

# MAINE STATE LEGISLATURE

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EIGHTH REVISION

THE  
REVISED STATUTES

OF THE  
STATE OF MAINE

PASSED SEPTEMBER 20, 1944, AND TAKING EFFECT  
DECEMBER 30, 1944

VOLUME I



By the Authority of the Legislature

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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.

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## CHAPTER 80.

### GENERAL PROVISIONS RELATING TO TOWNS.

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#### 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,

a majority of the selectmen do not remain in office, a majority of those remaining in office may call a town meeting.

**Sec. 4. Selectmen refusing, meeting how called; certain number of voters may have articles inserted in warrant.** R. S. c. 5, § 4. 1933, c. 198. If the selectmen unreasonably refuse to call a town meeting, any number of legal voters therein, not less than 10% of the voters registered in the biennial state election then last past, but in no case less than ten so registered voters, may apply, in writing, to a justice of the peace in the county, who may issue his warrant for calling such meeting. When any number of legal voters, not less than 10% of the voters registered in the biennial state election then last past, but in no case less than ten so registered voters, request the selectmen, in writing, to insert a particular article in a warrant, they shall insert it in the next warrant issued, or shall call a special meeting for the consideration thereof.

\*53 Me. 390; \*66 Me. 590; 131 Me. 23; 137 Me. 200.

**Sec. 5. Form of warrant.** R. S. c. 5, § 5. In either case, the warrant described in section 2 shall specify the time and place at which the meeting shall be held; and in distinct articles shall state the business to be acted upon at such meeting; and no other business shall be there acted upon.

3 Me. 310; 10 Me. 322; 12 Me. 489; \*13 Me. 472; 17 Me. 102; 19 Me. 189; \*57 Me. 305; \*60 Me. 573; 63 Me. 240; 65 Me. 352; 68 Me. 85; 123 Me. 113; 138 Me. 180.

**Sec. 6. Warrant, how directed.** R. S. c. 5, § 6. The warrant described in section 2 may be directed to any constable of the town, or any person by name, directing him to warn and notify all persons qualified to vote at such meeting, to assemble at the time and place appointed.

65 Me. 352; 123 Me. 113; 136 Me. 4.

**Sec. 7. Notice; return.** R. S. c. 5, § 7. The meeting provided for in section 2 shall be notified by the person to whom the warrant is directed by posting an attested copy thereof in some public and conspicuous place in said town 7 days before the meeting, unless the town has appointed, by vote, in legal meeting, a different mode, which any town may do. In either case, the person who notifies the meeting shall make return on the warrant, stating the manner of notice and the time when it was given.

7 Me. 429; \*12 Me. 489; \*13 Me. 472; 17 Me. 447; \*25 Me. 563; 26 Me. 179; 29 Me. 525; 34 Me. 578; 49 Me. 351; 51 Me. 30; 55 Me. 195; \*56 Me. 392; 65 Me. 352; \*66 Me. 507; 82 Me. 181; 110 Me. 514; 123 Me. 113; 136 Me. 4, 364.

**Sec. 8. Sections 4, 5, 6, and 7, applicable to cities and towns.** R. S. c. 5, § 8. 1941, c. 126. Sections 4, 5, 6, and 7 apply to cities and the municipal officers of cities the same as to towns and the selectmen of towns, and when any meeting thus provided for in cities, and in towns with more than 1 voting precinct, it shall be by warrants posted in each ward in cities, and in each voting precinct in towns.

**Sec. 9. Village corporation meetings, how called.** R. S. c. 5, § 9. The meetings of any village corporation may be notified by the person to whom the warrant is directed, by posting attested copies in two or more public and conspicuous places within the corporation limits 7 days before the meeting, instead of in the manner provided by the act creating such corporation; provided that such corporation shall first, at a legal meeting, designate at what and how many places such notices shall be posted.

112 Me. 451.

**Sec. 10. Errors in records, tax lists, and returns, how amended. R. S. c. 5, § 10.** When omissions or errors exist in the records or tax lists of a town or school district, or in returns of warrants for meetings thereof, they shall be amended, on oath, according to the fact, while in or after he ceases to be in office, by the officer whose duty it was to make them correctly. If the original warrant is lost or destroyed, the return, or an amendment of it, may be made upon a copy thereof.

See c. 81, § 29, re supplementary assessments; c. 81, § 101, re assessments not void if include sums raised for illegal object; 7 Me. 429; 12 Me. 490; 13 Me. 472; 17 Me. 447; 25 Me. 563; 26 Me. 179; \*29 Me. 526; 34 Me. 578; 48 Me. 356; 49 Me. 351; 51 Me. 30; 55 Me. 195; 56 Me. 392, 395; 65 Me. 25, 352; 66 Me. 587; 85 Me. 301; 89 Me. 320; 94 Me. 355; 102 Me. 418; 108 Me. 126; 110 Me. 514; 120 Me. 517; \*122 Me. 86, 88; 134 Me. 341; 136 Me. 364.

**Sec. 11. Who are legal voters. R. S. c. 5, § 11.** Every person, qualified to vote for governor, senators, and representatives in the town in which he resides, may vote in the election of all town officers and in all the affairs thereof.

**Sec. 12. Annual meetings; treasurers and collectors not to be selectmen or assessors; may be same person. R. S. c. 5, § 12.** 1939, c. 193, § 1; c. 198. Annual town meetings shall be held in March, and the voters shall then choose, by a majority vote, a clerk, 3, 5, or 7 inhabitants of the town to be selectmen and overseers of the poor, when other overseers are not chosen, three or more assessors, two or more fence-viewers, a treasurer, surveyors of lumber, sealers of leather, measurers of wood and bark, constables, collectors of taxes, and other usual town officers, all of whom shall be sworn. Before entering upon the discharge of their official duties, selectmen, assessors, and overseers of the poor elected in any town, and assessors elected in any plantation, shall organize by electing by ballot one of their members to be chairman. In the event that no one of the members receives a majority of the votes cast for chairman, the town or plantation clerk shall determine by lot the member who shall be chairman. Provided, however, that towns and plantations may, in electing any such officials, designate them as first, second, and so on to the number to be elected, and in such towns and plantations the person or persons elected as 1st selectman, 1st assessor, and 1st overseer of the poor shall be chairman of said respective boards. In towns of over 4,000 inhabitants, the candidates receiving the greatest number of votes for any of the above-mentioned offices shall be deemed elected to such offices. Treasurers and collectors of towns shall not be selectmen or assessors until they have completed their duties as treasurers and collectors and had a final settlement with the town. The treasurer and collector of taxes of cities and towns may be one and the same person.

See § 13, re compensation of selectmen, assessors, and overseers of the poor; § 20, re election of road commissioner; § 38, re vacancies in town offices; c. 3, §§ 45-48, and c. 5, §§ 16, 18, 20, re duties of selectmen in elections; c. 37, § 41, re election of superintending school committee; c. 81, §§ 53, 54, 124, re procedure when town fails to choose officers; c. 82, § 11, re election of overseers of the poor; c. 84, § 2, re election of park commissioners; c. 84, § 15, re tree wardens; c. 84, §§ 157-203, re duties of fence-viewers; c. 85, § 1, re election of fire wards; 17 Me. 447; 48 Me. 357, 444; 62 Me. 111, \*517; 63 Me. 154; 70 Me. 562, 565; \*77 Me. 417; 81 Me. 188; \*83 Me. 220; 96 Me. 485; 98 Me. 156; 104 Me. 258; 123 Me. 379; 129 Me. 311; 134 Me. 414; 136 Me. 426; 138 Me. 181.

**Sec. 13. Compensation of town officers. R. S. c. 13, § 86.** 1943, c. 310. Any town may, by majority vote at its annual town meeting, fix the compensation of its selectmen, assessors, and overseers of the poor, allowing such sums as may be commensurate with the duties of the offices. In the event a town fails to fix the compensation of its selectmen, assessors, or overseers of the poor at its annual meeting, then such officers shall be paid on a per diem basis, and in

such an event, such officers shall be paid the sum of \$5 for every day actually and necessarily employed in the service of the town.

See § 38, re vacancies in town offices; c. 81, § 52, re selectmen to act as assessors; 51 Me. 600; 55 Me. 503; 61 Me. 546; \*75 Me. 298; 76 Me. 416; 78 Me. 569; 87 Me. 221; 130 Me. 498.

**Sec. 14. Elections for 3 years.** R. S. c. 5, § 13. Any town electing 3 selectmen, 3 overseers of the poor, and 3 assessors may, if the electors present vote to do so, elect 1 member of each board to hold office for 1 year, one for 2 years, and one for 3 years, and at each annual meeting thereafter one member of each of the said boards shall be elected for a term of 3 years; towns electing more than 3 selectmen, 3 overseers of the poor, and 3 assessors may by vote determine how many of each of said boards shall be elected annually and the tenure of their office.

See § 83, sub-§ XII.

**Sec. 15. Officers chosen by ballot.** R. S. c. 5, § 14. Moderator, town clerk, selectmen, assessors, and overseers of the poor, treasurer, auditor, and school committee shall be elected by ballot; and the other said officers may be elected by ballot or, if not so elected, they shall be appointed by the selectmen.

96 Me. 485; \*104 Me. 258.

**Sec. 16. Town manager form of government.** 1939, c. 130, § 1. Any town, at the annual town meeting or at a special town meeting, provided an appropriate article has been inserted in the warrant for such meeting, may vote to employ a town manager or to form a union with one or more other towns in the employment of a town manager, and may delegate to the selectmen the right to fix the compensation of such town manager. In every case where a union is formed for the purpose of employing a town manager, the compensation for said town manager shall be paid by the several towns in said union in such proportions as may be decided by the selectmen of such towns, and each of said towns is authorized to raise by taxation the necessary money therefor.

**Sec. 17. Unions may be organized.** 1939, c. 130, § 2. The manager elected by any such town or union of towns shall be manager of the municipal and prudential affairs of said town or of each of the several towns comprising such union, and as such manager shall perform, for each of said towns, the duties hereinafter specified. Any town entering into such a union may withdraw therefrom by vote at any annual town meeting. Said withdrawal shall not become effective until 60 days after written notice of such intention to withdraw shall have been given to the selectmen of each of the other towns comprising such union.

**Sec. 18. Powers and duties of town manager.** 1939, c. 130, § 3. Town managers shall be chosen on the basis of their executive and administrative qualifications by the selectmen at a town voting to employ a town manager, or by a joint board composed of the selectmen of the several towns comprising a union for the purposes of sections 16 to 19, inclusive, in which joint board the selectmen of each town shall cast collectively a single vote. A town manager shall be the administrative head of the government of the town, or of each of the several towns comprising a town union, and shall be responsible to the selectmen of each town for the administration of all departments of each said town, over which the selectmen of towns have control, and his powers and duties, where not otherwise provided, shall be generally as follows:

- I. To see that the laws and ordinances are enforced;
- II. To act as purchasing agent for all town departments except school departments, and to submit to bids any purchases involving more than \$100 if the selectmen or the joint board shall so order;
- III. To attend the meetings of the selectmen, except when his removal is being considered, and recommend for adoption such measures as he may deem expedient;
- IV. To keep the selectmen and the citizens of said town or towns fully advised as to the financial conditions of said town or towns;
- V. To perform in each town or towns such other duties as may be prescribed for him by the selectmen, including the duties or any part of the duties of the town treasurer, the road commissioner or commissioners, the tax collector, and the overseers of the poor; any other provisions of statute to the contrary notwithstanding.

