damages. R. S. c. 31, § 28. When a petition is presented respecting a toll-bridge in 2 counties, it shall be signed by at least 20 qualified persons in each county. The commissioners receiving the petition may call a meeting of the commissioners of both counties as provided by section 43, and they shall proceed in the manner provided by law for the location of ways in two or more counties. Damages shall be apportioned between the 2 counties in proportion to their last state valuation prior to such location, and among the several towns in the manner provided by the preceding section.

Meridian Lines and Standards of Length

Sec. 105. County commissioners to erect and maintain meridian line; record to be kept by clerk of courts. R. S. c. 53, § 34. The county commissioners, at the expense of their several counties, shall erect and forever maintain therein, at such place or places remote from electrical disturbances as the public convenience requires, a true meridian line to be perpetuated by stone pillars with brass or copper points firmly fixed on the tops thereof, indicating the true range of such meridian; and shall protect the same and provide a book of records to be kept by the clerk of courts, or by a person appointed by them nearer to such structure, and accessible to all persons wishing to refer thereto.

Sec. 106. Care and custody. R. S. c. 53, § 35. The structures referred to in the preceding section shall be under the care and custody of such clerks; and any surveyor residing in said county or engaged in surveying therein shall have free access thereto for the purpose of testing the variation of the magnetic needle.

Sec. 107. Surveyors to annually verify compass; to record declination of needle, etc., and to enter same in field note-book; penalty for neglect. R. S. c. 53, § 36. When the meridian lines provided for in section 105 have been established and complete, every land surveyor shall, at least annually, before making any survey, test and verify his compass or other instrument, using the magnetic needle, by the meridian line so established in the county where his surveys are to be made, and shall enter the declination of such needle from the true meridian in the book mentioned in section 105, together with the style and make of such instrument and its number, if any, and the date and hour of observation, and subscribe his name thereto for future reference; and shall insert corresponding entries as to date and declination, in his field note-books, which field note-books shall also show dates at which his surveys are made. Neglect or refusal to comply with the provisions of this section shall render such surveyor liable to a penalty of \$25 for each neglect, to be recovered on complaint in the county where any survey is made, half to the complainant and half to the county. The provisions of this section shall not apply to such surveys as are made by angles from some fixed, permanent line, or by a solar instrument and independent of the magnetic needle.

Sec. 108. County commissioners to erect and maintain standard of length; description thereof; their care and custody; duty of surveyors to verify tape or chain and record results; penalty for neglect. R. S. c. 53, § 37. The county commissioners at the expense of the several counties shall also erect and forever maintain therein, at such place or places as the public convenience may require, a standard of length of not less than 100 feet, with suitable subdivisions marked thereon. Such standard may consist of stone monuments permanently fixed with metal plates on the tops thereof, properly marked and protected; or of a steel bar of the necessary length properly marked and suitably placed and protected. All such standards shall be made to correspond with the standard of the United States Bureau of Weights and Measures, and shall be provided with proper means for determining the tension of tapes or chains during comparison. They shall be under the care and custody of the clerk of courts, who shall keep a suitable book for the record of comparisons, and they shall be accessible to any person for comparing any tape, chain, or other linear measure. Every surveyor shall before making surveys in this state, and at least annually, compare his tape or chain used in such surveys with the standard in the county in which

he resides or in which surveys are to be made; and shall record the result in the book provided for that purpose, giving description of such tape or chain, with the difference, if any, between the same and such standard, together with the date and temperature and the tension on such tape or chain at the time of comparison. When such standard shall have been completed in any county, any surveyor residing or making surveys in such county who shall neglect or refuse to comply with the terms of this section, shall be liable to the penalties and disability set forth in section 107.

Sec. 109. Governor to appoint commissioner to verify meridians. R. S. c. 53, § 38. When the meridian line or standard of length is established, repaired, or rebuilt in any county, the governor with the advice and consent of the council shall appoint a competent commissioner, not necessarily a resident of this state, to inspect and verify the same. Such commissioner shall in case of a meridian line verify the same by astronomical observation, and in his report shall give an accurate description of such structures, its latitude and longitude, and the declination of the needle at the time; and in case of a standard of length shall give a description of the structure, its location and exact length as determined by comparison with some authentic standard from the United States bureau of weights and measures. All such reports shall be full and accurate and be deposited in the office of the secretary of state, and a certified copy shall be filed and recorded in the office of the clerk of courts in the county where such structure is situated. Such commissioner shall receive from the state such just compensation as the governor and council shall allow.

Sec. 110. Penalty for injuring meridians. R. S. c. 53, § 39. Whoever wilfully displaces, alters, defaces, breaks, or otherwise injures any of the pillars or points, plates, enclosures, bars, locks, bolts, or any part of the structure of any meridian line or standard of length shall forfeit not more than \$100, to be recovered by indictment, half to the prosecutor and half to the county, and shall also be liable in an action of debt for the amount necessarily expended in repairing damages caused by his act.

Clerks of the Judicial Courts

Election, Powers, Duties, Salaries, Fees, etc.

Sec. 111. Election; tenure. R. S. c. 93, § 1. Clerks of the judicial courts shall be elected and notified, their elections determined and vacancies filled in the same manner, and they shall enter upon the discharge of their duties at the same time, as is provided respecting county commissioners, but they shall hold their offices for 4 years.

See §§ 1, 2, 3, 5; c. 5, § 50; 107 Me. 514.

Sec. 112. Clerks of court in military or naval service. 1941, c. 146, § 4. Whenever any clerk of court, during his term of office, shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, his status shall continue in the same manner as that provided in section 4 for county commissioners, and the temporary vacancy so created shall be filled by the same method as that provided in section 4 for county commissioners who have entered said service.

Sec. 113. Bond. R. S. c. 93, § 2. Before entering upon the discharge of official duty, each clerk shall give a bond to the state, to be lodged in the office of its treasurer, approved by the governor and council, in the sum of \$8,000, with two or more sureties, conditioned that he will faithfully perform all the duties of

his office, pay over all moneys, and safely keep and immediately deliver all records, files, papers, muniments in said office, and property of the county, as required by law.

See Const. of Me., Art. IX, § 1, re oath; 60 Me. 429.

Sec. 114. Salaries of clerks of courts. R. S. c. 125, § 41. 1935, c. 73. 1937, c. 118. 1941, c. 6. 1943, cc. 159, 163. The clerks of the judicial courts in the several counties shall receive annual salaries from the treasuries of the counties in monthly payments paid on the last day of each month, as follows:

Androscoggin, \$2,500,
Aroostook, \$2,800,
Cumberland, \$3,100; deputy clerk of courts, \$2,300,
Franklin, \$1,750,
Hancock, \$2,100,
Kennebec, \$2,500,
Knox, \$2,200,
Lincoln, \$1,800,
Oxford, \$2,100,
Penobscot, \$2,500; deputy clerk of courts, \$1,600,
Piscataquis, \$1,600,
Sagadahoc, \$2,200,
Somerset, \$2,500,
Waldo, \$1,400,

See 1943, c. 326, §§ 3, 11, re \$1,540 until July 9, 1945.

Washington, \$1,900,
York, \$2,500.

The sums above mentioned shall be in full compensation for the performance of all duties required of clerks, including those performed by them as clerks of the supreme judicial court, the superior court, and the county commissioners, or by clerks pro tempore employed by them, and the sum provided for the clerk in Lincoln county shall be in full for all such services and also in full for services as clerk of Lincoln municipal court, except as provided in section 12 of chapter 91. They shall account quarterly under oath to the county treasurer for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly on the 1st days of January, April, July, and October of each year.

Sec. 115. Fees of clerks of courts. R. S. c. 126, § 3. The fees of clerks of the judicial courts shall be as follows:

For every blank writ of attachment with a summons, or of scire facias, or an original summons, 4c.

Blank writs of replevin with the seal, signature, and blank bond, 8c.

Entry of an action, or entering up and recording the judgment, whether on a verdict, demurrer, nonsuit, or default, 60c.

Copies, 12c a page.

Recording a petition for partition, and any order thereon, at the rate of 12c a page.

Recording petition and proceedings for release of attachment, and making copy and certificate, \$2.

Making certificate of dissolution of attachment by judgment for defendant, 25c.

Entry of a rule of court upon the parties submitting a cause to referees, 15c.

Proving a deed in court and certifying the same, 20c.

Making certificate of approval by judge, of sale of real estate and price, when husband or wife refuses to release interest and right by descent, 50c.

Authenticating the official signature of a magistrate, 25c.

Original or other writ of execution in personal matters, and filing the same when returned, 15c.

Writ of possession in real actions, 25c.

Writ of protection or habeas corpus, 25c.

Subpoena for 1 witness or more, or with a duces tecum, 10c.

Recording certificate of discharge of a soldier or seaman from the army or navy of the United States, 25c, and for a copy of such record, 25c.

Recording certificate of registration in optometry, or veterinary surgery, 50c.

For making up the record in an equity case, the court may allow a further sum, not exceeding 10c a page in the whole, to be taxed by the clerk.

For each certificate, or copy of judgment or decree, in equity, 25c, which, together with the fees of the register of deeds for recording such certificate or copy, may be taxed in the costs of suit.

See § 232.

Writ of review, 75c.

Writ of scire facias, 40c.

Every writ and seal, other than before mentioned, 40c.

See c. 99, § 74, re certificate of dissolution of attachment, fee.

Sec. 116. To account for moneys received to county treasurer; court to designate depository; accounts to be verified and minuted on docket at each term; deposits to be in name of court. R. S. c. 93, § 3. The clerk shall keep a true and exact account of all moneys which he receives, or is entitled to receive, for services by virtue of his office, and shall pay the same to the county treasurer for use of the county in the manner required by law; all other moneys belonging to the county shall be paid in 30 days after they are received by him; and if, in either case he neglects to do so, he shall pay 25% interest thereon until paid; and the county treasurer shall notify the treasurer of state of any such known delinquency, and the clerk's bond shall then be sued. Proceeds of all sales of property made under the decree of the supreme judicial court and of the superior court and any and all other sums of money from whatever source derived in civil proceedings coming into the custody of the supreme judicial court and of the superior court shall be deposited in such depository as the court having custody of such money shall designate, and shall be withdrawn therefrom upon order of the clerk of courts, countersigned by any justice of the supreme judicial court or of the superior court in term time or vacation. Any justice of either of said courts in term time or vacation shall designate some proper bank or trust company as the depository for the funds hereinbefore referred to, and such designation shall be minuted on the docket of the court. At each regular term of the superior court in each county, the presiding justice shall verify the account kept with such depository and shall cause to be minuted on the docket that he finds the same to be accurate and duly vouched. He shall affix his signature to such certificates on the docket. Clerks of courts in the several counties shall keep a regular book containing the account of such funds showing the deposits and all accumulations thereof, and the amounts withdrawn therefrom, specifying the date of such withdrawal and the case to which such matters relate. All deposits shall be in the name of the court.

Sec. 117. Receive and discharge fines and costs voluntarily paid. R. S. c. 93, § 4. The clerk shall receive all fines, forfeitures, and bills of costs imposed or

accruing to the use of the state, when paid or tendered to him before a precept is issued to enforce collection, give discharges therefor, and enter them of record.

Sec. 118. Clerks of courts may administer oaths. 1933, c. 118, § 2. Clerks of courts may administer oaths required by law unless another officer is specially required to do it.

Sec. 119. To complete records of deceased clerk. R. S. c. 93, § 6. Under direction of the superior court, the clerk shall complete unfinished records of a former clerk deceased, when from entries on the dockets and papers on file it sufficiently appears what judgment was rendered. Such record, when approved by the court, is valid.

60 Me. 429.

Sec. 120. Duties as to lists of justices, discharges of soldiers and seamen, and files of state paper. R. S. c. 93, § 7. The clerk shall record the list of magistrates furnished by the secretary of state in a suitable book; and such record, and also copies thereof duly attested by him, are legal, but not conclusive evidence of the due appointment and qualification of all such officers. He shall also record in a book kept for that purpose, properly indexed, certificates of discharge of soldiers and seamen from the army and navy of the United States; certified copies from such record, when the originals are lost, shall be evidence in court, and in the absence of other proof, have the same effect as the originals. He shall preserve and file, for public inspection, all copies of the state paper forwarded to him by the publisher thereof, as required by law.

See c. 99, § 74; 60 Me. 429.

Sec. 121. Penalty for taking illegal fees. R. S. c. 93, § 8. A clerk who exacts or receives more than his lawful fees forfeits \$50, to be recovered by indictment.

See c. 132, § 13.

Sec. 122. Deputy clerks; oath and bond; clerk pro tempore. R. S. c. 93, § 9. The clerk of the judicial courts in the counties of Androscoggin, Cumberland, Kennebec, and Penobscot shall appoint a deputy clerk whose appointment shall be approved by a resident justice of the superior court or by the chief justice of the supreme judicial court. Clerks in the other counties may appoint a deputy to be paid out of the clerk's salary. The clerk in each county shall be responsible for all of the official acts of his deputy. Before entering upon his official duties, each deputy shall be sworn and shall give a bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of \$8,000, conditioned that he will faithfully perform all the duties required of his office. Whenever the clerk is unable to perform the duties of his office, his deputy shall have all the power and perform all the duties of clerk and be subject to the same penalties for any neglect thereof. Whenever the office of clerk shall be vacant by reason of death or resignation, the chief justice of the supreme judicial court shall appoint a suitable person to act as clerk until an appointment is made by the governor and council. The said appointee shall be sworn and shall give such bond as said chief justice shall direct. Whenever a clerk is absent and an existing or immediate session of the court renders it necessary, the chief justice of the supreme judicial court may appoint a clerk pro tempore who shall be sworn and give such bond as said chief justice directs.

Sec. 123. Record of civil cases. R. S. c. 93, § 10. After the rendition of final judgment or decree in any civil case at law or in equity, the clerk shall as soon

as may be make such a record thereof as the court by general rule or special order may direct. If either party, however, files a request and tenders the fees therefor, a full, extended record shall be made. The court may establish the form of such full extended record.

Sec. 124. Record of criminal cases. R. S. c. 93, § 11. In indictments for felonies, clerks shall make extended records of the process, proceedings, judgment, and sentence. In other indictments, it is sufficient to record the title of the case, the nature of the indictment, the term when it was found, the proceedings in brief thereon, and the judgment and sentence of the court. In criminal prosecutions brought up by appeal from inferior courts, it is sufficient to record the title of the case, the nature and date of the complaint, the name and official character of the magistrate before whom the case was tried, and the sentence appealed from and its date; to be followed by correct minutes of the proceedings and judgment in the appellate court.

135 Me. 393.

Sec. 125. Examination and correction of records. R. S. c. 93, § 12. The superior court shall cause the records of each clerk to be examined at least as often as there is a change of clerk, and when found deficient, direct them to be immediately made or corrected, and when such order is not obeyed, the fact of such deficiency shall be certified to the treasurer of state, who shall cause the clerk's bond to be sued.

60 Me. 429; *70 Me. 432.

Sec. 126. Disposal of money collected by suit on clerk's bond. R. S. c. 93, § 13. The money recovered in such suit shall be applied, under direction of the court, to complete the deficient records. If more than sufficient, the balance inures to the state. If not sufficient, the balance may be recovered by the treasurer of state in an action on the case founded on the bond and facts.

Sec. 127. No recording officer to be attorney or sue in his own court, nor draft or aid in drafting any paper which he is required to record. R. S. c. 93, § 14. No clerk, register, or recording officer of any court of the state shall be attorney or counselor in any suit or matter pending in such court; neither shall he commence actions to be entered therein, nor draft, nor aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by indictment for the benefit of the county.

Clerk of courts to be clerk of county commissioners, § 8; duplicates of plans filed with clerks of courts to be filed in registry of deeds, § 250; clerks of courts to make returns of fines collected under inland fish and game laws, c. 33, § 106; of libels for divorce to state registrar of vital statistics, c. 22, § 386; to make abstract on record, of pardon or commutation of sentence, c. 136, § 54; duties re list of appointments of magistrates c. 18, § 3.

County Attorneys

Election, Salaries, Powers, Duties, etc.

Sec. 128. Election of county attorneys; vacancies. R. S. c. 93, § 15. 1933, c. 15. County attorneys shall be elected and notified, their elections determined and vacancies filled in the same manner, and they shall enter upon the discharge of their duties at the same time as is provided respecting county commissioners, but they shall hold office for 2 years. Only attorneys at law admitted to the general practice of law in this state, and resident in the county, shall be elected or appointed as county attorney, and removal therefrom vacates the office. Whenever the governor and council, upon complaint and due notice and hearing,

shall find that a county attorney has violated any statute or is not performing his duties faithfully and efficiently, they may remove him from office and appoint another attorney in his place for the remainder of the term for which he was elected.

See §§ 1, 2, 3, 5; c. 5, § 50; 71 Me. 384; 137 Me. 233.

Sec. 129. County attorneys in military or naval service; substitutes. 1941, c. 146, § 1. Whenever a county attorney, during his term of office, shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, he shall not be deemed or held to have thereby resigned from or abandoned his said office, nor shall he be removable therefrom during the period of his said military or naval service except that his term of office shall not be held to have been lengthened by reason of the provisions of this section. From the time of his induction into such service he shall be regarded as on leave of absence without pay from his said office, and the governor, with the advice and consent of the council, shall appoint a competent attorney, a resident of the county so affected, to fill said office while said county attorney is in the federal service but not for a longer period than the remaining portion of the term of said county attorney. During the period of said military or naval service, the treasurer of state shall pay to said substitute attorney, a salary at the same rate as the rate of pay of the county attorney and amounts so paid shall be deducted from the salary of said county attorney. The attorney so appointed to fill the temporary vacancy shall have the title of "substitute county attorney" and shall possess all the rights and powers and be subject to all the duties and obligations of the county attorney for whom he is substituting.

Sec. 130. Salaries of county attorneys and assistant county attorneys. R. S. c. 93, § 24; c. 125, § 38. 1941, c. 75. 1943, cc. 110, 309. County attorneys of the several counties shall receive annual salaries from the state treasury in monthly payments on the last day of each month, as follows, and no other fees, costs, or emoluments shall be allowed them:

Androscoggin, \$1,800; assistant county attorney, \$1,000,

See 1943, c. 340, §§ 1, 2, re county attorney, \$2,100; assistant county attorney, \$1,200 until July 9, 1945.

Aroostook, \$1,500,

Cumberland, \$2,600; assistant county attorney, \$1,800,

Franklin, \$750,

Hancock, \$1,200,

Kennebec, \$1,400,

Knox, \$1,000,

Lincoln, \$1,000,

Oxford, \$1,800,

Penobscot, \$1,800; assistant county attorney, \$1,000,

Piscataquis, \$700,

Sagadahoc, \$1,250,

Somerset, \$1,200,

Waldo, \$1,000,

See 1943, c. 326, §§ 10, 11, re \$1,100 until July 9, 1945.

Washington, \$900,

York, \$1,600.

Sec. 131. Duties in civil proceedings; compensation. R. S. c. 93, § 16. The county attorney in each county shall appear for the county, under the direction

of the county commissioners, in all suits and other civil proceedings in which the county is a party or interested, or in which the official acts and doings of said county commissioners are called in question, in all the courts of the state, and in such suits and proceedings before any other tribunal when requested by said commissioners. All such suits and proceedings shall be prosecuted by him or under his direction. He shall prosecute to final judgment and execution all civil cases in which the state is a party in his county, and shall institute scire facias against sureties on any recognizance upon which the principal and sureties have been defaulted, before the term next succeeding that at which such default was entered upon the docket of the court, unless by order in open court the presiding justice shall grant a delay in matters of scire facias.

Writs, summonses, or other processes served upon the county or said commissioners shall forthwith be transmitted by them to him. The county commissioners may employ other counsel if in their judgment the public interest so requires. For the services herein mentioned the county attorney shall receive no compensation other than the salary from the state, except actual expenses when performing said services, the same to be audited by the county commissioners and paid from the county treasury. This section, however, shall in no way relate to or give the county attorney control of litigation in which the county is not financially interested although the official acts and doings of the county commissioners may be called in question.

137 Me. 233.

Sec. 132. Duties in criminal proceedings. R. S. c. 93, § 17. The county attorney shall attend all criminal terms held in his county, and act for the state in all cases in which the state or county is a party or interested, and unless he makes an order of dismissal as hereinafter provided, shall diligently and without delay prosecute to final judgment and sentence, all criminal cases before the superior court of his county, and in the absence of the attorney-general from a term in the county, shall perform his duties in state cases under directions from him, in the county, and he shall appear and act for the state with the attorney-general in the law court in all state cases coming into said court from his county; but no additional compensation shall accrue to the county attorney by the discharge of such duties.

67 Me. 129; *117 Me. 113; 137 Me. 233.

Sec. 133. Dismissal of civil or criminal cases. R. S. c. 93, § 18. In order to dismiss civil or criminal cases the county attorney shall indorse upon the back of the writ, indictment, or complaint in such cases a written order of dismissal, together with a statement of reasons for dismissal, and said order of dismissal shall not take effect unless approved in writing by the justice presiding at the term when the said dismissal is made.

Sec. 134. To enforce collection of fines and costs; as to examination of sheriff's bond; penalty for neglect. R. S. c. 93, § 19. The county attorney shall enforce the collection and payment to the county treasurer of all fines, forfeitures, and costs accruing to the state, and the faithful performance of their duties by sheriffs and constables, and give information to the court of their defaults in this respect; and shall annually move the county commissioners, at their meeting next following the 3rd Tuesday of June, to examine and consider the sufficiency of the sheriff's bond. If he neglects either of said duties, he forfeits to the state not more than \$100, to be recovered in an action of debt in the name of the treasurer of state.

See § 160.

Sec. 135. Annual report to attorney-general; penalty for neglect. R. S. c. 93, § 20. The county attorney shall, annually, by the 20th day of November, make such a report to the attorney-general of the business done in his office during the year ending on the 1st day of said November as is required by section 14 of chapter 17, and failing to do so, he forfeits $\frac{1}{2}$ of his salary for the current quarter, to be deducted by the governor and council in drawing his salary warrant, unless they are satisfied that there was reasonable cause therefor.

Sec. 136. Appointment of temporary substitute. R. S. c. 93, § 21. When the county attorney does not attend a criminal session or the office is vacant, the court may appoint an attorney to perform his duties during the session and allow him a reasonable compensation to be paid from the county treasury, and the justice shall notify the treasurer of state who shall deduct the same from the salary of such county attorney and forward the same to such county treasurer.

67 Me. 129; *117 Me. 113.

Sec. 137. Appointment of substitute in case of death or removal of county attorney. 1941, c. 146, § 2. Whenever the office of county attorney becomes vacant by reason of the death, permanent incapacity, or removal from the county of the incumbent of the office, except as provided for in section 129, the governor, with the advice and consent of the council, shall appoint a competent attorney, a resident of the county affected, to fill out the term of office of said incumbent.

Sec. 138. Restrictions and obligations. R. S. c. 93, § 22. The county attorney is under the same restrictions as to fees and the same obligations as to witnesses as are imposed on the attorney-general by sections 11 and 15 of chapter 17.

Sec. 139. Assistant county attorney for Cumberland county; duties. R. S. c. 93, § 23. 1933, c. 118, § 1. The county attorney of the county of Cumberland may appoint an assistant, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorneys; and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury, and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before judges of municipal courts and trial justices. He shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court.

Sec. 140. Assistant county attorney for Androscoggin county; duties; term of office. R. S. c. 93, § 24. 1933, c. 118, § 1. The county attorney of the county of Androscoggin may appoint an assistant, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorneys, and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury, and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before judges of municipal courts and trial justices. The assistant county attorney

shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court.

Sec. 141. Assistant county attorney for Penobscot county; duties; term of office. 1941, c. 75. The county attorney of the county of Penobscot may appoint an assistant, who shall be a resident of the county and duly admitted to the practice of law in this state, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court, and who shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorney and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury, and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before municipal courts and trial justices.

See § 30, re county attorneys shall collect compensation of county commissioners for assessment of damages in condemnation proceedings.

Duties when office of sheriff is vacant, §§ 171-174.

Duties of county attorneys as to enforcing tax laws, c. 14, § 70; shall represent interests of state at hearing for abolishment of grade crossings, c. 84, § 50; shall assist commissioner of agriculture in enforcing pure food law, c. 27, § 5; to enforce laws relating to dairy products, c. 27, § 114.

County attorneys to enforce compliance with order of public utilities commission to make repairs, c. 41, § 53.

Duties as to delinquent fines, forfeitures and costs in criminal cases, c. 137, §§ 14, 15.

Duties to enforce bond of delinquent sheriffs, c. 81, § 116.

Duties re wilful negligence in not delivering return of votes, c. 5, § 121.

Expenses incurred in performance of duties, c. 137, § 2; 137 Me. 233.

County Treasurers

Election, Salaries, Duties, etc.

Sec. 142. Treasurer to be chosen every 4 years; persons not eligible; vacancy filled by appointment; new treasurer to be chosen at next biennial election. R. S. c. 16, §§ 1, 4. A treasurer shall be elected for each county by the legally qualified voters thereof. He shall be a resident of such county and shall serve for a term of 4 years. Neither the attorney-general, county attorney, clerk of courts, sheriff of the county, nor any of his deputies shall be county treasurer.

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 until the 1st day of January following the next biennial election, at which said election a treasurer shall be chosen for the remainder of the term, if any; but in any event he shall hold office until another is chosen and qualified.