**Sec. 19. Removal.** 1939, c. 130, § 4. Any town manager elected under the provisions of sections 16 to 19, inclusive, may be removed from his said office for cause by the selectmen of any town by which he is employed or by the joint board aforesaid in case his employment is by a town union.

**Sec. 20. Town to elect road commissioner or authorize selectmen to appoint; provisions for removal.** R. S. c. 5, § 16. 1933, c. 40. Each town shall hereafter, at its annual meeting, elect by majority vote a road commissioner, who shall hold his office for the term of 1 year from the date of his election; except that any town may, at its option, by vote at such meeting pursuant to an appropriate article in the warrant calling the same, instruct the selectmen to appoint such road commissioner, in which case the selectmen shall appoint as heretofore; and except further, that any town may, at its option, by vote at such meeting pursuant to an appropriate article in the warrant calling the same, fix the term of office of said road commissioner at a longer period, not to exceed 3 years. Any town may, at its option, elect not more than 3 road commissioners, or require their appointment as aforesaid, whose powers and duties shall be the same as prescribed for a single commissioner. Any road commissioner appointed by the selectmen may be removed from office by the selectmen for inefficiency or other cause. Upon written complaint made against any road commissioner by 10 taxable inhabitants of the town, the county commissioners, after notice to such road commissioner, shall hold a public hearing thereon within 10 days from the filing of the complaint, and if the charges are sustained remove said road commissioner forthwith. Selectmen may act as road commissioners. This section shall not apply to cities and towns which choose road commissioners under special acts of the legislature.

117 Me. 73.

**Sec. 21. Vacancies in office of road commissioner.** R. S. c. 5, § 17. If a person elected or appointed as road commissioner fails to qualify within 7 days after appointment, the office shall be deemed vacant, and shall be filled by the selectmen by appointment; and in the event of a vacancy caused by death or otherwise, the selectmen shall appoint some competent person to fill out the unexpired term, who shall qualify and perform the duties of said office.

**Sec. 22. Vacancies in offices.** R. S. c. 5, § 17. If, after the choice of any officer not required to be chosen by ballot, there is a vacancy in any such office, the municipal officers may fill such vacancies by the written appointment of

proper persons, who shall be summoned by the constable to appear and take the oath of office provided in section 34 subject to the penalties provided in section 36. Such appointment and oath shall be recorded as in case of a choice by the town. No person shall be so appointed without his consent.

<sup>1</sup> Me. 248; 39 Me. 530; 61 Me. 544; 62 Me. 459; 68 Me. 160; 72 Me. 517; 96 Me. 486; 131 Me. 23.

**Sec. 23. Presiding officer in meeting.** R. S. c. 5, § 18. During the election of moderator at a town meeting, the clerk shall preside; when he is absent from any such meeting, either of the selectmen or of the assessors, and if neither of those is present, any constable may do all the duties of clerk in receiving and counting the votes for moderator. The moderator may call on the voters to give in their ballots for a clerk pro tempore, who shall be sworn by the moderator or by a justice of the peace.

17 Me. 447.

**Sec. 24. Clerk to be sworn; form of oath.** R. S. c. 5, § 19. The town clerk, before entering on the duties of his office, shall be sworn before the moderator or a justice of the peace, truly to record all votes passed in that and other town meetings during the ensuing year and until another clerk is chosen and sworn in his stead, and faithfully to discharge all the other duties of his office.

139 Me. 284.

**Sec. 25. Deputy town clerks, how appointed; their duties; municipal officers may appoint deputy clerk in certain cases; tenure of office; form of appointment; deputy clerk to be sworn.** R. S. c. 5, § 20. The clerk of any town may appoint a citizen thereof his deputy, who may, in the clerk's absence perform all the duties of said office with the same effect as if done by the clerk; the appointment may be made in writing as follows:

"I hereby appoint ——— to perform the duties of town clerk as set forth in section 25, of chapter 80, of the revised statutes, in the town of ———, during my absence from the clerk's office.

—————, Clerk of the town of ———."

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

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

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

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

See c. 164, § 2, re mortgages of personal property; c. 154, § 38, re pews and rights in houses of worship; 70 Me. 564.

**Sec. 26. Clerk to give bond.** 1943, c. 129. Any town may by vote require that the clerk shall, within 30 days after his election, give a bond to the inhabitants of his town in such sum as the municipal officers shall determine, conditioned for the faithful performance of the duties of his office. Such bond shall be furnished in the same form and manner as the treasurer's bond required by section 28, and the provisions of that section regarding failure to furnish the

bond on request shall apply to clerks. When a corporate surety bond for the clerk is furnished, the cost shall be paid by the town. The clerk shall be liable under his bond for the acts of his deputies.

**Sec. 27. Fees of town clerks. R. S. c. 126, § 19. 1939, c. 39. 1941, c. 193.** Clerks of cities and towns shall receive:

For recording the assignment or release of a mortgage or other document given as security for the payment of money or the performance of an obligation, or certificate of discharge of an attachment, 50c; provided, however, that any assignment of an instrument which is attached thereto or made a part thereof and executed before record and received with such instrument, shall not be subject to this provision.

For entering in the margin of a record a discharge of the mortgage or other document given as security for the payment of money or the performance of an obligation, or attachment, to be signed by the person discharging it, 25c.

For entering and recording intentions of marriage, giving certificate of same, \$2.

For recording sheep marks, 25c.

For recording certificates of partners, withdrawal of a partner, and of persons engaging in trade under a name, style, or designation other than his own, 50c.

For a certificate of birth, marriage, or death, 50c.

For receiving, recording, and returning the facts required by sections 366 to 392, inclusive, of chapter 22 and sections 83 to 86, inclusive, of chapter 1 of the public laws of 1933, to be recorded, 25c for each birth, marriage, or death, to be paid by the city or town.

For every birth, marriage, or death collected and recorded under the provisions of section 391 of chapter 22, 25c, to be paid by the city or town.

For each oath recorded by him, 20c, to be paid by the city or town.

For receiving and recording affidavit correcting record of birth, marriage, or death, and forwarding copy under the provisions of section 389 of chapter 22, 50c, to be paid by the city or town.

For each record transcribed, certified, and transmitted to the registrar of vital statistics, as required by sections 84 and 85 of chapter 1 of the public laws of 1933, not exceeding 5c as may be agreed upon between the clerk and the municipal officers.

For reporting to treasurer of state, names of persons dying and names of next of kin, 25c, to be paid by the state.

For recording license for cultivation of clams and any assignment thereof, 50c.

For recording petition for enforcement of lien on monumental works, 50c.

The clerks shall receive for receiving and recording any instrument by law entitled to be recorded, including any assignment attached thereto or made a part thereof and executed before record and received with such instrument, the sum of \$1 for the first 500 words, and the sum of 25c for each 100 words or fraction thereof in excess of 500 words; provided, however, if the instrument to be recorded does not exceed in length 250 words, the fee for recording the same shall be 50c.

For preparing and issuing burial permits, undertakers' vouchers and memoranda necessary for the office, and for filing such memoranda, 25c, to be paid on issuing the burial permit.

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

**Sec. 28. Treasurer to give corporate bond; amount; office of treasurer vacant if bond not filed seasonably; vacancy; approval of bond and record; condition on which personal bond shall be accepted; premium on bond a proper expense of town.** R. S. c. 5, § 21. 1939, c. 102, § 1. The treasurer of a town, before entering upon his official duties, shall give a corporate surety bond to the inhabitants of his town with such sureties and for such sum as shall be designated by the municipal officers, not exceeding, however, twice the amount of the taxes to be collected during the year for which he is treasurer, conditioned for the faithful discharge of all the duties and obligations of his office. If such bond is not furnished and delivered to the municipal officers within 10 days after written demand by the municipal officers on the treasurer therefor, the office of treasurer shall be deemed vacant, and the town or plantation, at any meeting of its inhabitants legally called, may elect a treasurer to fill the vacancy, or the municipal officers may fill the vacancy by written appointment which shall be recorded by the clerk in the town records; provided, however, that the treasurer may furnish a bond signed by individuals if such individuals submit to the municipal officers a detailed sworn statement as to their personal financial ability which shall be found acceptable by the municipal officers. The municipal officers shall be the sole judges of the sufficiency of such bond and sureties. Such bond, after its approval and acceptance by the municipal officers, shall be recorded by the clerk, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond. Any town or plantation may lawfully vote, at its annual meeting, to raise money to be expended by its treasurer, under the direction of its municipal officers, for the purpose of purchasing from any surety company authorized to do business as aforesaid, the bond required by this section.

\*69 Me. 369.

**Sec. 29. Deputy town treasurers, appointment.** R. S. c. 5, § 22. The treasurer of any town or plantation may appoint a citizen thereof as his deputy during his temporary absence or other temporary disability. The appointment shall be in writing and be recorded. It may be in the form following:

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

**Sec. 30. Treasurer responsible.** R. S. c. 5, 23. The treasurer of any town and the sureties upon his official bond are responsible for all acts and omissions of his deputy in such office.

**Sec. 31. Treasurer to render account quarterly.** R. S. c. 5, § 24. 1939, c. 21. The treasurer of a city or town shall disburse money only on the authority of warrants drawn therefor by the municipal officers. Provided, however, that when a special act of the legislature provides a different method of authorizing expenditures in any city or town, the treasurer of such city or town shall disburse money in accordance with the provisions of such special act. Every treasurer shall render an account of the finances of his town and exhibit all books and accounts pertaining to his office to the municipal officers thereof or to any committee appointed by it to examine said accounts, when required; and such officers shall examine such treasurer's accounts as often as once in 3 months.

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

Sec. 32. In case of vacancy, municipal officers may appoint treasurer. R. S. c. 5, § 25. In case of death, resignation, removal, or other permanent disability of a treasurer of a town or plantation, the municipal officers may appoint a citizen thereof to be treasurer until his successor is elected and qualified. Such appointment shall be in writing and be recorded. It may be in the form following:

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

131 Me. 23.

Sec. 33. Treasurer so appointed to be sworn and give bond. R. S. c. 5, § 26. Before such appointee provided for in the preceding section enters upon his official duties, he shall be sworn and give bond to the town for the faithful performance thereof in such sum and with such sureties as the municipal officers order.

Sec. 34. Officers chosen, summoned to take their oath. R. S. c. 5, § 27. The town clerk or any 2 selectmen shall forthwith make a list of the names of all persons chosen into office, of whom an oath is required, and deliver it to a constable with a warrant to him directed; and he shall, within 3 days thereafter, summon each person therein named to appear before the town clerk, within 7 days from the time of notice, to take such oath of office; and at the end of 10 days after receiving his warrant, the constable shall return it or forfeit \$6 to the town; and the town shall allow him a reasonable compensation for his services.

Sec. 35. Records of oaths in office of town clerks. 1943, c. 210. A record by the town clerk that a town officer was duly sworn by the moderator in open town meeting in the presence of the clerk for a stated municipal office shall be sufficient evidence that such officer was legally sworn for said office and the recording of the entire oath shall not be required.

Sec. 36. Penalty for refusing to take oath. R. S. c. 5, § 28. Every person so notified, as provided in the preceding section, neglecting to take such oath within said 7 days, except officers for whose neglect a different penalty is provided, forfeits \$5, 2/3 to the town, and 1/3 to the prosecutor.