See Const. of Me., Art. IX, § 2, re offices incompatible with each other.

Sec. 143. Elections, when and how held; notice to county commissioners. R. S. c. 16, § 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 229; 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. 144. Bond and tenure of office. R. S. c. 16, § 3. The person so elected and accepting the office of county treasurer 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 4 years from the 1st day of the next January and until another is chosen and qualified in his place.

See c. 11, § 7; c. 137, § 13, re annual report to attorney-general; 69 Me. 364, 366.

Sec. 145. Deputy treasurer of Cumberland county; appointment; bond. R. S. c. 16, § 5. The treasurer of Cumberland county may appoint a deputy treasurer who shall assist the treasurer in performing the duties of his office. Such deputy treasurer shall give bond to the county for the faithful discharge of his duties in such sum as the county commissioners order and with such sureties as they approve in writing thereon, the premium of such bond to be met by the county.

Sec. 146. Salaries of county treasurers. R. S. c. 125, § 45. 1931, cc. 71, 152. 1937, c. 111. 1939, c. 296, §§ 1, 3. 1943, cc. 84, 206. County treasurers in the several counties shall receive annual salaries from the treasuries of the counties in monthly payments paid on the last day of each month, as follows:

Androscoggin, \$2,000,
Aroostook, \$1,500,
Cumberland, \$2,000; deputy treasurer, \$1,040,
Franklin, \$500,
Hancock, \$1,000,
Kennebec, \$1,800,

See 1943, c. 189, §§ 1, 3, re \$2,000 until July 9, 1945.

Knox, \$500,
Lincoln, \$450,
Oxford, \$1,200,
Penobscot, \$1,800,
Piscataquis, \$500,
Sagadahoc, \$700,
Somerset, \$800,
Waldo, \$400,

See 1943, c. 326, §§ 7, 11, \$440 until July 9, 1945.

Washington, \$1,000,
York, \$1,250.

Each of the counties shall pay the premium on the official bond of its treasurer.

Sec. 147. Treasurer to account to county commissioners; may enforce payment of taxes. R. S. c. 16, § 6. 1937, c. 206, § 1. The treasurer shall keep his books and accounts on such form and in such manner as shall be approved by the state department of audit and 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 §§ 62, 63, 64, re roads in unincorporated places; c. 81, §§ 51, 60, 61, 64, 110, 115, 116, 120, 139, re warrants for collection of taxes; 62 Me. 255.

Sec. 148. County funds, where deposited or invested. 1943, c. 88. The treasurer, with the approval of the county commissioners, may deposit the moneys received by him for the use of the county in any of the banking institu-

tions or trust companies or mutual savings banks organized under the laws of this state, or in any national bank or banks located therein, or when in his judgment there is money in the treasury which is not needed to meet current obligations, he may, with the advice and consent of the county commissioners, invest such amount as he deems advisable in bonds, notes, certificates of indebtedness, or other obligations of the United States of America which mature not more than 1 year from the date of investment.

Sec. 149. Receive costs in favor of state. R. S. c. 16, § 7. 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. 150. Treasurers to make annual statement of financial standing; publish same for distribution. R. S. c. 16, § 8. 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 the provisions of section 21 of chapter 143 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. 38, § 13, re municipal and county reports filed.

Sec. 151. Payments to county law libraries. R. S. c. 16, § 9. 1931, cc. 25, 100, 168. 1939, c. 56. 1941, cc. 48, 252. 1943, cc. 7, 95, 145, 246. The treasurer of each county, except the counties of Androscoggin, Aroostook, Cumberland, Franklin, Hancock, Kennebec, Knox, Lincoln, Penobscot, Somerset, Washington, and York shall pay annually to the treasurer of the law library association of his county, for the uses and benefits of the county law library, the sum of \$500. The treasurers of each of the following counties shall pay annually to the treasurer of the law library association of his county, for the uses and benefits of the county law library, as follows: Androscoggin, the sum of \$1,000; Aroostook, the sum of \$1,900, of which \$1,100 shall be for the use and benefit of the county law library in the court house at Houlton in said county and \$800 shall be for the use and benefit of the county law library in the court house at Caribou in said county; Cumberland, the sum of \$1,000; Franklin, the sum of \$750; Hancock, the sum of \$1,000; Kennebec, the sum of \$1,000; Knox, the sum of \$1,000; Lincoln, the sum of \$250; Penobscot, the sum of \$1,000; Somerset, the sum of \$750; Washington, the sum of \$900; York, the sum of \$1,250.

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 upon motion to practice in courts of record as attorneys without a certificate from the board of examiners of applicants for admission to the bar.

Sec. 152. Record of fines and bills of costs. R. S. c. 16, § 10. The county treasurer 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. 137, § 3, re duties of clerks of courts.

Sec. 153. Annual schedule of securities taken on discharge of prisoners. R. S. c. 16, § 11. The county treasurer shall, within 3 months before the 1st

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. 154. Also his own account, with county estimate. R. S. c. 16, § 12. The county treasurer shall, annually, prepare and deliver his account as treasurer to the close of every year, to the clerk of the county commissioners, and said account shall be enclosed with the estimates for county taxes made by said commissioners, and transmitted to the secretary of state.

See § 13, re estimates for county taxes.

Sec. 155. Accountable to county commissioners. R. S. c. 16, § 13. 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. 156. Account for money paid by U. S. for use of jails. R. S. c. 16, § 14. The county treasurer 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.

County treasurers; duties as to fines and costs in criminal cases, c. 137, §§ 11-13.

Sec. 157. Collection of accounts due counties. 1943, c. 146. County treasurers may charge off the books of account of their respective counties, in whole or in part, such accounts receivable including taxes as shall be certified to them as impractical of realization by the boards of county commissioners of their respective counties.

Sheriffs and Their Deputies

Election or Appointment, Powers, Duties, Salaries, Fees, etc.

Sec. 158. Election or appointment; bond. R. S. c. 94, § 1. Sheriffs shall be elected or appointed and shall hold their offices, according to the constitution, and their election shall be effected and determined as is provided respecting county commissioners, and they shall enter upon the discharge of official duty on the 1st day of January following. Every person elected or appointed sheriff for the counties of York, Cumberland, Kennebec, or Penobscot, before receiving his commission, shall give bond to the treasurer of state, with at least 3 sufficient sureties or with the bond of a surety company authorized to do business in this state as surety, in the sum of \$40,000; and for any of the other counties, in the sum of \$25,000, conditioned for the faithful performance of the duties of his office, and to answer for all neglect and misdoings of his deputies.

See §§ 1, 2, 3, 5; Const. of Me., Art. IX, § 10, re election of sheriffs and tenure; c. 5, § 50; 11 Me. 245; 64 Me. 197.

Sec. 159. Approval of bond; filed with state auditor. R. S. c. 94, § 2. 1939, c. 27. Every sheriff having executed the required bond shall file it in the office of the clerk of the county commissioners of his county, to be presented to them at their next meeting for approval, and after the bond has been so approved, the clerk shall record it and certify the fact thereon, and retaining a copy thereof, deliver the original to the sheriff who shall deliver it to the state auditor, within 20 days after its approval, to be filed in his office.

Sec. 160. Annual examination of bonds. R. S. c. 94, § 3. County commissioners, at their 1st meeting after the 3rd Tuesday of June, on motion of the county attorney, shall annually examine into the sufficiency of the bond of the sheriff of their county, and cause a record of their determination to be made by their clerks, who shall certify the same to the state auditor within 30 days.

See § 134.

Sec. 161. If adjudged insufficient, new bond must be given. R. S. c. 94, § 4. If the bond of any sheriff is adjudged insufficient, the clerk within 10 days shall certify that fact to him, who within 20 days thereafter shall give a new bond with sufficient sureties, to be filed in the office of the clerk of the county commissioners and approved as aforesaid, and then filed in the office of the state auditor.

Sec. 162. Forfeiture for neglect to give bond. R. S. c. 94, § 5. Any sheriff for each month's neglect to give the security required in sections 158 or 161, which neglect shall be reported by the auditor to the treasurer of state, forfeits \$150 to the state, to be recovered in an action of debt by the treasurer of state, and the attorney-general shall prosecute therefor; and the clerk of courts of his county shall certify such sheriff's name to the governor and council and the attorney-general; and unless reasonable cause therefor is shown, or within 20 days after the clerk has so certified, he gives or renews his security to the satisfaction of the governor and council, he thereby vacates his office.

Sec. 163. Governor may require new bond in certain cases. R. S. c. 94, § 6. When the treasurer of state certifies to the governor and council that moneys due to the state on warrants or any other suns or balances are in the hands of a sheriff and furnishes the names of his sureties, and it appears to them that the sureties are insufficient or have removed from the state, they may require him to give a new bond with sufficient sureties within 60 days after he is notified to be filed as aforesaid, and if he neglects it, his office becomes vacant.

Sec. 164. New bonds required on application of sureties. R. S. c. 94, § 7. When a surety on the official bond of a sheriff, or his heirs, executors, or administrators petition the county commissioners of the same county to be discharged therefrom, they shall cause an attested copy of the petition to be served on such sheriff and may require him to give a new bond to their satisfaction; and when it is given and accepted, such surety or his legal representatives are not liable for any neglect or misdoings thereafter.

Sec. 165. Salaries of sheriffs. R. S. c. 125, § 42. 1931, c. 281. 1943, cc. 182, 308. The sheriffs of the several counties shall receive annual salaries from the treasuries of the counties in monthly payments paid on the last day of each month, as follows:

Androscoggin, \$2,500,
Aroostook, \$2,500,
Cumberland, \$4,000,
Franklin, \$1,200,
Hancock, \$2,500,
Kennebec, \$2,800,
Knox, \$1,500,

See 1943, c. 161, §§ 1, 2, \$2,000 until July 9, 1945.

Lincoln, \$1,200,
Oxford, \$1,400,

Penobscot, \$3,500,
Piscataquis, \$1,400,
Sagadahoc, \$1,800,
Somerset, \$1,600,
Waldo, \$1,500,

See 1943, c. 326, §§ 4, 11, \$1,650 until July 9, 1945.

Washington, \$1,800,
York, \$2,500,

together with free rental of the house or living apartment connected with the county jail in each county, including the necessary light and fuel. Said salaries shall be in full compensation for services in attendance upon the supreme judicial court and upon the superior court, as jailer, master, or keeper of the jail in each county, for receiving and committing prisoners therein, and for the service of all criminal processes and the performance of all duties relating to the enforcement of all criminal laws. All actual and necessary expenses for travel and hotel bills within their respective counties and such necessary incidental expenses as are just and proper, incurred in the performance of their public duties, including all necessary expenses for aid in keeping the jails, shall be allowed by the respective boards of county commissioners of said counties and paid from the county treasuries.

Sec. 166. Fees of sheriffs and their deputies. R. S. c. 126, § 4. 1931, c. 225, §§ 30, 32. 1943, c. 274. Sheriffs and their deputies shall receive the following fees:

I. For the service of an original summons, or scire facias, either by reading or copy, 75c.

II. For the service of a capias writ or of a writ of attachment with summons on 1 defendant (not a corporation), \$1; if served on more than 1 defendant, \$1 more for each.

III. For service of trustee writ with summonses on trustee, \$1.50, and on principal defendant, \$1.

IV. For service of process on corporation, \$1.50, and if made by copy, \$1 additional thereto.

V. For attachment of real estate at registry of deeds, \$2.25, which includes copy and fee of 25c to registry which shall be paid by the sheriff or the deputy making the attachment.

VI. For attachment of personal property, \$3.

VII. For service of writ of replevin by copy thereof, \$2.50, and in addition thereto, \$1 for each hour after the first required for such service.

VIII. For serving a writ of possession, \$1.10; and if on more than one piece of land, 75c for each piece of land after the first; and the fees for levying and collecting the costs shall be the same as provided for executions in personal actions.

See sub-§ XVIII.

IX. For service of any order of service issued by or from any court of this state, \$1.50.

X. For service of any process issued by or from the probate courts when served in hand, \$1.50.

XI. For service of libel of divorce inserted in writ of attachment by serving summons and attested copy of writ and libel or for the service of libel for divorce with order of court thereon by attested copy, \$2.50.

XII. For serving bills in equity with the subpoena issued thereon, notices of foreclosure of mortgages of real estate, or copies of writs of entry served upon tenants in possession of demanded premises when defendant is not in possession, the sheriff or his deputy shall receive the sum of \$1.50 when such service is made in hand, and \$1.00 when service is made by leaving at the last and usual place of abode, copy of such of the above as are not required by law to be served in hand, in addition to his travel, and for the copy, when required to be attested by him, at the rate hereinbefore provided, and in all cases, the officer making service shall make a return of his service on the bill or subpoena, notice of foreclosure, citation, or other precept, without charge or fee for so doing.