See c. 81, § 62, re penalty on assessors for refusing to be sworn; c. 85, § 1, re penalty on fire wards for omitting to notify acceptance; 1 Me. 248.

Sec. 37. Town or parish officer, how sworn; record; clerk may record his own election; penalty for neglect. R. S. c. 5, § 29. Any town or parish officer may be sworn by the moderator in open town meeting, town or parish clerk, or by any person authorized by law, who shall give to the officer sworn, except when sworn in presence of such clerk, a certificate of the oath administered, which he shall return to such clerk to be filed. In either case the clerk shall record the name of the officer and of his office, by whom sworn, and the time of taking the oath and returning the certificate. Any town, school district, parish, or corporation clerk elected to any office and sworn, may record his own election, the fact that he was sworn, and when and by whom. The record herein required shall be sufficient evidence that such officer was sworn. If any officer fails to return such certificate or any clerk to record such oath within 10 days, he forfeits \$5.

See § 27; 12 Me. 234; 17 Me. 444; 48 Me. 443; 58 Me. 518; 79 Me. 472; 84 Me. 378; \*109 Me. 474.

Sec. 38. Vacancies in town offices; exceptions. R. S. c. 5, § 30. 1939, c. 175. When by reason of non-acceptance, resignation, death, removal, insanity, or

other incompetency of a person chosen to a town office, except as provided in sections 21, 22, and 32, there is a vacancy, or want of officers, the town may choose new officers; and they shall be sworn, if an oath is required, and have the same powers as if elected at the annual meeting. The meeting for choice of such new officers may be called by the person or persons legally elected and qualified as selectman or selectmen although less than a full board.

See §§ 12, 13; c. 81, §§ 54, 63, 67, 81, 106, 107, 124; 1 Me. 248; \*96 Me. 485; 115 Me. 111; 131 Me. 23.

**Sec. 39. Reports by sworn officers not to be verified.** R. S. c. 5, § 31. Town or municipal officers, who have been duly sworn to the faithful performance of their duty, shall not be required to make oath or affirm to any report, account, or statement to be filed with any of the state departments.

Election of school committee, c. 37, § 41; of superintendent of schools, c. 37, § 70; of fire wards, c. 85, § 1.

Duties of municipal officers re lists of voters, c. 3, § 36 et seq.; re election, c. 4, § 53 et seq.; re forest fire wardens, c. 85, § 58; re armories, drill rooms, and target ranges, c. 12, § 25, also c. 80, § 114; re licensing auctioneers, c. 88, § 73; re appointment of health officers, c. 22, § 34; re snow removal, c. 20, § 58; re pawnbrokers, c. 88, § 100; re employment offices, c. 88, §§ 114, 119; innholders and victualers, c. 88, § 26; re public exhibitions, c. 88, §§ 52-72; re cultivation of clams, quahaugs, and mussels, c. 34, § 48; re sale of fireworks, c. 124, § 19; appointment of inspectors of flour, c. 88, § 126; inspectors of dairy products, c. 88, § 123; re measurers of salt, corn, and grain, c. 88, § 199; re inspectors of leather, c. 88, § 134; re sealers of weights and measures, c. 88, § 176; re inspectors of meters, c. 46, § 24; re appointment of tree wardens, c. 84, § 15; re surveyors of logs, c. 88, § 149; re removal of worthless trees along highways, c. 27, § 140; re maintaining highway monuments, c. 79, § 42; re guideposts, c. 84, § 104; re railroad bridges and crossings, c. 41, § 67; railroad crossings, c. 41, § 67; re permits for opening streets, c. 46, § 16; re permits for erection of poles and wires in streets, c. 46, § 31; re jury list, c. 103, § 1 et seq.; re unlawful assemblies, c. 123, § 9; re gambling houses, c. 126, § 2; re license to carry weapons, c. 124, § 18.

Municipal officers may enlarge burying-grounds, c. 54, § 9; may direct location of certain trades, c. 128, § 8; c. 85, § 32; shall license engineers of steam plants, c. 25, § 71; may examine defective chimneys and dangerous buildings to guard against fire or other casualty, c. 85, §§ 19, 33; c. 128, §§ 23, 27; shall appoint inspector of buildings, c. 85, § 10; shall license erection of steam and internal combustion engines, c. 128, § 21; shall enforce law as to dairy products, c. 88, § 122.

Towns: May make by-laws as to truants, c. 37, § 80; may establish workhouses, c. 83, § 1; town houses of correction, c. 83, § 6; regulations for taking clams, quahaugs, and mussels, c. 34, § 54; liability of, for neglect to maintain ferries, c. 79, § 78.

Town treasurer: Duties of, re standard weights and measures, c. 27, § 244, c. 88, § 178; re jury list, c. 103, § 2.

Town clerk: Shall forward to state library copies of town reports, c. 38, § 13; shall communicate name of town treasurer to state controller, c. 80, § 32; shall not draft any instrument which he is required by law to record, c. 79, § 242; shall keep record of births, deaths, and marriages, c. 22, §§ 382, 385; shall notify local health officer of any death from tuberculosis, c. 22, § 372; duties as to jury list and draft of jurors, c. 103, §§ 2, 3.

Assessors: Duties of, as to registration of voters in cities, c. 3, § 5 et seq.; as to list of voters in towns, c. 3, § 35; to make enumeration of poultry, c. 81, § 36; to keep record of pure blood cattle kept for breeding purposes, and report to commissioner of agriculture, c. 27, § 65; to enforce law as to dairy products, c. 88, § 122; as to itinerant vendors, c. 88, §§ 83-99; as to return of births, c. 22, § 384.

Collector: Duty of, as to itinerant vendors, c. 88, §§ 83-99.

Municipal corporations: Provisions for weekly payment of wages apply to, unless otherwise requested, c. 25, § 38.

Accounts against towns, cities, or village corporations to be verified by oath, if required, c. 106, § 10.

Relief of the blind, c. 22, §§ 275-293.

Towns may become part of Maine forestry district, effect on duties of town officers, c. 32, § 86.

**Sec. 40. Penalty for neglect of official duty.** R. S. c. 5, § 32. Every town officer who neglects any duty lawfully required of him forfeits not exceeding \$20 for every such neglect, when no other penalty is provided, to be recovered in an action of debt in the name and to the use of the town, by the treasurer thereof.

See c. 80, § 45, also c. 3, § 48, re penalty for misconduct of moderators; c. 80, § 37, also c. 3, § 48, re clerks.

Municipal officers and constables for neglect of duties as to mobs, c. 123, § 9; city officers for neglect as to registration of voters, c. 3, § 30; for neglect to provide armories, c. 12, § 25; for improper use of armories, c. 80, § 113, also c. 12, § 25.

City, town, and plantation officers for refusing to allow access to town books or reports, c. 80, § 80; for neglect of duty as to registration of dogs, c. 88, § 20; for improper use of sinking fund, c. 80, § 107; for neglecting to attend perambulation of town lines, c. 80, § 139; for refusing to be sworn, c. 80, § 36; c. 81, §§ 62, 63, 67; surveyor neglecting duty, c. 88, § 162; for using improper ballot-boxes and improperly receiving votes, c. 5, §§ 28, 98, 101; penalties for illegal conduct relating to elections, c. 5, §§ 24, 27, 33, 91, 96-106, 108, 111, 112, 116, 117, 118-121, 123-125; for refusing to assess taxes, c. 81, §§ 56, 57, 58; for misapplication of certain fines, c. 54, § 4; for refusing to prosecute persons for sale of intoxicating liquors, c. 57, § 77; for not appointing a sealer of weights and measures, c. 88, § 176.

Town treasurers for wilfully withholding deeds of lands sold for taxes, c. 81, § 149; for neglect of duties as to weights and measures, c. 88, § 178.

Constables and collectors of taxes for refusing to give receipts, c. 81, § 82; for neglecting to make exhibit to municipal officers once in 2 months, c. 81, § 105; for neglecting to pay over money collected, c. 81, § 106.

Fence viewers, c. 84, §§ 157, 202; fire wards, c. 85, § 1; auctioneers, c. 88, §§ 75, 76; 77.

Municipal officers and fire engineers, for neglect of duty as to protection against fires, c. 85, § 52; for neglect to report or investigate fires, c. 85, § 31.

Road commissioner for neglect of duty, c. 84, § 73.

Penalty for failure to remove worthless trees along highways, c. 27, § 140.

Forfeiture, re sealer of weights and measures, c. 88, § 176; appointment of deputy sealer of weights and measures, c. 88, § 179.

37 Me. 90; 137 Me. 200.

**Sec. 41. Moderator to be first chosen; his duties.** R. S. c. 5, § 33. At every town meeting a moderator shall be first chosen and sworn by a justice of the peace, or by the person presiding at the meeting when he is chosen. Said moderator shall regulate the business of the meeting; and when a vote declared by him is, immediately after such declaration, questioned by seven or more, he shall make it certain by polling the voters, or in such other way as the meeting directs.

48 Me. 444; 56 Me. 390; 129 Me. 492.

**Sec. 42. Moderator to be obeyed.** R. S. c. 5, § 34. No person shall speak in town meeting before leave is obtained of the moderator, nor when any other person is speaking; and all shall be silent at the command of the moderator, or forfeit to the town \$1 for every breach of such order.

129 Me. 492.

**Sec. 43. Powers of moderator.** R. S. c. 5, § 35. If any person, after notice from the moderator, persists in disorderly conduct during a town meeting, the moderator may direct him to withdraw from the meeting; and by his refusal he forfeits \$3 to the town; and the moderator may cause him to be removed from the meeting by a constable, and detained in confinement for 3 hours, unless the meeting is sooner dissolved or adjourned.

129 Me. 492.

**Sec. 44. Sections 1-43 inapplicable to state elections.** R. S. c. 5, § 36. Town meetings for the choice of governor, senators, and representatives shall be as the constitution directs; and the foregoing sections are not applicable to them.

139 Me. 315.

**Sec. 45. Folded votes not received; votes not to be examined.** R. S. c. 5, § 37. The person presiding at a meeting for the choice of town officers shall not receive any folded vote or permit any person before the poll is closed, without consent of the voter, to examine his ballot, on penalty of \$20.

#### Authority to Elect by Secret Ballot in Towns

See §§ 61-67.

**Sec. 46. Provisions to be accepted by town at legal meeting.** R. S. c. 5, § 38. Any town may, at any legal meeting called by a warrant containing an article for the purpose, accept the provisions of sections 46 to 60, inclusive, and when so accepted, all elections for town officers now required by law to be chosen by ballot, shall thereafter except as provided in section 52 be in accordance with the provisions herein provided, except the moderator, who shall be chosen as now provided by law.

**Sec. 47. At same meeting voters to determine what officers to be elected by ballot; changes, how made.** R. S. c. 5, § 39. When any town so accepts the provisions of said sections 46 to 60, inclusive, it shall at the same time or meeting determine what officers, if any, not now required by law to be chosen by ballot, shall be chosen in the manner herein provided. All such matters shall be

stated in the warrant calling such meeting. No change shall be thereafter made in the officers to be chosen by ballot or in the number or terms thereof except at a meeting held at least 30 days before any annual town election.

**Sec. 48. Opening and closing of polls.** R. S. c. 5, § 40. All warrants for town meetings for the election of officers as herein provided shall specify the time of opening the polls and the time when the same may be closed; but the polls shall be kept open at least 4 hours, and the method of voting shall be as in gubernatorial elections.

**Sec. 49. Nomination of candidates, how made.** R. S. c. 5, § 41. Nominations for candidates may be made at a caucus, or by nomination papers signed in the aggregate for each candidate by qualified voters of said town not less in number than one for every 50 voters, who have registered for the last preceding state election in said town; but the voters so signing shall in no case be less than 25 in number. Each voter signing such nomination paper shall add to his signature his place of residence with the street and number thereof, if any; and each voter may subscribe to as many nomination papers for each office as there are members to be elected thereto and no more.

**Sec. 50. Certificates of caucus nominations.** R. S. c. 5, § 42. All certificates of caucus nominations shall be signed by the chairman and secretary of the caucus. Such certificates and nomination papers shall, besides containing the names of candidates, specify as to each candidate the office for which he is nominated.

**Sec. 51. Filing of certificates of nomination and nomination papers.** R. S. c. 5, § 43. Certificates of nomination shall be filed with the town clerk of said town at least 8 days previous to the day of election, and nomination papers shall be so filed at least 6 days previous to the day of election. The certificates of nomination and nomination papers being so filed, and being in conformity with the provisions of said sections 46 to 60, inclusive, shall be deemed to be valid unless objection thereto is duly made in writing. Such objections or questions arising in the case of nominations shall be considered by the selectmen of said town, and the decision of a majority of the selectmen shall be final. In case such objection is made, notice shall forthwith be delivered to the candidates affected thereby. All certificates of nomination and nomination papers when filed shall be open under proper regulations to public inspection, and the town clerk shall preserve the same in his office for not less than 1 year.

**Sec. 52. Form of ballots and by whom prepared; selectmen, assessors, and overseers of the poor; number to be elected to be determined by voters; how their names shall be printed on the ballot; questions to be submitted to voters.** R. S. c. 5, § 44. 1943, c. 23. All ballots for use in elections under the provisions of sections 46 to 60, inclusive, shall be prepared by the town clerk. Every general ballot, or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of said sections 46 to 60, inclusive, shall contain the names of all candidates whose nominations for any offices specified in the ballot have been duly made, and shall contain no other names. The names of candidates for each office shall be arranged under the designation of the office in alphabetical order according to surnames, but candidates for selectmen, assessors, and overseers of the poor respectively, shall be named and designated in the ballot in as many groups as the town shall by vote have determined there are to be individuals on any such board. Previous

to balloting the voters may determine by majority whether to elect 3, 5, or 7 selectmen, assessors, or overseers of the poor, respectively. Provided that if the town shall have fixed the number and term of such officers under the provisions of section 14, the ballot shall conform thereto. Without such determination three shall be elected. The candidate or candidates having the largest number of votes shall be declared elected. There shall be left at the end of the list of candidates for each different office as many blank spaces as there are persons to be elected to such office, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote as candidate to such office. Whenever any question is submitted to the vote of the people of the town, in accordance with a statute providing for such submission, such question shall be printed upon the ballot after the list of candidates. The ballots shall be so printed as to give each voter a clear opportunity to designate by a cross mark (X) in a square at the right of the name and designation of each candidate, his choice of candidates and his answer to the question submitted, and in the ballot may be printed such words as will aid the voter to do this, as "vote for one," "vote for three," "yes," "no," and the like. Before distribution the ballots shall be so folded in marked creases as to measure when folded not less than  $4\frac{1}{2}$  nor more than 5 inches in width and not less than 6 nor more than  $13\frac{1}{2}$  inches in length. On the back and outside, when folded, shall be printed "Official Ballot for the Town of \_\_\_\_\_," and the date of election, and the signature or facsimile of the signature of the town clerk.

**Sec. 53. Town clerk to preserve record of number of ballots.** R. S. c. 5, § 45. All ballots required by sections 46 to 60, inclusive, when printed shall be folded as therein provided and fastened together in convenient numbers in packages, books, or blocks in such manner that each ballot may be detached and removed separately. A record of the number of ballots printed and furnished shall be kept and preserved by the town clerk.

**Sec. 54. Number of ballots to be prepared.** R. S. c. 5, § 46. There shall be provided for every election held under the provisions of sections 46 to 60, inclusive, such general ballots of not less than 75 for each 50 and fraction of 50 registered voters therein.

**Sec. 55. Town clerk to prepare cards of instruction and specimen ballots.** R. S. c. 5, § 47. The town clerk shall provide full instructions for the guidance of voters at elections held under the provisions of sections 46 to 60, inclusive, as to obtaining ballots, as to the manner of marking them, and the method of obtaining assistance, and as to obtaining new ballots in place of those accidentally spoiled; and shall cause the same, together with copies of sections 22, 40, 94, and 110 of chapter 5, to be printed in clear type on separate cards, to be called cards of instruction. He shall also cause to be printed on tinted paper, and without the indorsements, ten or more copies of the form of the ballot provided for such election, which shall be called specimen ballots, and shall be furnished with the other ballots provided therefor.

**Sec. 56. Town clerk to post list of candidates 4 days prior to election.** R. S. c. 5, § 48. At least 4 days prior to an election held under the provisions of sections 46 to 60, inclusive, the town clerk shall cause to be conspicuously posted in one or more public places a printed list containing the names and residences of all candidates to be voted for in such town, and any designation as provided in section 50, substantially in the form of a general ballot to be so used therein.

**Sec. 57. Ballots, cards of instruction, etc., to be put up in sealed packages.** R. S. c. 5, § 49. The ballots, together with the specimen ballots and cards of instruction printed by the town clerk as provided in sections 46 to 60, inclusive, shall be packed by him in sealed packages, with marks on the outside designating the number of ballots of each kind enclosed.

**Sec. 58. Ballot clerks.** R. S. c. 5, § 50. Before the opening of the polls as required under the provisions of sections 46 to 60, inclusive, the selectmen shall appoint the necessary number of ballot clerks, and in case of vacancies after the opening of the polls the moderator shall fill the same. The ballot clerks shall be sworn and have charge of the ballots and shall furnish them to the voters in the manner hereinafter provided.

**Sec. 59. Delivery of ballots at polling places; not to be delivered until moderator is chosen; ballot clerks to be furnished with duplicate check-list.** R. S. c. 5, § 51. The town clerk shall, before the opening of the polls on the day of an election, as provided for in sections 46 to 60, inclusive, deliver the ballots to the ballot clerks, who shall receipt therefor, which receipt shall be kept in the clerk's office. Before the opening of the polls the town clerk shall cause the cards of instructions to be posted at or in each voting shelf or compartment provided for the marking of the ballots, and not less than 3 such cards and not less than 5 specimen ballots to be posted in or about the polling room, outside the guard-rails. No ballots prepared under said sections 46 to 60, inclusive, shall be delivered to voters until the moderator shall have been chosen in the manner now provided by law. A duplicate list of the qualified voters shall be prepared for the use of the ballot clerks, and all provisions of law relative to the preparation, furnishing, use, and preservation of check-lists shall apply to such duplicate lists.

**Sec. 60. Officers to be elected by plurality vote; procedure in case of a tie.** R. S. c. 5, § 52. Except as provided in sections 46 to 60, inclusive, the election shall be conducted as provided by law. All officers voted for in the manner as provided in sections 46 to 60, inclusive, shall be elected by a plurality vote. In case of failure to elect any officer or officers so voted for by reason of a tie vote, the meeting shall be adjourned to a day certain, when such officer or officers shall be chosen as herein provided.

#### Inspections and Recounts in Municipal Elections

**Sec. 61. Inspection of ballots.** 1943, c. 264, § 1. Upon written application by any candidate for any city office within 3 days after the result of a city election is declared, the clerk of each city shall permit any candidate or his agent to inspect the ballots cast at any municipal election after the same have been returned to him, under such reasonable regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury, or change in any respect. Such inspection shall be permitted only after written notice by said clerk to the ward officers who signed the returns of said election and to the other contesting candidates, sufficient to enable them to be present in person or by agent at said inspection. After each inspection the packages shall be again sealed, and the fact and date of inspection noted on the package. No such examination of the ballots shall be made without reasonable notice to all candidates upon the ballot for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made and affording such candidates a reasonable opportunity to be

present in person or by counsel at such examination and be heard in relation thereto. Said inspection of ballots shall be held not later than 5 days after written application for an inspection of said ballots has been received by the said city clerk.

**Sec. 62. Recount proceedings.** 1943, c. 264, § 2. Whenever any candidate for any municipal office shall desire a recount of the votes cast for the particular office for which he was a candidate, he shall within 3 days from the date of said inspection file a sworn petition with the city clerk of said municipality setting forth the particular office for which he was a candidate, and state on his own knowledge or on information and belief, that because of the closeness of the vote, or a mistake in counting of the ballots or in the return of the ward offices, or fraud committed before or during said election, or any other cause, he would like a recount of all the ballots cast in said municipality for the office for which he was a candidate.

**Sec. 63. Fixing date of recount.** 1943, c. 264, § 3. Upon the filing of said petition said clerk shall fix a date forthwith, not more than 5 days after date of filing, for said recount; and shall call a meeting of the municipal officers to consider said recount, and shall notify the petitioner and all opposing candidates of the date of hearing. At said hearing the said clerk shall sort and count the ballots under the supervision of the municipal officers. In the examination of ballots upon application as provided in the preceding section, the municipal officers upon making corrected returns may in their discretion accept such facts as the candidates involved shall agree upon.

**Sec. 64. Displaying of ballots.** 1943, c. 264, § 4. At said hearing the petitioner or his opponents may have all ballots in any way involved in the election displayed for counting or inspection, including absentee and physical incapacity ballots, and all applications, certifications, and envelopes, and other papers required by law to be kept in connection with absentee or incapacity ballots. Upon request absentee or incapacity ballots may be segregated from other ballots.

**Sec. 65. Witnesses and evidence; fees.** 1943, c. 264, § 5. Witnesses may be called by the parties, and may be sworn by any municipal officer. A record shall be kept if requested by any party in interest. The fees of witnesses shall be paid by the city, if authorized by the municipal officers.

**Sec. 66. Certification of elected candidate.** 1943, c. 264, § 6. Within 24 hours after the determination of the results of a contested election, the municipal officers shall certify the results of their count to the respective candidates involved; and shall issue a certificate of election to the candidate whom they find to have been elected; this certificate of election will supersede and nullify any previous certificate that may have been issued in this particular contest. For the purposes of this section, if any candidate or candidates shall concede the election to the remaining candidate, by signed statement or statements addressed to the municipal officers, during the course of the recount, the municipal officers shall issue a certificate of election to the party whose election is conceded. Nothing contained in sections 61 to 67, inclusive, shall affect the jurisdiction of the superior court or any justice thereof to entertain proceedings under the provisions of sections 85 to 89, inclusive, of chapter 5.

**Sec. 67. Application of sections 61-67.** 1943, c. 264, § 7. The provisions of sections 61 to 67, inclusive, shall, so far as is applicable, apply to elections conducted pursuant to the provisions of sections 46 to 60, inclusive.

### Police Officers in Towns

**Sec. 68. Selectmen of towns authorized to appoint police officers.** R. S. c. 5, § 155. The selectmen of towns may appoint and shall control and fix the compensation of police officers. Such appointment shall be in writing, signed by a majority of the selectmen and recorded by the town clerk, and shall be for such time not exceeding 1 year as the selectmen shall determine.