XIII. For the service of a subpoena, notice to an adverse party, or other process in which there is no command to make return, 50c; if by copy, at the rate of 20c a page for the copy; and travel as in other cases; and service on an adverse party, by giving him an attested copy of the notice in hand, is valid.

XIV. For any service required by law to be served in hand, \$1.50.

XV. For all services by attested copy, \$1 in addition to the regular service fee, unless otherwise provided for by law.

XVI. Where the officer is by law directed to leave a copy, or gives a copy of any precept upon demand, he may charge at the rate of 20c a page, which in the latter case shall be paid by the party demanding it.

XVII. For service of tax summons and arrests under tax warrants the same as for service of civil process.

XVIII. For levying and collecting executions in personal actions, for every dollar of the first \$100, 3c; for every dollar above \$100 and not exceeding \$200, 2c; and for every dollar above \$200, 1c.

17 Me. 433.

XIX. For serving an execution upon a judgment of court for partition of real estate or assignment of dower, \$1 a day and 10c a mile from the officer's place of abode to the place of service.

XX. For causing appraisers to be sworn and making return of levying on real estate, \$1.

XXI. For each appraiser of real estate, for extending execution, or assigning dower, \$1 a day and travel at the rate of 10c a mile going out and returning home, to be paid by the officer and charged in his return.

XXII. For advertising in a newspaper a right in equity of redeeming mortgaged real estate to be sold on execution, such sums as he pays the printer therefor; for writing and posting notices of the sale of such equity in the town where the land lies and in 2 adjoining towns, \$3 and usual travel, and for making out a deed and return of the sale of such equity, \$2.

XXIII. When the estate or interest of any person, held by a possession or improvement, is seized and sold on execution, or the franchise or other property of a corporation or the property of an individual is sold on execution by a process similar thereto, and advertising in like manner, the officer is entitled to the same as in the sale of an equity of redemption.

XXIV. For the service of petition and subpoena for disclosure before a disclosure commissioner or for the service of citation by copy to creditor, as provided by chapter 107, \$2.50.

XXV. For other services under chapter 107 as follows: taking a debtor before the justice or justices for disclosure, travel as in service of a writ, and attendance, \$1; for a bail or other bond, 25c; and for recommitment of a prisoner when remanded, 25c; but no dollarage or commission shall be allowed to the officer for an arrest or commitment upon execution or mesne process, except upon the money actually collected; for arresting a debtor on execution, when he discloses without giving bond, \$1, and travel as provided by law; for keeping him, \$2 a day for himself and each necessary aid; for notifying the creditor and justices, 50c each, and travel aforesaid; and no officer is required to arrest a debtor on execution, unless a written direction to do so signed by the creditor or his attorney is indorsed thereon, and a reasonable sum for such fees is paid or secured to him, for which he shall account to the creditor as for money collected on execution.

15 Me. 469; 71 Me. 414; 103 Me. 132; *111 Me. 35.

XXVI. Sheriffs and their deputies shall make a charge of \$1 for making diligent search for persons upon whom they are commanded to serve civil process, when such party cannot be located at an address given to said sheriff or his deputy by the plaintiff or his attorney when commanding such service to be made.

XXVII. The fee for civil arrests shall be \$1 for such arrest and \$2 shall be charged for custody thereunder, including arrests and custody under bastardy proceedings.

XXVIII. For a bail-bond and writing the same, including principal and sureties, to be paid by the person admitted to bail and taxed for him if he prevails, \$1.

XXIX. For the service of a warrant, the officer is entitled to \$1, and \$1 for service of a mittimus to commit a person to jail or to the house of correction, and usual travel; with reasonable expenses incurred in the conveyance of such prisoner.

87 Me. 294.

XXX. For each aid necessarily employed in criminal cases, including expenses, \$2 a day, and in that proportion for a longer or shorter time, and 10c a mile for travel in going out and returning home.

XXXI. For the service of a subpoena in criminal cases, \$1; unless in special cases, when the court may increase the fees to what it judges reasonable.

XXXII. For attending court and keeping the prisoner in criminal cases, \$1.50 for every 12 hours, and in that proportion for a greater or less time.

XXXIII. For travel actually performed for the service of a writ, warrant, execution, or other process, 20c a mile from the officer's place of abode to the place of service, with all reasonable sums actually paid for boat hire, ferriage, and for crossing any toll-bridge, and postage for returning the process by mail to the court to which it is returnable. Only one travel shall be allowed for any one precept, and no constructive travel; but if the same is served on more than one person, the travel may be computed from the place of service most remote

from the place of return, with all further necessary travel in serving such precept.

69 Me. 597.

XXXIV. No charge of such officer for service, travel, or expenses paid shall be allowed, unless the items thereof are expressly stated and the amount of each; and no fees for constructive travel shall be allowed him for the service of a subpoena, notice to an adverse party, or other process in which there is no command to make return.

XXXV. For transmitting to the selectmen of towns precepts from the governor for calling special meetings for the election of representatives to congress from any district, with copies of the lists of persons previously voted for, for each town, 50c.

XXXVI. For service of a petition to the legislature, 50c, and 20c for each page of copy, with usual travel.

XXXVII. Every deputy sheriff and court messenger while in attendance upon the supreme judicial court or the superior court in their several counties shall receive for said attendance and service \$5 a day; and the sheriff, at its opening, shall present to the court a list of the officers attending, with the statement of the duties of each; and the court shall determine the number necessary and disallow charges for others.

XXXVIII. Every deputy sheriff while performing special duties under order of the sheriff shall receive for such services \$5 a day, together with necessary, incidental expenses, to be paid from the county treasury, the bills for which shall be audited as provided in section 2 of chapter 137. Provided, however, that such officers shall not be entitled to fees for any services rendered in criminal matters while acting as per diem officers:

XXXIX. The fees of the register of deeds for recording a levy upon real estate or the deed of the officer for the sale of real estate on execution and all sums paid by the officer for internal revenue stamps to be affixed to such deeds shall be taxed by the officer in his return; and every officer, making levy on real estate by appraisal, shall cause the execution and his return thereon to be recorded by the register of deeds for the district where the land lies within 3 months after such levy.

XL. For any of the above enumerated services in civil cases which a constable may legally perform, he shall receive the same fees as are provided above for deputy sheriffs.

Sec. 167. May appoint deputies; to furnish clerk of each county a list thereof; uniform shall be worn. R. S. c. 94, § 8. 1937, c. 220. Every sheriff, elected or appointed, may appoint deputies for whose official misconduct and neglect he is answerable. Their appointment and discharge shall be in writing, signed by him, and recorded in the office of the clerk of courts in his county, and are not valid until so lodged and recorded, except by operation of law or by vacancy in the office of sheriff. He shall also furnish to the clerk of courts in each county the names of the deputies by him appointed from time to time, with the residence and post-office address of each. He shall require any of said deputies, while engaged in the enforcement of the provisions of section 124 of chapter 19, to wear a uniform sufficient to identify themselves as officers of the law. The

uniforms required by this section shall be provided without expense to the county.

18 Me. 63, 279; 19 Me. 439; 23 Me. 327; 25 Me. 312; 29 Me. 74; 31 Me. 165; 33 Me. 424; 36 Me. 544; *51 Me. 550; 64 Me. 197; *71 Me. 416; 111 Me. 442.

Sec. 168. Special deputies; sheriffs may appoint in war time, or when war is imminent; personal liability. R. S. c. 94, § 9. Whenever a state of war shall exist or be imminent between the United States and any foreign country, sheriffs may appoint male citizens more than 18 years of age not eligible for military service as special deputies, who shall have and exercise all the powers of deputy sheriffs appointed under the general law, except the service of civil process. Such special deputies shall be personally responsible for any unreasonable, improper, or illegal acts committed by them in the performance of their duties, but the sheriffs shall not be liable upon their bonds, or otherwise, for any neglect or misdoings of such deputies.

Sec. 169. Notification of appointment; compensation. R. S. c. 94, § 10. Any sheriff appointing such special deputy sheriffs shall notify the clerk of courts and the county commissioners for the county in which such appointments are made, giving the names of such deputies and the date of their appointments, and such county commissioners shall fix and order paid from the treasury of the county to such deputies a reasonable compensation, not exceeding \$3.50 per day for the time actually employed, together with actual and necessary expenses incurred in the performance of duty.

Sec. 170. Obey orders of governor. R. S. c. 94, § 11. Sheriffs shall obey all such orders relating to the enforcement of the laws as they from time to time receive from the governor.

See c. 12, § 2, re may call for aid of militia; c. 33, § 14, re have powers of inland fish and game wardens and to assist in search for lost persons; c. 57, § 79, re special duties; 67 Me. 375; 123 Me. 362.

Sec. 171. Sheriff to appoint chief deputy. R. S. c. 94, § 12. 1935, c. 140. Subject to the provisions of section 167, the sheriff in each county shall, as soon as may be after he takes office, appoint a chief deputy to serve under him, who shall have all the powers and duties of a deputy sheriff and who shall be subject to the direction of the sheriff in the administration of his office.

Sec. 172. Qualification and bond of chief deputy; approval and filing of bond. 1935, c. 140. Every person appointed chief deputy under the provisions of section 171 shall give bond to the treasurer of state before receiving his commission with at least 3 sufficient sureties, or with the bond of a surety company authorized to do business in this state as surety, in such sum as the county commissioners of his county shall require, conditioned for the faithful performance of the duties of his office and to answer for all neglect and misdoings of the deputies in said county during such time as he shall serve in the period of a vacancy in the office of sheriff. Said bond shall be filed and approved in the same manner as is required for the bond of a sheriff under the provisions of section 159, and all of the provisions of said section shall apply to the bond of such chief deputy.

Sec. 173. Powers of chief deputy during a vacancy in the office of sheriff. 1935, c. 140. In the event of a vacancy in the office of sheriff by reason of death, resignation, or otherwise, said chief deputy shall have and exercise the same rights and powers and be subject to the same duties and liabilities as a sheriff until the vacancy in the office of sheriff shall have been filled as pro-

vided in the constitution and the new sheriff shall have qualified according to law.

Sec. 174. Powers of other deputies during vacancy. 1935, c. 140. During the vacancy in the office of sheriff, all other deputies of the sheriff vacating the office shall continue to have and exercise the powers and duties of deputy sheriffs and shall be subject to the direction and control of said chief deputy in the same manner and to the same extent as if he were sheriff.

Sec. 175. Duty of sheriff and deputies to serve precepts; fees must be paid or secured. R. S. c. 94, § 13. Every sheriff and each of his deputies shall serve and execute, within his county, all writs and precepts issued by lawful authority to him directed and committed, including those in which a town, plantation, parish, religious society, or school district, of which he is at the time a member, is a party or interested, but his legal fees for service shall first be paid or secured to him; and if they are not, when the process is delivered to him, he shall forthwith return it to the plaintiff or attorney offering it; or if sent to him by mail or otherwise, he shall put it into some post-office within 24 hours, directed to the person sending it; otherwise he waives his right to his fees before service.

1 Me. 363; 42 Me. 426; 54 Me. 205.

Sec. 176. Service of writs and precepts in which the sheriff is a party. R. S. c. 94, § 14. All writs and precepts in which the sheriff of any county is a party may, unless served or executed by a constable, be served or executed by the sheriff of any county adjoining that of which he is sheriff.

Sec. 177. Service upon deputy. R. S. c. 94, § 15. Any writ or precept in which the deputy of a sheriff is a party may be served by any other deputy of the same sheriff.

75 Me. 296.

Sec. 178. Duty of sheriffs and deputies in serving processes on vacating office. R. S. c. 94, § 16. Sheriffs and their deputies have the same authority, and their deputies are under the same obligation to serve, execute, and return all processes in their hands, when for any cause they cease to hold such office, as before; and official neglects or misdoings of a deputy after his principal is out of office are a breach of such sheriff's bond.

55 Me. 548.

Sec. 179. Actions survive against them. R. S. c. 94, § 17. Actions for the neglect or misdoings of a sheriff or his deputies survive the sheriff and may be brought against his executors or administrators.

Sec. 180. Person injured by misdoings of sheriff, may sue his bond, at his own expense; indorsement of writ; costs; judgment. R. S. c. 94, § 18. Any person injured by the neglect or misdoings of a sheriff, who has first ascertained the amount of his damages by judgment in a suit against him, his executors, or administrators, or by a decree of the probate court allowing his claim, may, at his own expense, in the name of the treasurer of state, institute a suit on his official bond in the county where he was authorized to act, and prosecute it to final judgment and execution. His name and place of residence, or that of his attorney, shall be indorsed on the writ, and the indorser alone is liable for costs. If judgment is rendered for the treasurer of state, it shall be for the damages ascertained as aforesaid, or so much thereof as remains unpaid, with interest; and the party's name for whom the suit was brought, shall be expressed in the

execution issued thereon. If the judgment is for the defendant, it shall be against the party for whom the suit was brought.