**Sec. 69. Powers; removal.** R. S. c. 5, § 156. Police officers appointed under the provisions of section 68 shall severally have all the powers of a constable in criminal matters, within the limits of the town, and may be removed by the selectmen when they shall deem that the interests of the town require such removal.

See c. 33, § 14; c. 79, § 227, re power of police.

**Sec. 70. Special constables.** R. S. c. 140, § 29. Mayors and selectmen shall appoint special constables to arrest and prosecute all tramps in their respective municipalities.

### Wards of Cities. Election of City Officers

**Sec. 71. Wards in cities, change or alteration in limits of, how made.** R. S. c. 5, § 54. No change made by the city government, in the limits of any city ward, shall be valid unless it is approved by a majority of the legal votes cast at the election of city officers, held next after such action of said council; and warrants for such ward meetings shall contain an article for that purpose.

**Sec. 72. Election of assessors and subordinate officers; term.** R. S. c. 5, § 55. The assessors and subordinate officers of cities, when their charters do not otherwise provide, shall be chosen on the 2nd Monday of March, annually, or as soon after as practicable, and hold their offices 1 year therefrom, and until others are chosen and qualified in their places.

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

**Sec. 73. Additional assistant assessors in cities.** R. S. c. 5, § 56. In addition to the number of assistant assessors elected or appointed under provisions of any city charter, the municipal officers of cities may authorize assessors of their respective cities to appoint such number of assistant assessors as public exigency requires. The employment of such assistant assessors shall not extend beyond the period of the municipal year during which they are appointed.

**Sec. 74. Vacancies in office of constable in cities, how filled.** R. S. c. 5, § 57. If in any city a vacancy occurs in the office of constable, either through the failure of a duly elected or appointed constable to qualify by filing his bond within 30 days after his election or appointment, or through the death, resignation, or removal of a qualified constable, or through the failure of any ward or precinct to elect its allotted number of constables, the municipal officers may fill such vacancy by appointing a constable whose term of office shall expire at the same time as it would if he had been elected at the preceding annual city election.

**Sec. 75. Wardens and clerks in cities, how elected; term.** R. S. c. 5, § 58. At the annual election for the choice of mayor and aldermen in cities, the electors, in each ward shall, by written ballot, elect a warden and clerk, who shall

enter on their duties on the Monday following their election, and hold their offices 1 year therefrom, and until others are chosen and qualified in their places.

See c. 4, § 3, re record enrolment of voters; c. 5, re elections and official ballots; c. 5, § 43; \*71 Me. 387.

**Sec. 76. Mayor has deciding vote in choice of officers; appointees of mayor and aldermen, removal.** R. S. c. 5, § 59. In the election of any city officers by ballot in the board of aldermen or in convention of the aldermen and common council, in which the mayor has a right to give a deciding vote, if 2 candidates have each half of the ballots cast, he shall determine and declare which of them is elected. Whenever appointments to office are directed or authorized to be made by the mayor and aldermen of cities, they may be made by the mayor with the consent of the aldermen, and such officers may be removed by the mayor.

79 Me. 81; 89 Me. 451.

#### Certain Duties of Municipal Officers

**Sec. 77. Town officers not to act when pecuniarily interested.** R. S. c. 5, § 60. No member of a city government or selectmen of a town shall, in either board of such government or in any board of selectmen, vote on any question in which he is pecuniarily interested directly or indirectly, and in which his vote may be decisive; and no action of such government or board taken by means of such vote is legal.

\*73 Me. 58; 130 Me. 36.

**Sec. 78. Interests in municipal contracts prohibited.** R. S. c. 5, § 61. No member of a city government shall be interested, directly or indirectly, in any contract entered into by such government while he is a member thereof; and contracts made in violation hereof are void.

68 Me. 149, 325; 88 Me. 41; 98 Me. 427; 108 Me. 549; 113 Me. 322; \*117 Me. 297; 130 Me. 36.

**Sec. 79. Enforcement of §§ 77 and 78.** R. S. c. 5, § 62. The supreme judicial court in equity, or the superior court in equity, by writ of injunction or otherwise, may restrain proceedings in any town in violation of the provisions of the 2 preceding sections, upon application of ten or more taxable citizens.

See c. 95, § 4, sub-§ XIII, re equity powers; 130 Me. 36.

**Sec. 80. Selectmen and treasurer to make reports; printed reports to be distributed before annual meeting; all town books to be open for public inspection; penalty for refusal or neglect.** R. S. c. 5, § 63. 1939, c. 218. 1941, c. 177. 1943, c. 234. Persons charged with the expenditure of the money of a town shall, at least 3 days before the day of the annual meeting, make a full and detailed written or printed report, written in ink or printed on paper of not less than 50 pound basis with ink and bound in the size measuring 6 inches wide by 9 inches long, of all their financial transactions in behalf of the town during the municipal year immediately preceding, with a full account of the receipts and disbursements during that period, and to whom and for what purpose each item of the same was paid, with a statement in detail of the indebtedness and resources of the town; including a list of all unpaid taxes which have been committed to the treasurer or collector for collection, giving the names of all delinquent taxpayers and the amount due from each. Provided a town may at a regular annual town meeting vote to waive the printing in its annual printed town report an itemized list of receipts and disbursements, said vote to stand

effective until revoked at a regular annual town meeting. All printed town reports issued previous to the year 1944 shall be considered as having complied with the law with respect to itemization if said reports were accepted by vote of the town at its annual meeting. Such reports, if printed, and the complete report of the audit made as provided by section 119, both in sufficient number, shall be deposited in the office of the selectmen for distribution to the legally qualified voters of such town at least 3 days before such annual meeting; if the selectmen have no such office, then such reports in like manner shall be deposited in a convenient place of business in such town for distribution; copies of such reports shall be kept deposited in the office of the said selectmen, or if they have no such office or usual place of business, with the town clerk, with proper vouchers for the disbursements reported, where such reports and vouchers, and all the books of the town shall be open during the usual hours of business, to the inspection of voters; and if any town officer refuses or neglects to perform any requirement of this section, or refuses to allow any voter to examine such reports, vouchers, and town books, he shall be punished by a fine of \$50 for each refusal or neglect.

See c. 38, § 13, re municipal reports filed with librarian; 178 Me. 365; 130 Me. 36.

**Sec. 81. Assessors to keep a record of persons moving into and from towns and plantations.** R. S. c. 5, § 64. Towns and plantations may at any regular meeting, by a vote thereof, require their assessors of taxes to keep a record, with the date thereof as near as practicable, of all persons moving into and from their respective towns and plantations during each year, and on the 1st day of May make a return of the same to the clerk thereof, who shall record the same in a book to be kept for such purpose, and shall furnish copies of such records upon payment of a reasonable fee.

**Sec. 82. Notice of election of town treasurer.** R. S. c. 5, § 65. 1931, c. 216, Art. II, § 10, Item 10. When a town treasurer is elected and qualified, the clerk shall communicate his name to the treasurer of state and the state controller; and no city, town, or plantation shall receive any money from the treasurer of state until the name of its treasurer has been so communicated.

### Town, City, and Village By-laws and Ordinances

**Sec. 83. By-laws of towns, cities, and villages.** R. S. c. 5, § 136; c. 29, § 10; c. 35, § 36. 1931, cc. 247, 265. 1933, c. 215. 1935, c. 158. 1937, c. 172. 1939, c. 137. 1941, cc. 5, 129, 322. 1943, c. 223. Towns, cities, and village corporations may make by-laws or ordinances, not inconsistent with law, and enforce them by suitable penalties, for the purposes and with the limitations following:  
36 Me. 320; 70 Me. 522; 101 Me. 512; 107 Me. 262; 135 Me. 36, 114.

**I.** For managing their prudential affairs, with penalties of not more than \$5 for one offense, subject to the approval of the county commissioners or a judge of the superior court.

See c. 37, § 80; c. 54, § 18; c. 128, §§ 8, 11, 23-27; c. 85, §§ 3, 42; 93 Me. 77.

**II.** (1941, c. 5) For establishing police regulations, for the prevention of crime, protection of property, and preservation of good order, and to regulate the use and manner of the use of bicycles in the streets.

See c. 85, § 42, re explosives and illuminating substances.

**III.** Respecting infectious diseases and health.

See c. 22, §§ 34, 36, 87; c. 22, § 165, re plumbing regulations; 100 Me. 184; 112 Me. 10.

**IV.** For regulating the going at large of dogs.

See c. 88, §§ 9-25.

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

See c. 88, § 136, re dimensions of a cord of wood; c. 88, § 142, re sale of wood by the load.

**VI. (R. S. c. 29, § 10)** Providing for the establishment of street crossings and safety zones for pedestrians, and restricting or prohibiting the crossing of streets by pedestrians except within the limits of crossings or zones so established.

**VII.** For setting off portions of their streets for sidewalks and for regulating the use thereof, and for providing for the removal of snow and ice from such sidewalks within the limits of highways and townways to such extent as they deem expedient; the penalty for violation of such by-laws shall apply to the owner or occupant of abutting property or the agent having charge thereof, and for planting and preserving trees by the side thereof, and for the proper protection and care of public parks and squares within the same and all monuments, statues, and erections thereon.

See c. 84, §§ 21, 86; \*37 Me. 331; 78 Me. 31; 85 Me. 388; 104 Me. 351; 134 Me. 162.

**VIII.** Respecting the location and protection of monuments, boundary stones, curbstones, stepping-stones or horse-blocks, trees, lamp-posts, posts, and hydrants, the maintenance and operation of sidewalk tanks and pumps for the sale or distribution of petroleum products for fuel, power, and lubrication, supporting posts for any awning, marquee, or other temporary or permanent structure over the street or sidewalk, and all other things placed within the limits of their roads, ways, and streets, by municipal authority, and for legitimate municipal purposes; and no such objects placed as aforesaid, if located in accordance with such by-laws and ordinances, shall be deemed defects in such road, way, or street.

See c. 84, § 86, re public drinking-troughs and fountains.

**IX. (R. S. c. 35, § 36) (1939, c. 137) (1941, cc. 129, 322)** Relating to the design, materials of construction, construction, alteration, maintenance, repair, and use of buildings and structures or parts thereof; the provision of light, ventilation, and toilet facilities in new buildings and in connection with alterations of and additions to existing buildings; the installation, alteration, maintenance, repair, and use of all equipment in or on or in connection with buildings or structures and relating to camps or parking facilities for trailers or house-trailers and sanitary regulations pertaining to such camps or parking facilities; duties of the inspector of buildings, and defining particularly such duties and the rules and regulations by which he is to be governed, not inconsistent with the provisions of chapter 85 and issuance of permits or licenses in connection with all of the above operations; all to promote the health, safety, and general welfare of the occupants and users of such buildings or structures and of the public, and for protection against catching and spreading of fires and prevention of accidents; and any building or structure or part thereof, constructed, altered, maintained, repaired, or used, and any equipment therein, thereon, or in connection therewith, installed, altered, maintained, repaired, or used contrary to a by-law or ordinance adopted under this authorization is a nuisance; provided it shall be the duty of the inspector of buildings to withhold permit for any of the above

operations in violation of any by-law or ordinance enacted hereunder, and appeal shall lie from the decision of the inspector of buildings to the municipal officers and from said municipal officers to the superior court according to the provisions of section 33 of chapter 84; and provided further, that said municipal officers shall have the power to hear and determine appeals from the refusal of such permits and to permit exceptions to or variations from the terms of such by-law or ordinance in the class of cases or situations and in accordance with the principles, conditions, and procedure specified in such by-law or ordinance.

See c. 85, §§ 10-20, re municipal inspection of buildings; c. 88, § 44, re licensing lodging-houses, etc.; c. 88, § 26, re licensing innkeepers and victualers; c. 88, § 69, re moving pictures, etc.; 102 Me. 285; \*120 Me. 194; 124 Me. 509.

**X. (1933, c. 215)** For the regulation of all vehicles used therein, by establishing the rates of fare, routes, and places of standing, and by requiring proof of financial responsibility of owners or operators of vehicles for hire, except those under the jurisdiction of the public utilities commission, which proof shall be a liability insurance policy in such amounts and form as shall be satisfactory to the licensing authorities of the town, city, or village corporation, as a condition precedent to the granting of licenses to operate such vehicles, and in any other respect; but by-laws and ordinances for this purpose shall be published 1 week at least before they take effect, in some newspaper printed therein, or if there is no newspaper printed therein, such by-laws and ordinances shall be posted at least 1 week before they take effect, in 2 public and conspicuous places therein, and published once in some newspaper printed in the county in which said town is situated; and penalties for their breach shall not exceed \$20 for one offense, to be recovered by complaint to the use of such city, town, or corporation.

\*100 Me. 325; 93 Me. 77; 131 Me. 242; 137 Me. 169.

**XI.** For protection of persons against injury from the sliding of snow and ice from roofs of buildings; but the municipal authorities shall notify the owners of the buildings of by-laws or ordinances adopted under this specification, and if such owners do not comply with them in 30 days after notice, they shall be liable for all injury sustained by any person in consequence thereof; and said authorities, at the expense of their cities, towns, or corporations, may place the required guards or other obstructions on the roofs of such buildings, and the reasonable charges therefor may be recovered of such owners.

**XII.** Providing for the election of a board of assessors and selectmen to serve for the term of 3 years, one member of such board being elected annually in the manner now prescribed for the election of members of the superintending school committee in towns when the board of assessors or selectmen consists of not more than 3 members.

See § 14; c. 37, § 42, re superintending school committees.

**XIII.** Establishing localities for, and regulating the sale of fresh meat and fish therein, and fixing penalties for breach thereof; provided that this subsection shall only apply to cities.

See c. 128, § 8, re unwholesome employments.

**XIV.** Establishing and adopting by-laws and ordinances regulating the purchase and sale of articles usually bought by dealers in old junk and second-hand articles, and the pawning of articles with pawnbrokers, and prescribing conditions to be observed by buyers and sellers, pawners and pawnbrokers, to prevent or detect the sale or purchase of stolen goods; and prescribing suitable

penalties in such by-laws and ordinances; provided that this subsection shall only apply to cities and towns of more than 1,000 inhabitants.

See c. 88, §§ 100-105, re pawnbrokers; 119 Me. 455.

**XV. (1931, c. 247) (1935, c. 158)** For regulating and controlling the business of hawking and peddling of goods, wares, and merchandise at retail within their limits, for the issuing by their municipal officers of municipal licenses and the imposing of license fees therefor.

This subsection shall not apply to commercial agents or other persons selling by samples, lists, catalogues, or otherwise, goods, wares, or merchandise for future delivery; to persons selling fish, or to persons selling farm, dairy, or orchard products, of their own production, and to persons selling bark, wood, or forest products, and to persons selling newspapers or religious literature.

See c. 88, §§ 83-99, re itinerant vendors; 135 Me. 36, 114.

**XVI. (1931, c. 265)** For the licensing and conducting of dance halls, and to provide suitable penalties for violations thereof.

**XVII. (1937, c. 172)** For the purposes of establishing and maintaining a general system of contributory pensions and retirements for the benefit of their officers, agents, servants, and employees, with necessary classifications and terms of admission; establishing boards to administer such systems; and contributing funds toward the maintenance of such systems and appropriating and raising moneys therefor; provided that moneys appropriated by any city or town for the operation of such pension or retirement system together with any moneys contributed by any person eligible to participate in such system shall be administered by the board created for such purpose and shall be kept in a separate fund to be invested and disbursed by said board; and provided that cities and towns which establish such systems in accordance with the provisions of this subsection may contract with any insurance company licensed to do business in the state for the payment of said pensions or retirement benefits; and provided that any funds held by a city or town or by a board established thereby shall be exempt from attachment or trustee process.

**XVIII. (1943, c. 223)** For promoting the safety and general welfare of the public and of the occupants and users of certain existing buildings and parts thereof:

To establish adequate standards for all features of means of egress, fire protection, fire prevention, accident prevention, and structural safety in, on and in connection with existing buildings or parts thereof in use, habitually or occasionally, for public assemblage, including parts of buildings used for other occupancies but affecting the parts used for public assemblage as to said features of public safety.

To make mandatory alterations and improvements to bring such existing buildings or parts thereof up to said standards of safety where such buildings or parts thereof are or are to be rented out for use, or used, either habitually or occasionally, for public assemblage with intent of financial gain to an individual, partnership, or corporation; to provide that owners of buildings used in any parts thereof for public assemblage where financial gain to an individual, partnership, or corporation is not involved, or the lessee of any such parts, or both parties, may be advised by way of warning in writing, as to said features of public safety in connection with such place of public assemblage which appear dangerously deficient in comparison with said standards of safety.

To license all parts of buildings used or to be used for public assemblage thus regulated as to safety by by-law or ordinance authorized hereunder, where buildings or parts thereof are or are to be rented out for use, or used, either

habitually or occasionally, for public assemblage with intent of financial gain to an individual, partnership, or corporation; and to assign and collect fees for said licenses commensurate with the size, capacity, or other rational feature of the establishment as related to safety.

To make provision for enforcement of such by-law or ordinance, including requirements that owner or tenant of such a licensed establishment shall file plans of such establishment adequate to show all of said safety features, failure to furnish such adequate plans to be sufficient cause for denying or revoking such a license; provided that all enforcement officers designated in said ordinance shall be given free access at all reasonable hours to all parts of buildings used in any parts thereof for public assemblage; that any buildings or parts thereof used in violation of or without a license required by said by-law or ordinance is a nuisance; that appeal from any order issued under said ordinance shall lie to the municipal officers and from said municipal officers to the superior court according to the same procedure provided elsewhere by statute; that any person, firm, or corporation, being the owner, agent in principal charge of, or tenant of any part of such building used for public assemblage as controlled by said by-law or ordinance, who shall violate any terms thereof, or refuse to obey any order issued thereunder, shall be guilty of a misdemeanor under the jurisdiction of the municipal court.

"Place of public assemblage" as used in this subsection shall mean a room or space which is used for the congregation or gathering of 100 or more persons for religious, recreational, educational, political, social, or amusement purposes, or for the consumption of food or drink, except as herein otherwise specifically provided. For the purpose of this definition, such room or space shall include any occupied connecting room or space in the same story or stories above or below where entrance is common to the rooms or spaces.

### Municipal Planning and Zoning

**Sec. 84. Planning and zoning powers of municipalities.** 1943, c. 199, § 1. The legislative body of any city and the inhabitants of any town may provide for a planning board, for the preparation by it of coordinated plans for the development of such municipality and for their enforcement. For this purpose they may, in such measure as is deemed reasonably necessary in the interest of health, safety, or the general welfare, regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the height, number of stories, area, bulk, and construction of buildings and other structures; the size and width of lots and of yards and other open spaces thereon; the density of population; the setback of buildings along streets, parks, or public waters; the subdivision and development of land; and the erection of buildings within the lines of streets, ways, or parks shown on an official map or not abutting on approved streets. For the purpose of any such regulation they may adopt a zoning plan dividing the municipality into zones of such number, shape, and extent, and may establish an official map or maps and development plans of the whole or any portion of the area of such municipality, as may be deemed best suited to carry out the purpose of this section. Such regulations may include requirements as to the extent to which and the manner in which streets shall be improved and drainage and utilities shall be installed or assured as a condition precedent to the approval of a plat or subdivision. No amendment of a zoning plan shall be adopted except by a 2/3 vote, in a city of its legislative body, or in a town of a town meeting.

All such regulations shall be worked out as parts of a comprehensive plan for the development of such municipality, and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic accidents and congestion; to secure safety from fire and other dangers; to provide adequate light and air; to prevent overcrowding of land and population; to promote a wholesome and agreeable home environment; to prevent the development of unsanitary areas for housing purposes; to secure a well-articulated and adequate street system; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve natural resources; or to facilitate the adequate provision of transportation, water, sewerage, and other public utilities, services, and requisites.

A building or land used or to be used by a public service corporation may be exempted in part or whole from regulations enacted under the provisions of this section provided that upon petition, the public utilities commission, after due notice and a public hearing, adjust such exemption to be reasonably necessary for the convenience or welfare of the public.

Regulations enacted under the provisions of this section shall not apply to structures and the use thereof existing at the time they are enacted but shall apply to alterations in structure or use made thereafter.

See 1943, c. 260, re local agencies to cooperate with housing for employees in war industries; 126 Me. 537; 136 Me. 4; 138 Me. 117.

**Sec. 85. Platting approval.** 1943, c. 199, § 2. No register of deeds shall hereafter file or record any plat of a subdivision of land lying within any municipality until it shall have been approved by the municipal officers and such approval entered on the plat by the city or town clerk. If the legislative body of a city or the inhabitants of a town so ordain and certify such action to the appropriate register of deeds, no subdivision of land in such a manner as to require a street or way for access to a lot shall thereafter be filed or recorded until a plat of the same shall have been approved by the municipal officers. If the legislative body of a city, or the inhabitants of a town, having a planning board so ordain and certify such action to the appropriate register of deeds, such board shall in their stead pass upon plats under the provisions of this section and access ways under the provisions of section 86. The filing or recording of a plat without the approval required by this section shall be void. Whoever transfers or sells or agrees or negotiates to sell any land by reference to or exhibition of or by other use of a plat of subdivision of land into five or more lots before such plat has been approved as provided herein and recorded by the appropriate register of deeds shall be punished by a fine of not more than \$200 for each lot so transferred or sold or agreed or negotiated to be sold. Any municipality may enjoin such transfer or sale or agreement of sale of land within the municipality.

**Sec. 86. Official maps.** 1943, c. 199, § 3. The legislative body of a city or the inhabitants of a town may establish an official map thereof showing the location of the public streets and parks and of ways used in common by more than 2 owners, and the boundaries of zones, theretofore established. The city or town clerk shall certify the fact of the adoption of the official map to the register of deeds of the county in which such city or town is situated, who shall receive and record the same. The lines of public streets and parks and the boundaries of zones thereafter established and the lines of streets, ways, and

parks thereafter approved under the provisions of section 85 or this section shall by such actions become parts of the official map.

After the planning board of a municipality shall have adopted a master plan under the provisions of section 87, in a city the legislative body and in a town the inhabitants thereof may place on the official map the lines of planned new streets, parks, and street and park extensions and widenings. The placing of any street, park, or line upon the official map shall not be deemed to constitute the opening or establishment of any street or park or the taking or acceptance of any land for street or park purposes. No permit shall be issued for any building or structure, except as authorized under the provisions of sections 11 and 17 of chapter 46, or part thereof on any land located between the mapped lines of any street, way, or park as shown on the official map except on appeal under the provisions of section 88.