46 Me. 498; 49 Me. 177; 51 Me. 515, 547; 56 Me. 216; 106 Me. 166.

Sec. 181. Actions on sheriff's bond; proceedings. R. S. c. 94, § 19. Any other person, having a right of action on such bond, may file an additional declaration in the same action in the office of the clerk of courts, who shall issue a summons, directed to the defendant, specifying the cause of action and the amount demanded, returnable to the same court and indorsed by the name and place of residence of such other person, or his attorney; and such indorser is liable for costs like indorsers of writs.

Sec. 182. Service; right of person filing declaration; answer. R. S. c. 94, § 20. The property of the defendant may be attached on such summons as on mesne process, and it shall be served on the defendant as an original summons; and thereupon such person has all the rights of a plaintiff in the suit; and the defendant shall answer to said declaration, and judgment may be rendered thereon as if it were filed in an action originally instituted for the same cause.

Sec. 183. Damages assessed on rendition of judgment; issue of executions. R. S. c. 94, § 21. When judgment is rendered against the defendant in such action, damages shall be assessed on each declaration for the amount which the party filing it would recover in a suit on the bond, with costs; and executions shall issue therefor in the name of each party so recovering in the order in which the declarations were filed, but not beyond the amount of the bond. If judgment is for the defendant on any such declaration, execution for costs shall issue against the party filing it. No such action shall be dismissed, discontinued, or non-suited, except by order of court, without the consent of all parties interested as plaintiffs.

Sec. 184. Any person entitled to copy of bond; unless execution is disputed, it is evidence. R. S. c. 94, § 22. The treasurer of state shall deliver an attested copy of a sheriff's bond to anyone applying and paying for it, which shall be competent evidence in any case relating thereto, unless its execution is disputed, in which case the court may order the treasurer to produce it in court for the purposes of the trial.

Sec. 185. Exemption from arrest in civil action; proceedings upon failure to pay execution; office vacated. R. S. c. 94, § 23. No sheriff shall be arrested upon any writ or execution in a civil action; but when a judgment is rendered against him in his private or official capacity, the execution thereon shall issue against his property, but not against his body; yet he may, after notice that such execution has issued, unless upon a judgment for his own official delinquency, cite the creditor and make disclosure of the actual state of his affairs in the manner provided for poor debtors arrested upon execution; and if the execution is returned unsatisfied, and he has not made such disclosure, or if the judgment was rendered for his own official delinquency, the creditor may file an attested copy of such execution and return with the governor and council, and serve on such sheriff a copy of such copy, attested by the secretary of state, with a notice under his hand of the day on which such first copy was filed; and if such sheriff does not, within 40 days after such service, pay the creditor his full debt with reasonable costs for copies and service thereof, he thereby vacates his office. When he ceases to be sheriff, the clerk may issue alias executions against his property and body, as in other cases.

Sec. 186. Fees from deputies. R. S. c. 94, § 24. No sheriff shall receive from any of his deputies any of the fees earned by said deputies or any percentage thereon.

Sec. 187. Legal fees to be collected and accounted for to county treasurer. R. S. c. 94, § 25. All fees chargeable under the statutes of the state for the performance of any of the duties prescribed in section 165 shall be charged and collected by said sheriffs as now provided by law, and an accurate account thereof, and of those specified in the following section, kept and transmitted to the county treasurer on the last days of March, June, September, and December annually, and the amount deducted from the quarter's salary for the quarter then ending. If such fees are in excess of the amount of salary then due the sheriff, he shall pay said excess to the county treasurer, and no county treasurer shall pay any quarter's salary until said statement shall have been filed.

Sec. 188. Fees collected from other counties, etc., to be disposed of as in § 187. R. S. c. 94, § 26. For all prisoners committed from other counties or from any court of the United States, and for all other persons confined for debt and on other civil processes, the said sheriffs shall collect the same fees for their entire support as are now provided by law or may be fixed by the county commissioners under the authority vested in them by statute, and include the same in the statement provided for in the preceding section, and the same shall be deducted from the salary as herein prescribed. They shall not make any charge or collect any fees for the support of prisoners committed on criminal process from any court in the county in which said jail is situated.

Sec. 189. Special deputies in Cumberland county; compensation. R. S. c. 94, § 27. 1943, c. 152, § 1. The sheriff of Cumberland county shall appoint 3 deputy sheriffs, who shall serve at the pleasure of said sheriff, and whose special duty shall be to enforce the criminal laws in said county, and who shall receive as compensation therefor the sum of \$5 a day to be paid from the county treasury, together with such incidental expenses as may be necessary for the proper enforcement of said laws; bills for which shall be audited as provided in section 2 of chapter 137.

Duties Regarding Jails and Jailers

Sec. 190. Sheriff has custody of jail and prisoners, and is answerable for jailer. R. S. c. 94, § 31. The sheriff has the custody and charge of the jail in his county and of all prisoners therein, and shall keep it himself, or by his deputy, as jailer, master, or keeper, for whom he is responsible. The jailer, master, or keeper shall appoint all subordinate assistants and employees for whom he is responsible, and the pay of whom, including the jailer, shall be fixed by the county commissioners and paid by their several counties, except when otherwise provided by law.

*116 Me. 408.

Sec. 191. Upon vacancy in office of sheriff, jailer to continue unless governor appoints a jailer. R. S. c. 94, § 32. When a vacancy occurs in the office of sheriff, the jailer lawfully acting continues in office, and shall retain charge of the jail and of all prisoners therein or committed thereto, and his official neglects and misdoings are a breach of his principal's official bond, until a new sheriff is qualified, or the governor and council remove such jailer and appoint another, which they may do; and the jailer so appointed shall give bond in the manner required of a sheriff for the faithful discharge of his duties.

Sec. 192. When offices of jailer and sheriff are vacant, county commissioners may appoint. R. S. c. 94, § 33. If the office of jailer becomes vacant, while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do and continue in office, if his appointment is confirmed at their next meeting, during the vacancy in the office of sheriff, or until he is removed and a new jailer appointed.

Sec. 193. Jail must be kept clean and healthy. R. S. c. 94, § 34. The sheriff shall see that the jail in his county is kept as clean and healthy as may be; cause the walls to be whitewashed in April or May annually, and as often as the county commissioners order, at the expense of the county: and pay strict attention to the personal cleanliness of the prisoners.

See c. 23, §§ 2, 15, re inspection and licensing of institutions; transfer of prisoners;
116 Me. 408.

Sec. 194. Jailer must live in jail, if suitable. R. S. c. 94, § 35. Every keeper of a jail shall reside constantly with his family, if he has any, in the house provided for him, if in the opinion of the county commissioners it is good and sufficient; and if he neglects to do so, he forfeits not more than \$300, to be recovered for the county by indictment.

116 Me. 408.

Sec. 195. Jailer to furnish a Bible and other books and instruction to prisoners. R. S. c. 94, § 36. The jailer, at the expense of the county, shall furnish to each prisoner who is able to read a copy of the Bible, and to all, on Sundays, such religious instruction as he may be able to obtain without expense, and to such as may be benefited thereby, instruction in reading, writing, and arithmetic 1 hour every evening except on Sunday. It shall be his further duty to receive for their use from whatever source, by loan or contribution, any books or literature of a moral or religious tone, and to exclude those of opposite tendencies.

116 Me. 408.

Sec. 196. Pay for labor of prisoners before sentence. R. S. c. 94, § 37. Any person charged with crime, or awaiting sentence, who, while confined in any jail where provision for labor has been made, chooses to labor, as provided for persons under sentence, shall receive therefor such sum as, in the judgment of the commissioners of said county, he has earned.

See §§ 18, 19.

Sec. 197. Commissioners to furnish supplies for jails; not to be interested parties; bills and accounts to be audited. R. S. c. 94, § 38. 1939, c. 173. The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, fuel, bedding, and clothing for the jails and the prisoners therein, to be furnished and purchased under their direction and at the expense of the counties. No county commissioner shall be interested directly or indirectly in the purchase of any such supplies or in any contract therefor made by the board of which and while he is a member thereof, and all contracts made in violation hereof are void. A suitable person shall be employed to prepare the food of the prisoners in each county at the expense of the county, and the service of the food to the prisoners shall be under the general direction of the jailer, master, or keeper. The person employed to prepare the food of the prisoners shall be appointed by the sheriff in each county, subject to the approval of the county commissioners. The county commissioners may at any time direct

specific rations or articles of food, clothing, soap, fuel, or other necessities to be furnished and served to the prisoners. The bills and accounts for supplies furnished and the items of expense incurred in preparing and serving the same shall be audited by the state department of audit, as provided by subsection II of section 3 of chapter 16.

Sec. 198. Commissioners of Cumberland may annually advertise for proposals for supplies. R. S. c. 94, § 39. The county commissioners of the county of Cumberland may each year, as soon after the 1st day of January as may be, make an estimate of the amount of food, fuel, clothing, and supplies as far as practicable, which will be required by the county jail and for the support of the prisoners therein for the current year, and advertise for sealed proposals for furnishing the same according to specifications furnished by them, in the daily papers of the city of Portland, 3 days successively, at least 14 days before the time limited for the reception of such proposals, at which time they shall examine all such proposals and award the contract to the lowest responsible bidder; and the county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract, and account for the same in the manner provided for in the preceding section.

Sec. 199. Deduction from sentence for good conduct; care of convicts, sick at expiration of sentence. R. S. c. 94, § 40. The keeper of each jail shall keep a record of the conduct of each convict, and for every month during which it thereby appears that he has faithfully observed all the rules and requirements of the jail, he is entitled to a deduction from his sentence according to and not exceeding the following rate and proportion: for a convict under sentence for 6 months and less than one year, 2 days for each month of good conduct; for 1 year and over, 3 days a month; and for every day that any convict is punished for disobedience of said rules, a record thereof shall be made and 2 days deducted therefor from any commutations to which he is entitled. Whenever a convict at the expiration of his sentence is sick and unable to be removed from jail, he shall be cared for by the jailer at the expense of the county until the county commissioners deem it safe for him to be removed.

71 Me. 241; *116 Me. 408.

Sec. 200. Assistance to discharged prisoners. R. S. c. 94, § 41. The sheriff or his deputy keeping the jail may, at the expense of the county, give a prisoner about to be discharged from jail a sum of money not exceeding \$2 and wearing apparel to the value of not exceeding \$10 and may also furnish to such discharged prisoner a railroad ticket, non-transferable, to any place to which the fare does not exceed \$8. All sums so expended by the sheriff or jailer shall be repaid to him from the county treasury, after the account thereof has been audited and the amount found correct by the county commissioners.

116 Me. 408.

Sec. 201. Sheriff to keep record of persons committed. R. S. c. 94, § 42. Every sheriff shall keep in a suitable bound book a true and exact calendar containing, distinctly and fairly registered, the names of all prisoners committed to the jail under his charge, their places of abode, additions, time of their commitment, for what cause, and by what authority; and a particular description of the persons of those committed for offenses; and he shall register in said book the name and description, the time when, and the authority by which any prisoner was discharged; and the time and manner of any prisoner's escape.

92 Me. 250.

Sec. 202. Jailer to return list of prisoners at each criminal session of court; penalty. R. S. c. 94, § 43. Every jailer, at the opening of every criminal term of the superior court for his county, shall return a list of prisoners in his custody, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed; and shall have the calendar of prisoners in court for its inspection; and for neglecting to do so, the court may impose a reasonable fine.

71 Me. 407; 116 Me. 408.

Sec. 203. Official papers, to be filed and kept with calendar, and delivered to successor; penalty. R. S. c. 94, § 44. All warrants, mittinuses, processes, and other official papers, by which any prisoner is committed or liberated, or attested copies thereof, shall be regularly filed in order of time; and with the calendar aforesaid safely kept; and when he vacates his office, they shall be, by the sheriff or his personal representative, delivered to his successor on penalty of forfeiting \$200 to the county.

71 Me. 407.

Sec. 204. Sheriff is answerable for delivery of prisoners to successors. R. S. c. 94, § 45. Every sheriff is answerable for the delivery to his successor of all prisoners in his custody at the time of his removal; and for that purpose shall retain the keeping of the jail in his county and the prisoners therein until his successor enters on the duties of his office.

116 Me. 408.

Sec. 205. Upon application, transfer of prisoners when jail is adjudged unfit or insecure. R. S. c. 94, § 46. Whenever complaint on oath is made to a justice of the superior court that any jail is unfit for occupation or is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than 3 days' notice of such complaint to be given to the jailer or sheriff of the county to appear at the time and place fixed in such notice, and if on examination the matter complained of is found true, he may issue his warrant for the transfer of such prisoner at the expense of said county to any jail where he may be more securely kept; and if by fire or other casualty any jail is destroyed or rendered unfit for use, any justice of the superior court may, upon being notified by the county attorney of the county where such jail was or is located, issue his order to the sheriff and his deputies and constables of said county to cause all prisoners who might be liable to imprisonment in said county to be imprisoned in the jail of some adjoining county, said order to be printed in the newspapers of said county.