In any municipality having an official map under the provisions of this section, no pavement, public water facility, sewer, or other public utility or improvement shall be constructed along any street not on such map, and the legislative body of a city or the inhabitants of a town may ordain that no permit for the erection of any dwelling, or of any other building requiring access from a street, shall be issued unless a street or way giving access thereto appears on such map or is approved for such purpose by the municipal officers.

**Sec. 87. Duties of planning boards. 1943, c. 199, § 4.** Any planning board established under the provisions of section 84 shall consist of 5 members no one of whom shall be a salaried official of the municipality. The terms of members shall be such that one term expires each year.

The planning board of any municipality may prepare and adopt and thereafter amend by a majority vote of the board, after public hearing in each case on its tentative proposals, a comprehensive master plan showing its recommendations for the development of the municipality, which may include, among other things, the proposed general location, extent, type of use, layout, and character: of streets, bridges, viaducts, tunnels, grade separations of streets and railroads, parks, parkways, playgrounds, waterway and waterfront developments, airports, public buildings, and other public ways, grounds, places, spaces, and property; of utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; and of community centers, neighborhood units, and rehabilitated blighted districts and slum areas; and may include a proposed zoning plan for regulating the location, use, size, construction, and open spaces of buildings, the use of land, and population density. The master plan, upon adoption, and as thereafter amended, shall be a public record.

In a municipality having a planning board hereafter established, no regulation, official map, or zoning or other plan shall be enacted, established, or amended, and no plat, street, or way shall be approved, under the provisions of sections 84 to 86, inclusive, and no public building, structure, except as authorized under the provisions of sections 11 and 17 of chapter 46, utility, or roadway, or street, way, park, or other public land shall be authorized, established, or modified in location or extent until the planning board shall have reported its recommendations in regard to the location and extent thereof. This report shall be made only after the board has made a careful investigation and is convinced that the plans or regulations recommended by it will fit in with the comprehen-

sive master plan adopted or being prepared by it for the development of the municipality. Before making such report the board shall hold a public hearing on its tentative proposals and recommendations. In a city, if the board disapproves any enactment, establishment, amendment, approval, or authorization, such action shall not become effective except by the favorable vote of 4/5 of the legislative body. If the board fails to report within 45 days after submission to it of a proposed action, it shall be deemed to have approved such action.

In a municipality having a city or town engineer, no plat shall be approved under the provisions of section 85 until the engineer has had opportunity to report thereon in regard to grades, feasibility of drainage and sewerage, and character of road surfacing.

In a city not having a planning board the legislative body, and in a town not having a planning board the inhabitants thereof, may provide for a zoning committee and authorize it to act in lieu of a planning board in recommending enactment of a zoning plan as authorized under the provisions of section 84.

**Sec. 88. Appeals.** 1943, c. 199, § 5. The legislative body of any city and the inhabitants of any town regulating building or use of buildings or land under the provisions of sections 84 to 86, inclusive, shall by ordinance create a board of appeals. Such ordinance shall specify the number and terms of members, mode of appointment, and other details relating to the organization and procedure of such board, and shall provide for one or more associate members to act thereon in place of any member unable to act, due to interest, absence from the state, or physical incapacity. Such ordinance shall authorize such board, by unanimous vote of its members after a public hearing in each case, to interpret the details of the application of ordinances and regulations enacted under such sections in accordance with general rules set forth in such ordinances or regulations, including the power to determine appeals from the alleged erroneous refusal of building permits and to permit exceptions to or variations from regulations in the classes of cases or situations and in accordance with the principles, conditions, and procedure specified therein and so as to grant reasonable use of property where necessary to avoid confiscation and without substantially departing from the intent of plans and regulations made under such sections. Appeals shall lie from decisions of said board to the superior court according to the provisions of section 33 of chapter 84.

**Sec. 89. Relation to other laws.** 1943, c. 199, § 6. In a municipality not having a planning board, ordinances and regulations previously enacted under the repealed sections 137 to 144, inclusive, of chapter 5 and sections 31 and 32 of chapter 27 of the revised statutes of 1930, as amended, shall continue in full force and effect and may be amended in accordance with the provisions of such sections until said ordinances and regulations are repealed or superseded by ordinances or regulations under the provisions of sections 84 to 88, inclusive. Upon establishment of a planning board in such a municipality and in any municipality heretofore having a planning board all provisions of ordinances or regulations enacted under such repealed sections not inconsistent with the provisions of sections 84 to 88, inclusive, shall continue in full force and effect as though enacted thereunder and any provisions inconsistent with sections 84 to 88, inclusive, shall be void. If the legislative body of a city or the inhabitants of a town heretofore having a planning board so ordain, such board shall hereafter act as a planning board under the provisions of sections 84 to 87, inclusive.

**Authority to Raise Money; Purposes. Authority to Hold Money in Trust**

**Sec. 90. Money may be raised for certain purposes. R. S. c. 5, § 78. 1931, c. 121. 1941, c. 149, § 1.** The voters, at a legal town meeting, may raise the necessary sums for the support of schools and the poor; making and repairing highways, town ways, and bridges; and sprinkling streets; acquiring, improving, and repairing land for use as public parking places for motor and other vehicles; acquiring by purchase or otherwise suitable sites, or suitable sites and buildings, or erecting buildings for free public libraries; repairing and constructing buildings for academies, seminaries, or institutes with which the town has a contract as provided in section 96 of chapter 37; purchasing and fencing burying-grounds; maintaining private burying-grounds established before 1880; purchasing or building and repairing a hearse and hearse-house for the exclusive use of its citizens; and for other necessary town charges.

See §§ 114, 115, re armories, drill rooms, etc.; § 127, re protected reserves; c. 11, § 11, re arbor day; c. 12, §§ 24, 25, re providing armories, drill rooms, and target ranges; c. 20, § 25, re ways and bridges; c. 21, § 17 et seq., re municipal airports; c. 27, § 139, re destroying of insects; c. 37, §§ 23, 32-34, 95, 98, re schools; c. 37, § 92, re conveyance or board of pupils attending secondary schools; c. 38, § 25, re municipalities to raise money to secure free use of library; c. 41, §§ 42-47, re power to aid in construction of railroads; c. 82, § 11, re paupers; c. 82, § 18, re union town farms; c. 82, § 19, re employment of social welfare worker; c. 84, § 10, re clearing of land for public ways and preservation of trees; c. 84, § 17, re compensation of tree wardens; c. 84, § 86, re public drinking-troughs, etc.; c. 84, § 128, re sprinkling streets; 3 Me. 91, \*195; \*14 Me. 378; 20 Me. 182; \*51 Me. 176; \*52 Me. 597; 54 Me. 250; \*63 Me. 236; 72 Me. 354, \*522; 82 Me. 44; 133 Me. 163.

**Sec. 91. Other purposes for which cities and towns may raise money. R. S. c. 5, § 79. 1931, c. 66. 1939, c. 43. 1943, c. 124, § 2; c. 195.** Cities and towns may raise money to procure the writing and publication of their histories, to celebrate any centennial or other anniversary of the settlement or incorporation of such city or town, and to publish the proceedings of any such celebration; to defray the expenses of the observance of memorial day, armistice day, or any other day set apart for patriotic commemoration, firemen's memorial Sunday, and of old home week; to hire a public nurse; to hire a dental hygienist; to subsidize a physician to induce him or her to settle in said town; to aid in the maintenance of a hospital serving the inhabitants of the town; and a sum not exceeding \$5,000 in any one town for erecting a suitable monument or memorial in memory of the soldiers and sailors who sacrificed their lives in defense of their country in the war of 1861, or in World Wars I and II, and a reasonable sum to secure, grade, and care for a lot appropriate for such a monument or memorial. They may also raise money to be expended for exterminating or controlling brown tail and gypsy-moths and other insect pests. Cities and towns may appropriate, and individuals and private organizations may raise sums of money to be deposited with and expended under the direction of the department of health and welfare for dental hygienist service, provided said sums are expended in the city or town where appropriated or raised. They may also raise money to be expended for the support and maintenance of the chamber of commerce or board of trade.

See c. 27, § 139, re insects in orchards and trees; 59 Me. 494.

**Sec. 92. General public health nursing service; qualifications of nurses. 1943, c. 77.** Two or more adjoining towns may unite in employing the same public health nurse, whose duty shall be to carry on a general public health nursing service. Any program established under the provisions of this section and section 109 shall be carried on according to accepted standards for such service, and

shall include bedside care of the sick under plans approved by the director of health in accordance with regulations which may be adopted by the department of health and welfare under the provisions of section 9 of chapter 22.

Nothing in this section nor section 109 shall be construed to prevent contiguous towns, or single towns or cities, from employing qualified public health nurses on their own account, or in conjunction with private agencies who are contributing to the salaries of such nurses in whole or in part, provided the services of such nurses include a program equivalent to an acceptable generalized public health program, and so organized that there is no duplication of work or travel.

See § 109, re appropriation.

**Sec. 93. Cities and towns may raise money to maintain band.** R. S. c. 5, § 80. Cities and towns may raise money for the maintenance or employment of a band of music for municipal purposes and public celebrations. The provisions of this section shall not be in force in any city or town unless approved by a majority vote of the qualified voters of such city or town at an annual election.

**Sec. 94. Cities, towns, and plantations to decorate graves of soldiers and sailors.** R. S. c. 5, § 81. Each and every city, town, and plantation by its town or plantation officers is required to decorate the graves of veterans (soldiers and sailors) with an American flag and such other floral decorations as in the opinion of said city, town, or plantation officers shall be deemed advisable, on Decoration Day, May 30th of each year. Each and every said city, town, and plantation is empowered to raise by taxation a sufficient amount of money to pay for said American flags and other floral decorations above mentioned.

**Sec. 95. Appropriation for advertising.** R. S. c. 5, § 82. Any city or town may appropriate any sum, not exceeding 1 mill on a dollar, based on the valuation of the preceding year, to be expended and used for advertising the natural resources, advantages, and attractions of the state or such city or town.

**Sec. 96. Cities and towns may refund indebtedness; temporary loan; securities, when due and payable.** R. S. c. 5, § 83. 1935, c. 151. Cities and towns may issue and negotiate their notes, bonds, or scrip for any purpose for which the city or town can raise money or incur debt, and also for the purpose of refunding or paying in whole or in part any indebtedness thereof, which has or may hereafter become due, including money borrowed in anticipation of taxes whether overdue or not yet due. No note, bond, or scrip duly authorized at a legal town meeting and issued for the purpose of refunding notes, bonds, or scrip or other purported indebtedness theretofore outstanding shall be invalid by reason of any invalidity in the original borrowing.

Provided, however, that nothing herein contained shall be construed to validate the borrowings of a city or town beyond its constitutional debt limit.

Cities and towns may issue and negotiate their notes, to an amount which shall not exceed in the aggregate the total tax levy of the preceding municipal year, for temporary loans to be paid during the year in which they were made, out of the money raised during such current year by taxes, provided that the vote authorizing such notes states that they are to be paid out of money so raised.

If a city or town votes to issue bonds, notes, or certificates of indebtedness in accordance with the provisions of law, the officers authorized to issue the same may, in the name of such city or town, make a temporary loan for a period of not more than 1 year in anticipation of the money to be derived from the sale of

such bonds, notes, or certificates of indebtedness and may issue notes therefor; but the time within which such securities shall become due and payable shall not be extended by reason of the making of such temporary loan beyond the time fixed in the vote authorizing the issue of such bonds, notes, or certificates of indebtedness; and notes issued under the provisions of this section for a shorter period than 1 year may be refunded by the issue of other notes maturing within the required period; provided, however, that the period from the date of issue of the original loan and the date of maturity of the refunding loan shall be not more than 1 year; and provided further, that no notes shall be refunded under the provisions of this section except under the authority of such votes as is required for the original borrowing.