See c. 58, § 6, re plans for new jails to be submitted to department of institutional service.

Sec. 206. Liability of sheriff for escape of prisoners. R. S. c. 94, § 47. When a prisoner escapes through the insufficiency of the jail or the negligence of the sheriff or jailer, the sheriff is chargeable to the creditor, or other person at whose suit he was committed, or to whose use any forfeiture was adjudged against such prisoner.

71 Me. 578; 116 Me. 408.

Sec. 207. If escape happens through insufficiency of jail, sum paid, reimbursed; proceedings. R. S. c. 94, § 48. When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to such party; and if

they do not make such order within 6 months after the demand is laid before them, the sheriff may bring his action on the case against the inhabitants of such county, to be tried therein or in an adjoining county; and an attested copy of the writ left with the county treasurer, 30 days before the sitting of the court to which it is returnable, is a sufficient service.

116 Me. 408.

Sec. 208. Agent to defend county may be appointed by commissioners; execution, how levied. R. S. c. 94, § 49. The commissioners may appoint an agent to appear and defend the suit; and if they have no meeting between the time of service and the return day thereof, it shall be continued to the next term, saving all advantages to the defendants; and if judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied.

Sec. 209. Treatment of prisoners for debt, and minors. R. S. c. 94, § 50. Every jail keeper shall keep prisoners committed for debt separate from prisoners charged with felony or infamous crimes; and shall keep all minors so committed and all prisoners upon a first charge, before or after conviction, separate from notorious offenders and those convicted more than once of felony or infamous crimes, so far as the construction or state of the jail admits.

Sec. 210. Penalty for violation of preceding section, or for furnishing intoxicating liquor to prisoners. R. S. c. 94, § 51. If any jail keeper violates the provisions of the preceding section or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in such jail in writing certifies that such prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offense, \$25, and for the second, \$50, to be recovered for the county by indictment, or by any person suing therefor, to his own use; and shall be removed from office and shall be incapable of holding the office of sheriff, deputy sheriff, or jailer for 5 years.

Sec. 211. Liability of keeper and sheriff, if prisoner escapes. R. S. c. 94, § 52. If any jail keeper, through negligence, suffers a prisoner charged with an offense to escape, he shall be fined according to the nature of the offense charged against the escaped prisoner; but if a person committed for debt escapes from jail, and the sheriff or jail keeper, within 3 months thereafter, returns him thereto, the sheriff is liable only for the costs of any action commenced against him therefor.

See § 20; c. 122, § 26, re negligent escapes and refusal to receive prisoners; 116 Me. 408.

Sec. 212. Jailers to receive United States prisoners. R. S. c. 94, § 53. The keepers of the several jails shall receive and safely keep all prisoners committed under authority of the United States, until discharged, under the penalties provided for the safe-keeping of prisoners under the laws of the state.

Sec. 213. Disposal of body of person dying in jail. R. S. c. 94, § 54. When a person dies in jail, the jailer or sheriff shall deliver the body to his friends, if requested; otherwise, he shall dispose of it for anatomical purposes as provided in sections 10 to 17, inclusive, of chapter 61, unless the deceased at any time requested to be buried, in which case he shall bury the body in the common burying-ground and the expenses thereof shall be paid by the town in which he had a settlement, if he had any in the state, and if not, by the state.

116 Me. 408.

Sec. 214. Fines to be applied to building and repair of jail. R. S. c. 94, § 55. All fines imposed by the provisions of sections 158 to 227, inclusive, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed.

Provisions Relating to Sheriffs and Constables

Sec. 215. Service of precepts by constables; right of pursuit. R. S. c. 94, § 60. 1933, c. 118, § 1. A warrant issued by a municipal court or a trial justice for an offense committed in his county or under the laws for the maintenance of bastard children may be directed to and executed by a constable of any town therein; and if the accused has gone into another county before or after the warrant was issued, a sheriff or his deputy or a constable, having the warrant, may pursue and arrest him in any county and carry him to the county where the act complained of was committed; and when such officer arrests a person to commit to the jail of his county, he may convey him by the most convenient and suitable route, although it pass through other counties. Except for the purpose of retaking a prisoner whom he has arrested and who has escaped, or for the purpose of taking a person before such a court or trial justice, or for the purpose of executing a mittimus given to him by such a court or trial justice, or for the purpose of pursuing a person who has gone into another town and for whose arrest a constable or a city marshal has a warrant, no constable of the several towns or city marshal of the several cities shall have any authority in criminal matters beyond the limits of the town or city in which he is elected or chosen.

87 Me. 215.

Sec. 216. Officers may serve precepts for work-jails in one or more counties. R. S. c. 94, § 61. An officer of any county qualified to serve precepts in criminal cases in the county where he resides may serve any precept required by the laws providing for work-jails, whether such service is performed in whole or in part in one or more counties, and processes shall be issued and directed accordingly.

Sec. 217. Aid may be required by officer; penalty for refusal. R. S. c. 94, § 62. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses to do so, forfeits to the county not less than \$3, nor more than \$50; and if he does not forthwith pay such fine, the court may imprison him for not more than 30 days.

122 Me. 296.

Sec. 218. Execution of precepts commended, when officer becomes disqualified. R. S. c. 94, § 63. If any officer aforesaid, who has commenced the service or execution of a precept, becomes disqualified, it may be completed by any other qualified officer with the same legal effect; and if any officer aforesaid has made, in fact, any service, attachment, or levy by virtue of any process placed in his hands for service, and for any cause has not made his return thereon, such return shall be made by a sheriff, any deputy, or other proper officer under direction of a justice of the superior court held in the county where said writ is returnable, the facts to be set forth by said officer in said return to be proved to the satisfaction of said justice; or if a deputy sheriff dies after he has served

and returned a precept, the sheriff, if alive, and if not, any deputy in commission at the time of such service, may be allowed by the court to amend such return as the officer who made it might, but the rights of third parties shall not be affected thereby.

41 Me. 342.

Sec. 219. Copy of writ to be delivered to defendant on request; penalty for neglect. R. S. c. 94, § 64. Every officer, plaintiff, or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof, and if he unreasonably refuses or neglects to do so for 24 hours, he forfeits \$5, and \$5 additional for every subsequent 24 hours that he so refuses or neglects, and such forfeit shall be recovered by the debtor to his own use, in an action of debt.

Sec. 220. Officer to pay money collected; penalty. R. S. c. 94, § 65. Any officer aforesaid, who unreasonably neglects or refuses, on demand, to pay money received by him on execution to the person entitled to it, shall pay 5 times the lawful interest thereon so long as he so retains it.

8 Me. 133; 18 Me. 63.

Sec. 221. No officer to be attorney or draw papers; no employee of jailer to act as magistrate or attorney. R. S. c. 94, § 66. No officer aforesaid shall appear before any court or justice of the peace as attorney or adviser of any party in a suit, or draw any writ, plaint, declaration, citation, process, or plea for any other person; and all such acts done by either of them are void; and no person employed by the keeper of a jail in any capacity shall exercise any power or duty of a magistrate, or act as attorney for any person confined in the jail; and all such acts are void.

67 Me. 374.

Sec. 222. Service of writs in actions against officers for breach of duty, where principal defendant is out of state. R. S. c. 94, § 67. In actions against sheriffs, deputy sheriffs, and constables for breach of official duty where the principal defendant is out of the state, the writ may be served on such defendant by leaving a copy of the same with each of the sureties on his official bond 14 days before the return day thereof, and the court in the county where the writ is returnable, either before or after entry, may order further notice to the defendant by publication of an abstract of the writ and order thereon in some newspaper published in the county where the writ is returnable, or in the state paper, or in such other manner as the court directs; and if the order is complied with and proved, the defendant shall answer to the suit and judgment in such case has the same effect as if personal service was made upon the principal defendant.

See § 11, re legal processes from county commissioners.

Provisions Relating to Constables and Police Officers

Sec. 223. Constables may serve precepts; bond; penalty for acting before giving bond. R. S. c. 94, § 56. A constable may serve, execute, and return upon any person in his town or in an adjoining plantation any writ of forcible entry and detainer, or any precept in a personal action when the damage claimed does not exceed \$100, including those in which a town, plantation, parish, religious society, or school district of which he is a member is a party or interested; but before he serves any process, he shall give bond to the inhabitants

of his town in the sum of \$500, with 2 sureties approved by the municipal officers thereof, who shall indorse their approval on said bond in their own hands, for the faithful performance of the duties of his office as to all processes by him served or executed; and for every process that he serves before giving such bond, he forfeits not less than \$20, nor more than \$50, to the prosecutor.

5 Me. 79; 11 Me. 334; 31 Me. 122, 496; 35 Me. 210; *48 Me. 255; 64 Me. 35; 68 Me. 201; *74 Me. 369; 82 Me. 97; 106 Me. 167.

Sec. 224. Constables' fees. R. S. c. 126, § 5. For services which may be performed either by a deputy sheriff or a constable, the constable is allowed the same fees as a deputy sheriff, unless otherwise provided.

20 Me. 481.

Sec. 225. Remedy for misconduct of constable. R. S. c. 94, § 57. Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action, and action on his bond, as in case of a sheriff's bond.

See § 180; 14 Me. 114; 29 Me. 462; 106 Me. 166.

Sec. 226. Constables of Bristol may serve on islands. R. S. c. 94, § 58. The constables of the town of Bristol may serve all precepts on Muscongus and Harbor islands, in the county of Lincoln, the same as in their own town, until and unless said islands can legally elect constables.

Sec. 227. Power of police. R. S. c. 94, § 59. Police officers, appointed in any city, have the powers of constables in all matters criminal or relating to the by-laws of their city.

See c. 80, § 69; c. 33, § 12, re powers of inland fish and game wardens; c. 88, § 122, re duties of constables and police officers to enforce law as to dairy products.

Registers of Deeds

Election, Duties, Salaries, Fees, etc.

Sec. 228. Register of deeds; how elected; vacancies. R. S. c. 15, §§ 1, 4. A register of deeds shall be elected for each county and in each registry district by the legally qualified voters thereof, who shall serve for a term of 4 years.

Vacancies shall be filled by election as provided for in section 229, at the next September election after their occurrence; and in the meantime 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 1st day of January, next after the election last mentioned.

50 Me. 245; 64 Me. 599, 600; 115 Me. 108.

Sec. 229. Election, how and when held; governor and council to examine lists of votes; to issue certificates of election; tenure of office. R. S. c. 15, § 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 30 days next succeeding such meeting. The governor and council shall, by the 1st 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 50 of chapter 5; 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 4 years from the 1st day of the next January and until another is chosen and qualified.

See c. 5, §§ 68-70, re soldiers authorized to vote; 25 Me. 568; 64 Me. 599; *115 108.

Sec. 230. Bond. R. S. c. 15, § 3. Each register shall give bond, with sufficient sureties, to the county, in the sum of \$2,000 for the faithful discharge of his duties.

See Const. of Me., Art. IX, § 1, re oath.

Sec. 231. Salaries of registers of deeds. R. S. c. 125, § 44. 1939, c. 279, § 2. 1943, c. 158, § 1; cc. 162, 164. Registers of deeds in the several counties shall receive annual salaries from the treasuries of the counties in monthly payments paid on the last day of each month, as follows:

Androscoggin, \$1,800,

Aroostook, northern registry, \$1,300; southern registry, \$1,800,

See 1943, c. 202, §§ 1, 2, re northern registry, \$1,500 until July 9, 1945.

Cumberland, \$2,500,

Franklin, \$1,300,

Hancock, \$1,500,

Kennebec, \$2,000,

See 1943, c. 174, §§ 1, 2, re \$2,200 until July 9, 1945.

Knox, \$1,650,

Lincoln, \$1,400,

Oxford, eastern registry, \$1,500; western registry, \$1,000,

Penobscot, \$2,000,

Piscataquis, \$1,500,

Sagadahoc, \$1,600,

Somerset, \$1,800,

Waldo, \$1,000,

See 1943, c. 326, §§ 6, 11, re \$1,100 until July 9, 1945.

Washington, \$1,650,

York, \$1,750.

The sums above mentioned shall be in full compensation for the performance of all official duties and no other fees or compensation shall be allowed them. All registers, except in the western district of Oxford county, shall devote their entire time to the duties of the office. They shall account quarterly under oath to the county treasurers for all fees received by them or payable to them by virtue of the office, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly on the 15th days of January, April, July, and October of each year. They may make abstracts and copies from the records and furnish the same to persons calling for them and may charge a reasonable fee for such service, but shall not give an opinion upon the title to real estate. Fees charged by them for abstracts and copies shall be retained by them and not paid to the county.

Sec. 232. Fees payable to registers of deeds. R. S. c. 126, § 17. Registers of deeds shall receive for:

Recording a deed, mortgage, or lease, or description of a family burying-ground, 75c;

Recording the assignment or release of a mortgage or certificate of discharge of an attachment, 50c;

Recording a levy, \$1.50, and the same sum for certified copies of these instruments as for recording them;

Entering in the margin of a record a discharge of the mortgage or attachment to be signed by the person discharging it, 25c;

Receiving of an officer a copy of return of attachment of real estate, minuting it when it is received, keeping it on file, and entering it in a book kept for the purpose, 25c;

Receiving of an officer a copy of return of attachment of personal property in an unincorporated place, noting thereon the time when it is received, entering it in a suitable book, and keeping it on file, 25c;

Examining and certifying a copy of a plan, 50c, in addition to the amount paid for making the record, and a like sum for furnishing copies from the record;

Recording certificates of limited partnership, 50c;

Receiving and filing certificate of election of clerk of a corporation, or resignation of such clerk, 50c;

Recording certificates of foreclosure of mortgages, or notices of foreclosure, \$1;

Recording a certificate or copy of a judgment or decree in equity, 50c. A suitable book, with an index thereto, shall be provided wherein such certificates and copies shall be recorded;

Receiving, filing, and recording certificates of breeding stallions, 50c for each certificate of not more than 1 page, and 25c for each additional page;

Filing and indexing copy of process against a domestic corporation, 20c, to be paid by the officer serving it;

Receiving, filing, and recording certificate and description of homestead, 50c.

Recording copy of petition for release of attachment and certificate that bond has been filed, 75c;

Recording certificate of approval of sale of real estate and price, when husband or wife refuses to release interest and right by descent, 25c;

Recording certificates of organization of corporations and copies thereof for filing with the secretary of state, \$5;

Recording certificates of incorporation for corporations without capital stock, \$1;

Filing and recording original or authenticated copy of cooperative marketing agreement, 50c;

Filing and recording affidavit of cooperative marketing association, 50c plus 10c additional for each member listed therein;

Certifying the record or copy of plan showing allotment of lands in any city or town, 50c, to be paid by the city or town presenting such plan for record; the city or town shall also pay the cost of copying or transcribing the plan on the record;

Recording a bond for a deed, or copy or abstract of will, \$1;

Recording approval of bond or certificate of adjudication in bankruptcy, 25c.

In all cases where books with printed forms are not furnished therefor, registers of deeds shall receive for receiving, filing, and recording any instrument by law entitled to record, the sum of \$1 for the first 500 words, and the sum of 20c for each 100 words or fraction thereof in excess of 500 words.

The above fees shall be paid when the instrument is offered for record.

Sec. 233. May appoint clerk; clerk's oath and duties. R. S. c. 15, § 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. 234. Western district in county of Oxford. R. S. c. 15, § 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. 235. Northern district in county of Aroostook. R. S. c. 15, § 7. All that part of the county of Aroostook lying north of a line commencing at the southeast corner of township F, in the 1st 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 2nd range, to township number 15 in the 3rd range, thence north to the northeast corner of township number 15 in the 3rd range, thence west to the northwest corner of township number 15 in the 3rd range, thence south to the southwest corner of township number 15 in the 3rd range, thence west to the northwest corner of township number 14 in the 4th range, thence south to the southwest corner of township number 14 in the 4th range, thence west on the dividing line of townships 13 and 14 to the 7th range line, thence north to the northeast corner of township number 14 in the 8th 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. 236. Office in shire town. R. S. c. 15, § 8. The register of deeds in each county in which there is but 1 register shall keep his office in the shire town.

Sec. 237. In case of vacancy, clerk of courts to be register. R. S. c. 15, § 9. 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 Const. of Me., Art. IX, § 2, re offices incompatible with each other; 115 Me.

108.

Sec. 238. Clerk may appoint an assistant; to be sworn. R. S. c. 15, § 10. In any county where there are two or more registry districts, the clerk of the judicial court in the county 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. 239. Register may be removed for misconduct or incapacity. R. S. c. 15, § 11. When on presentment of the grand jury or information of the attorney-general to the 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 237 and 238.

*60 Me. 66.

Sec. 240. Register's successors may complete records, and grant certificates. R. S. c. 15, § 12. Such clerk as referred to in section 238, or his substitute, or the newly appointed or elected register, or any successor within 5 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.

115 Me. 454.

Sec. 241. Certificates, conditions, and requisites of. R. S. c. 15, § 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. 242. Recording officer not to draft or aid in drafting any document he is required to record. R. S. c. 15, § 14. No city, town, county, or state officer whose duty 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 more than \$100, to be recovered by any complainant by action of debt for his benefit or by indictment for the benefit of the county.

See § 127; c. 140, § 31, re limitation of powers of register of probate.

Sec. 243. Records; index. R. S. c. 15, § 15. 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 city, town, or unincorporated place where the land conveyed is situated. As often as every 10 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.

123 Me. 217.

Sec. 244. Books for records of plans furnished at expense of county; description of books; plan to be drawn on strong linen paper. R. S. c. 15, § 16. The county commissioners shall provide, at the expense of the several counties, suitable books at least 24 by 33 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. 245. Deeds considered recorded when minute of time of reception is made; records attested by volume. R. S. c. 15, § 17. Every register shall, at the time of receiving any deed or instrument for record, certify thereon the day and the hour and minute 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 1 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. 246. Miscellaneous records. R. S. c. 15, § 18. 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 districts; 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 § 232; c. 27, § 123; c. 31, § 30; c. 48, § 12; c. 80, § 108; c. 95, §§ 11, 29; c. 99, § 20; c. 107, §§ 7, 10, 31, 63; c. 140, § 25; c. 157, § 15; c. 164, § 44.

Sec. 247. Records of towns may be delivered to Maine Historical Society for safe-keeping; certified copies may be used in evidence. R. S. c. 15, § 19. 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. 248. Owner of original records reimbursed for expenses. R. S. c. 15, § 20. 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 to by the Maine Historical Society 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 \$500.

Sec. 249. Plans of land lotted for sale to be filed; penalty for neglect. R. S. c. 15, § 21. 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 the provisions of this section, he shall be liable to a penalty of not more than \$50, to be recovered in an action of debt in the name of the register of deeds for the benefit of the county.

Sec. 250. Duplicates of plans on court files. R. S. c. 15, § 22. 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. 251. County commissioners may collect and preserve plans of townships; copies, how prepared; filing and indexing. R. S. c. 15, § 23. 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. 252. May procure other plans of interest to county; exception. R. S. c. 15, § 24. The county 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 the purchase of any plan which the proprietor of any estate is required by law to file with the register of deeds.

Sec. 253. Plans showing allotment of lands in cities and towns, recorded. R. S. c. 15, § 25. 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. 254. Copies of transfers of lands in unorganized territory sent to state tax assessor. R. S. c. 15, § 26. 1931, c. 216, Art. II, §§ 28, 29. In each county containing lands in unorganized territory, so called, the register of deeds shall transmit to the state tax assessor certified copies of the record of all transfers of lands in unorganized territory made after the 20th day of March, 1907, within 10 days after such record is made. Such copies shall be placed on file and retained for future reference by the state tax assessor.

Sec. 255. Lien notices for internal revenue taxes may be filed and recorded. R. S. c. 15, § 27. Notices of liens for internal revenue taxes payable to the United States of America and certificates discharging such liens, prepared in accordance with the laws of the United States pertaining thereto, may be filed in any county in this state in the registry of deeds for that county or counties within which the property subjected to such lien is situated.

Registers of deeds shall receive, record, and index such notices and discharges in the same manner as similar instruments are recorded and indexed.

The fee to be paid by the United States to registers of deeds for recording each such notice or discharge is 50c, which need not be prepaid.

Sec. 256. Owner of farm lands may designate specific name for such lands and have same recorded in registry of deeds. R. S. c. 15, § 28. The owner of any farm lands may designate a specific name for such lands, and the said name together with a description of said farm lands according to the latest authentic survey thereof may be filed with the register of deeds of the county wherein the said lands or a part thereof are situated, and the said name together with the description of said lands shall be recorded by the register of deeds in a book to be provided for such purpose upon payment of a fee of 50c, but no 2 names so designated and recorded shall be alike in the same county.

Sec. 257. Provisions for transfer of name. R. S. c. 15, § 29. Whenever any owner of farm lands, the name of which has been recorded as provided in the preceding section, transfers by deed or otherwise the whole of such farm lands, such transfer may include the registered name thereof; but if the owner shall transfer only a portion of such farm lands, then the registered name thereof

shall not be transferred to the purchaser, unless so stated in the deed of conveyance.

See § 73, re proceedings for location of drains and ditches.

Additional Records in Registry of Deeds:
 Copies of records of deeds in office of forest commissioner, c. 32, § 5.
 Certificate discharging lien of inheritance tax, c. 142, § 17.
 Release of lands sold by treasurer of state for taxes, c. 14, § 81.
 Proceedings for location of lands reserved for public uses, c. 53, § 64.
 Proceedings for abolishment of grade crossings, c. 84, § 50.
 Proceedings for taking of land by state highway commission, c. 20, § 13.
 Order of commissioner of inland fisheries and game, setting apart waters for fish culture, c. 33, § 9.
 Description of land taken for fish hatcheries, c. 33, § 10.
 Proceedings for taking of land for cultivation of shell fish, c. 34, § 10.
 Certificate of claim to lien for amount due on premium note given to mutual insurance company, c. 56, § 81.
 Decree for judicial separation of husband and wife, c. 153, § 50.
 Notices of election to waive will and claim share of estate, c. 156, § 15.
 Judgment for partition, c. 162, § 21.

Medical Examiners

Appointment, Duties, Compensation, etc.

Sec. 258. Appointment of medical examiners; their number and duties. R. S. c. 151, § 1. 1939, c. 241, § 1. 1941, c. 194. Medical examiners for each county in the state shall be appointed by the governor with the advice and consent of the council for a term of 4 years or during the pleasure of the governor and council. They shall be able and discreet men, learned in the science of medicine and anatomy, and bona fide residents of the county for which they are appointed. The number of medical examiners so to be appointed shall be as follows: for the counties of Franklin, Knox, Lincoln, Piscataquis, Sagadahoc, Somerset, and Waldo, 2 each; for the counties of Hancock, Oxford, and Washington, 3 each; for the counties of Aroostook, Kennebec, and York, 4 each; for the county of Androscoggin, 5; and for the counties of Cumberland and Penobscot, 6 each; and they shall be appointed with reference to territorial distribution. Each medical examiner before entering upon the duties of his office shall be duly sworn to the faithful performance of his duty. They shall make examinations, as hereinafter provided, upon the view of the dead bodies of such persons only as are supposed to have come to their death by violence or unlawful act.

Sec. 259. Notice of finding of body. R. S. c. 151, § 2. 1939, c. 241, § 2. 1943, c. 321. Whoever finds the body of any person, who may be supposed to have come to his death by violence or unlawful act, shall immediately notify one of the municipal officers, a police officer, or constable if in a city or town; or a member of the board of assessors if in a plantation; and if in an unorganized place, the most readily accessible of such officials in any city, town, or plantation within the county. Such official shall immediately take charge of such body and retain custody thereof without moving the same, except as hereinafter provided, until the arrival of a medical examiner, the county attorney, the sheriff, or a member of the state police. The official taking charge of said body shall immediately notify the county attorney or sheriff, who shall in turn arrange for the attendance of the most readily accessible medical examiner. If the body, where found, is in danger of being destroyed or damaged by fire, vehicular traffic, or otherwise, or of being lost in any body of water, any person may take steps as may seem necessary for its preservation or retention, prior to the arrival of the medical examiner, sheriff, a member of the state police, or the county attorney, but in such event shall first, whenever practicable, exactly mark the location and position of the body. If no such danger exists, the body shall not be moved until the arrival of the medical examiner, the sheriff, a member of the

state police, or the county attorney, and until photographs have been taken or measurements and drawings have been made to record the physical facts relative to the location and position of the body, under the supervision of the county attorney, the state police, or sheriff, or unless the attorney-general or the county attorney waives such requirements. After such photographs or such measurements and drawings have been made, or have been waived as aforesaid, and after the medical examiner has completed such examination as required of him in the following section, the body may be removed to a convenient place. The body shall not be finally released for embalming or burial, except by order of the county attorney or sheriff. If and when it shall appear to the county attorney that the case is one of probable homicide, he shall notify the attorney-general of the fact.

Sec. 260. Proceedings by medical examiner upon receiving such notice. R. S. c. 151, § 3. 1939, c. 241, § 3. Upon notice that there has been found or is lying within his county the body of a person who is supposed to have come to his death by violence or unlawful act, the medical examiner shall forthwith repair to the place where such body lies and take charge of the same, and before said body is removed, he shall reduce or cause to be reduced to writing a description of the location and position of the body and any and all facts that may be deemed important in determining the cause of death. He shall, upon authorization of the county attorney or the attorney-general, make an autopsy in the presence of a physician and one other discreet person sufficient in his judgment to disclose such facts as may be attainable thereby which may be of assistance in determining the cause of death. He may compel the assistance of such physician and person, by subpoena if necessary, and he shall then and there at the time of such autopsy reduce or cause to be reduced to writing every fact and circumstance disclosed by such autopsy tending to show the manner and cause of death, which record shall be signed by himself and the witnesses who have attended, who shall in addition to their names subscribe their address and place of business. In case at the time of finding of such body there be no medical examiner available within the county by reason of vacancy in the office, incapacity, or absence from the county, any medical examiner in an adjoining county may be notified, whose duty it shall be to attend and perform all duties prescribed by sections 258 to 268, inclusive, as though he were a medical examiner within the county.

119 Me. 97.

Sec. 261. Notice to attorney-general; return of death to town clerk. R. S. c. 151, § 4. 1939, c. 241, § 4. Immediately after such view with personal inquiry or autopsy as is required by the preceding section, the medical examiner shall file with the county attorney of the county in which the body is found and with the attorney-general a duly attested copy of the record of the case. He shall also make a return of the death of such person to the city or town clerk as required by law, which shall be supplemented with a personal description of the deceased for identification.

Sec. 262. Autopsy may be ordered by attorney-general; inquest may be held; proceedings. R. S. c. 151, § 5. The county attorney or attorney-general may require the medical examiner to perform an autopsy if in their judgment the same is advisable, in cases where the medical examiner has not deemed it necessary to do so, and on receiving from a medical examiner the report of an autopsy made by him in pursuance of the provisions of sections 258 to 268,

inclusive, and finding some person or persons probably implicated, may, when deemed necessary, authorize the medical examiner to take an inquest upon the view of the dead body of the person whose death is supposed to have been occasioned unlawfully; such medical examiner shall thereupon summon to appear before him such witnesses as the county attorney or attorney-general may direct, who shall be examined under oath by said county attorney or attorney-general. All such testimony shall be reduced to writing by the medical examiner or under his direction and shall be signed by the witness and sworn to. The medical examiner shall preside at such inquest and shall report in writing his conclusions, when and where and by what means the person came to his death, to the county attorney or attorney-general, and if it appears to him that it was a case of homicide, he shall so state and may state the name of the person who, in his judgment there is probable cause to believe, contributed to such death, if known to him. The county attorney and the attorney-general shall then proceed to execute the laws of the state governing the offices which they hold and may direct the holding of witnesses as they shall deem necessary.

137 Me. 233.

Sec. 263. Inquest when county attorney or attorney-general disagree with medical examiner. R. S. c. 151, § 6. If a medical examiner reports that a death was not caused by violence or unlawful act and the county attorney or attorney-general is of a contrary opinion, nothing in sections 258 to 268, inclusive, shall be construed to prevent either of these officers directing an inquest in accordance with the provisions of these said sections.

Sec. 264. Expert aid may be called; compensation therefor. R. S. c. 151, § 7. The medical examiner, with the advice and consent of the county attorney or attorney-general, may if he deems necessary call a chemist or other expert to aid in the examination of the body or of substance supposed to have caused or contributed to the death of such person, and such chemist or other expert shall be entitled to such compensation for his services as the medical examiner and the county attorney shall certify to be just and reasonable. Any person employed to reduce to writing the results of any of the proceedings provided for in sections 258 to 268, inclusive, shall be sworn and shall be allowed reasonable compensation.

Sec. 265. Disposal of dead body after autopsy; if body is unidentified; expense of burial. R. S. c. 151, § 8. The medical examiner upon the completion of his examination, autopsy, or inquest shall deliver the dead body upon their claim therefor to one or more of the persons hereinafter named, and they shall be entitled thereto as follows: 1st, the husband or wife as the case may be; 2nd, the next of kin; 3rd, any friend of the deceased. If the dead body is unidentified or is unclaimed for a period of not less than 48 hours following the view thereof, the medical examiners shall deliver the body to the overseers of the poor in the town, or if in a plantation or unorganized place to the county commissioners, who shall decently bury the same or shall deliver it to the board of distribution as provided in section 12 of chapter 61. The expense of burial shall be borne by the municipality liable for the support of the deceased, if any within the state, and if not, by the state.

Sec. 266. Personal effects, how disposed of. R. S. c. 151, § 9. In all cases arising under the provisions of sections 258 to 268, inclusive, the medical examiner shall take charge of any money or any other personal effects of the deceased found upon or near the body and, subject to the right of the state to

use the same as evidence, shall deliver them to the person or persons entitled thereto, or if there is any doubt regarding to whom they shall be delivered, this fact shall be made known to the judge of probate for the county, whose directions in the case shall be followed.

Sec. 267. Compensation of medical examiner. R. S. c. 151, § 10. Every medical examiner shall render an account of the expenses of each case, including his fees, to the county attorney, who shall audit and approve the same before it is submitted to the county commissioners for their approval, and the fees allowed the medical examiner shall not exceed the following, viz.: for a view and inquiry without an autopsy, \$10; for a view and autopsy, \$25; for an inquest, \$10 per day for the time actually spent in holding such inquest and for all necessary travel at the rate of .6c per mile. Witnesses summoned to testify at such inquest shall be allowed the same fees as witnesses in the superior court. The physician and other person required to be present at an autopsy as provided in section 260 shall be allowed a reasonable compensation to be audited by the medical examiner and county attorney.

Sec. 268. Preparation and distribution of record books and blanks. R. S. c. 151, § 11. The attorney-general and secretary of state shall prepare for the use of medical examiners forms of record books, blank returns, and other papers necessary to carry out the provisions of sections 258 to 268, inclusive; they shall be printed at the expense of the state and distributed to the several medical examiners who shall take care of the same, each entering thereon all the work and reports of his office, keeping the books open for the inspection of the county attorney and attorney-general. Whenever a medical examiner resigns or ceases to hold office, all books and papers pertaining to the office shall be delivered to his successor.

County Offices

Sec. 269. Clerk hire. R. S. c. 125, § 46. 1931, cc. 27, 28, 179. 1935, cc. 36, 58, 74, 123. 1937, cc. 9, 10, 11, 16, 45, 64, 103. 1939, c. 279, § 1; c. 296, § 2. 1941, cc. 54, 57; c. 87, § 2; c. 201. 1943, c. 151; c. 153, § 2; c. 208; c. 209; c. 212; c. 220; c. 276; c. 279; c. 280. The several county treasurers shall pay weekly to the clerks employed by the several officials in their respective counties the wages to which they may be entitled and shall take their individual receipts therefor. County officials for whom provision for clerk hire may be made shall certify to the county treasurer the names of the clerks and the weekly wages at which they may be employed. Clerks shall be allowed a vacation not exceeding 2 weeks in any one year without loss of pay. The total sums to be paid annually to such clerks as wages shall not exceed the following:

Androscoggin county: for clerks in the office of register of deeds, \$2,500; for clerks in the office of register of probate, \$1,500; for clerks in the office of clerk of courts, \$2,500; for clerks in the office of sheriff, \$600; for clerk hire in the office of county treasurer and county commissioners, \$1,000.

Aroostook county: for clerks in the office of register of deeds of the northern district, \$1,300; for clerks in the office of register of deeds for the southern district, \$3,700; for clerks in the office of register of probate, \$1,560; for clerks in the office of clerk of courts, \$2,600; for clerks in the office of the county attorney, \$600; for expenses of clerk of courts and his subordinates while attending sessions of the superior court at Caribou, such sums as allowed by the court.

Cumberland county: for clerks in the office of register of deeds, \$5,576; deputy register of deeds, \$1,404; for clerks in the office of register of probate, \$4,030; for clerks in the office of clerk of courts, \$6,124; for clerks in the office of the recorder of the Portland municipal court, \$2,496; for clerks in the office of county attorney, \$742; for clerks in the office of sheriff, \$728.

See 1943, c. 178, §§ 1, 2, re clerks in the office of clerk of courts, \$6,904, until July 9, 1945.

See 1943, c. 183, §§ 1, 2, re clerks in the office of the Portland municipal court, \$2,912 until July 9, 1945.

Franklin county: for clerks in the office of register of deeds, \$780; for clerks in the office of register of probate, \$400; for clerks in the office of clerk of courts, \$780.

Hancock county: for clerks in the office of register of deeds, \$1,500; for clerks in the office of register of probate, \$1,560; for clerks in the office of clerk of courts, \$1,092.

Kennebec county: for clerks in the office of register of deeds, \$3,100; for clerks in the office of register of probate, \$2,100 and said sum shall cover the cost of indexing all documents, papers, and records of his office; for clerks in the office of clerk of courts, \$1,500; for clerks in the office of county treasurer, \$300. The deputy clerk of courts shall receive such additional amount for services as shall be approved by the county commissioners not to exceed \$300 annually.

Knox county: for clerks in the office of register of deeds, \$1,040; for clerks in the office of register of probate, \$832; for clerks in the office of clerk of courts, \$1,040.

See 1943, c. 102, §§ 1, 2, re salary changes until July 9, 1945.

Lincoln county: for clerks in the office of register of deeds, \$800, and such additional sum not exceeding \$300, when necessary, subject to the approval of the county commissioners; for clerks in the office of register of probate, \$600; for clerks in the office of clerk of courts, \$240.

Oxford county: for clerks in the office of the register of deeds, \$1,600, and such additional amount as may be authorized by the county commissioners; for clerks in the office of the register of probate, \$800; for clerks in the office of clerk of courts, \$1,000.

Penobscot county: for clerks in the office of register of deeds, \$4,180; for clerks in the office of register of probate, \$3,300, and this sum shall cover the cost of indexing all documents, papers, and records of said office; for clerks in the office of clerk of courts, \$2,288; for clerks in the office of county attorney, \$1,000.

Piscataquis county: for clerks in the office of the register of deeds, \$884; for clerks in the office of register of probate, \$400; for clerks in the office of clerk of courts, \$884.

See 1943, c. 298, §§ 1, 2, re salary changes until July 9, 1945.

Sagadahoc county: for clerks in the office of register of deeds, \$1,560; for clerks in the office of register of probate, \$1,040; for clerks in the office of clerk of courts, \$1,040.

Somerset county: for clerks in the office of register of deeds, \$2,000; for clerks in the office of register of probate, \$1,000; for clerks in the office of clerk of courts, \$1,540.

Waldo county: for clerks in the office of register of deeds, \$1,560; for clerks in the office of register of probate, \$780; for clerks in the office of the clerk of courts, \$800.

See 1943, c. 326, §§ 8, 11, re salary changes until July 9, 1945.

Washington county: for clerks in the office of register of deeds, \$1,080; for clerks in the office of register of probate, \$780; for clerks in the office of clerk of courts, \$780; for expenses of clerk of courts and his subordinates while attending sessions of the superior court at Calais, such sums as may be allowed by the court.

York county: for clerks in the office of register of deeds, \$4,000; for clerks in the office of register of probate, \$2,080; for clerks in the office of clerk of courts, \$1,750.

CHAPTER 80.

GENERAL PROVISIONS RELATING TO TOWNS.

Sections 1- 45	Town Meetings. Town Officers.
Sections 46- 60	Authority to Elect by Secret Ballot in Towns.
Sections 61- 67	Inspections and Recounts in Municipal Elections.
Sections 68- 70	Police Officers in Towns.
Sections 71- 76	Wards of Cities. Election of City Officers.
Sections 77- 82	Certain Duties of Municipal Officers.
Section 83	Town, City, and Village By-laws and Ordinances.
Sections 84- 89	Municipal Planning and Zoning.
Sections 90-109	Authority to Raise Money; Purposes. Authority to Hold Money in Trust.
Sections 110-115	Armories.
Sections 116-126	Accounting System for Cities, Towns, and Village Corporations.
Sections 127-134	Protected Reserves.
Sections 135-138	City and Town Records.
Sections 139-141	Town Lines.

Town Meetings. Town Officers

See c. 84, § 25, re forester; 139 Me. 315.

Sec. 1. Towns, corporations. R. S. c. 5, § 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; 128 Me. 240; 132 Me. 116; 135 Me. 504.

Sec. 2. Meetings called by warrant. R. S. c. 5, § 2. Every town meeting, except in the cases mentioned in the 2 following sections, shall be called by a warrant signed by the selectmen.

123 Me. 113; 136 Me. 4.

Sec. 3. First meeting, how called; when no officers, called on application to justice of the peace. R. S. c. 5, § 3. The 1st 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 any such justice for his warrant for the purpose, made in writing by any 3 inhabitants thereof. When, by reason of death, removal, or resignation,