Issue of bonds payable in instalments, c. 49, § 133; property of inhabitants may be taken to pay debts, c. 49, § 132.

**Sec. 97. Municipal corporations may contract for water, gas, and electric light.** R. S. c. 5, § 84. Municipal corporations may contract for a supply of water, gas, and electric light for municipal uses for a term of years upon such terms as may be mutually agreed, from time to time renew the same, and may raise money therefor. All such contracts made prior to the 28th day of April, 1903 are confirmed and made valid.

\*104 Me. 226; 118 Me. 373, 390, 461.

**Sec. 98. Fuel yards.** R. S. c. 5, § 85. Any city or town may establish and maintain, within its limits, a permanent wood, coal, and fuel yard for the purpose of selling, at cost, wood, coal, and fuel to its inhabitants. The term "at cost," as used herein, shall be construed as meaning without financial profit.

\*111 Me. 488; 113 Me. 124.

**Sec. 99. Towns may raise money for propagation of fish.** R. S. c. 5, § 86. Towns may raise by a  $\frac{2}{3}$  vote at their annual meeting, a sum not exceeding \$500, to be expended by the municipal officers thereof or by a commissioner elected by the towns for the propagation and protection of fish in public waters located wholly or partially within their respective limits. A report of the expenditure thereof shall be made at the next annual meeting by the officer or officers authorized to expend such appropriation.

See c. 9, § 21, sub-§ XIX, re construction of word "town".

**Sec. 100. Doings of towns in suppression of the rebellion made valid.** R. S. c. 5, § 87. The past acts of towns, in offering, contracting to pay, and paying, and in raising and providing means to pay expenses for recruiting for their several quotas, or bounties to or for volunteers, drafted men, or substitutes of drafted men, or enrolled men, mustered into or enlisted for the military or naval service of the United States, are valid, provided that such acts have been done at meetings legally called and held in pursuance of warrants therefor, setting forth the purposes upon which such acts were based. All taxes assessed, contracts made, and notes and orders given by municipal officers in pursuance of votes passed at such meetings are valid.

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

**Sec. 101. War contracts valid.** R. S. c. 5, § 88. Contracts made in pursuance of votes passed at such meetings as provided for in section 100 by such municipal officers or their agents, with any volunteer, drafted man, or substitute, or with third persons, or associations, for providing means to pay bounties to volunteers, drafted men, or substitutes are valid.

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

**Sec. 102. Unauthorized war contracts may be ratified.** R. S. c. 5, § 89. Contracts heretofore made by such municipal officers or by third persons, for any town, without previous authority, to pay bounties to or for volunteers, drafted men, or substitutes, in or enlisted for the military or naval service of the United States may be ratified by any town at a legal meeting, called and notified as provided in section 100.

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

**Sec. 103. Municipal officers authorized to call meetings to accept legacies and gifts; notice.** R. S. c. 5, § 90. Whenever the municipal officers of any city or town are notified in writing by the executors of any will, or by the trustees created by virtue of the terms thereof, that a devise or bequest in behalf of said city or town has been made upon conditions contained in said will; or by any individual, that he intends to make a conditional gift, in behalf of said city or town; the municipal officers of said city or town shall, within 60 days after said notice to them, call a legal meeting of the inhabitants of said city or town qualified to vote upon city or town affairs; provided, however, that in cities the acceptance of such devise, bequest, or conditional gift may be by vote of the city government, instead of by the inhabitants at a special election, if the municipal officers so direct. The municipal officers shall give public notice in their warrants, of the objects of said meeting of the inhabitants, and such other notice as they may deem proper. At such meeting, the said inhabitants, or the city government at a regular meeting, or at a special meeting called for that purpose, shall vote upon the acceptance of said devise, bequest, or conditional gift, and if a majority of the legal voters, or of the members of the city government, present, then and there vote to accept said devise, bequest, or conditional gift, in accordance with the terms contained in said will, and upon the conditions made by the testator or by said individual, said municipal officers of said city or town shall forthwith notify said executors, trustees, or individual, in writing, of said acceptance by said city or town aforesaid, or the non-acceptance thereof.

105 Me. 374; 110 Me. 526; 138 Me. 70.

**Sec. 104. Cities and towns may raise money to carry into effect terms of will or gift; to apply only to gifts, etc., for certain purposes.** R. S. c. 5, § 91. Whenever the executors or trustees, under any will have fully discharged their duties respecting the payment, delivery, or otherwise, of any devise or bequest to said city or town under the provisions of section 103; or any such individual has made such contemplated conditional gift to said city or town; and said city or town has accepted said devise, bequest, or conditional gift, in accordance with the conditions thereto attached, as set forth in the preceding section, then said city or town shall perpetually comply with, and strictly maintain and keep all the conditions and terms upon which said devise, bequest, or conditional gift was made; and any city or town so accepting said devise, bequest, or conditional gift and receiving the same, or enjoying the benefits therefrom, may raise money to carry into effect the requirements and terms upon which said devise, bequest, or conditional gift was so accepted and received. The provisions of this and the preceding section shall apply only to devices, bequests, and gifts devised and bequeathed or given to cities and towns for educational, benevolent, and charitable purposes and objects, or for the care, protection, repair, and improvement of cemeteries owned by said cities or towns, or of cemetery lots owned by individuals.

See c. 54, § 19, re trusts relating to burial lots; 105 Me. 374.

**Sec. 105. Towns may receive money in trust.** R. S. c. 5, § 92. Any city or town may receive money by donation or legacy in trust for benevolent, religious,

or educational purposes, for the erection and maintenance of monuments, and for the benefit of public cemeteries and lots therein; provided that the city or town lawfully consents.

See c. 54, §§ 14-19, re burying-grounds; 85 Me. 132, 511; 105 Me. 374; 138 Me. 70.

**Sec. 106. Taxation for refunding indebtedness and investment of trust funds.** R. S. c. 5, § 93. 1931, c. 88. 1941, c. 174. Any city or town which has a funded indebtedness may create a sinking fund for the payment and redemption of such indebtedness and may raise money by taxation for such purpose. City and town officers and officers of quasi-municipal corporations shall hereafter invest all permanent funds including sinking funds, permanent school funds, and money or credits deposited with them for perpetual care of lots in cemeteries, in the legal obligations of the United States of America; the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania, and the bonds of the several counties, cities, and towns in the several states above named which are the direct obligation of said counties, cities, and towns, and the bonds of water districts located in the state of Maine, and chartered and organized as quasi-municipal corporations under the laws thereof, which are the direct obligation of said water districts, and, except sinking funds, may invest any of said funds in accordance with the laws of the state governing the investment of the funds of savings banks as enumerated in subsections I to IX of section 38 of chapter 55, or may deposit the same, including sinking funds, on time deposit in banks or trust companies, organized under the laws of this state or of the United States, and not otherwise; and unless otherwise specifically provided by the terms of the grant or bequest the annual income, only, shall be expended in performance of the requirements of the trust. Provided that this section shall not be construed to require any change of investments made prior to July 7, 1923, or the sale of any securities specifically bequeathed as a corpus of a trust fund if their retention be approved by the judge of probate for the county in which said city or town is located or if the terms creating the trust provide for their retention; but when the indebtedness for payment of which a sinking fund is created is refunded or paid by such city or town by a new loan, any stocks, bonds, or securities in said sinking fund, other than its own bonds, may be withdrawn therefrom and shall not be regarded as pledged for payment of the new loan unless afterward returned to the sinking fund. The provisions hereof shall apply to the investment of funds, as provided for in section 15 of chapter 54.

**Sec. 107. How funds may be used; penalty for misuse.** R. S. c. 5, § 94. Any sinking fund described in section 106 shall be used for no other purposes than those provided for in the preceding section, and any town officer who shall use or appropriate the moneys or securities which compose such sinking fund in any other manner or for any other purpose shall be punished by a fine of not more than \$2,000, or by imprisonment for not more than 2 years.

**Sec. 108. Fund applied according to directions of donor.** R. S. c. 5, § 95. The city or town, by its officers or agents, shall apply the sinking fund described in section 106 or its income in accordance with the written directions of the donor or testator, made known at the time when the fund was accepted. If the city or town fails to apply the fund or its income at the times and for the purposes prescribed in said directions, it reverts to the donor, if living; otherwise, to his heirs.

105 Me. 374; 138 Me. 70.

Sec. 109. Appropriation for general public health nursing service. 1943, c. 77. Towns desiring to take advantage of the provisions of this section and section 92 are empowered to appropriate or raise money for the said purposes at any annual town meeting, or during the war emergency, at any special town meeting called for the purpose.

The state may contribute not exceeding 50% per year on account of the salary and travel of any such public health nurse whose qualifications meet the requirements of the state bureau of health; and the entire salary and necessary travel of such nurses shall be paid by the state bureau of health when an amount equal to  $\frac{1}{2}$  such salary and travel has been paid to the treasurer of state to be credited to the public health nursing account of said bureau, provided that no contribution may be made by the state for services provided for in this section and section 92 where the total population of any town exceeds 6,000 as shown by the 1940 U. S. census.

The state's share of the above contributions may be paid from the state appropriation for public health nursing, or from federal grants to the state when plans are approved by the granting agency.

See § 92.

#### Armories

Sec. 110. Armories to be provided by cities and towns; also places for parade; rent to be allowed by state. R. S. c. 5, § 72. 1937, c. 143. 1939, c. 139. 1943, c. 257, § 46. Municipal officers shall provide for each company of authorized state military or naval forces within their towns a suitable armory or place of deposit for the arms, equipment, and equipage furnished by the state. They shall also provide a suitable room for the safe-keeping of books, transaction of business, and instruction of officers for each regiment, battalion, or other unit of authorized state military or naval forces located within their towns; and suitable places for their parade, target practice, and drill. A reasonable compensation for rent of such armory, headquarters, or place of deposit may be allowed from funds appropriated for such purposes to the town or city furnishing such armory, headquarters, or place of deposit.

Sec. 111. State military defense commission granted certain powers and duties regarding construction and repair of armories. R. S. c. 5, § 73. 1939, c. 139; c. 308, § 2. The state military defense commission is authorized to order and supervise the construction of buildings to be used as armories for the purpose of the use of the national guard of the state of Maine, and to repair and improve buildings donated for that purpose. Whenever a town or any person shall deed to the state of Maine any lot or lots, or lot or lots and buildings thereon to be used by the state for the purpose of constructing an armory, the state military defense commission is authorized to accept such gift provided sufficient funds are available to carry out the project.

Sec. 112. Reimbursement by state. R. S. c. 5, § 74. 1939, c. 308, § 2. Any city or town constructing an armory in compliance with terms of the preceding section shall be reimbursed by the state, out of any moneys in the treasury not otherwise appropriated, to an amount equal to  $\frac{1}{2}$  of the cost of constructing such armory building. The reimbursement aforesaid is not to exceed a total of \$50,000 to any one city or town, and shall be made in instalments in the following manner and amounts: when and as each payment falls due and is payable from the city or town for work performed and material furnished in accordance with the contract provided for in the preceding section, such city or

town shall be entitled to receive from the state treasury a sum equal to  $\frac{1}{2}$  of such instalment then due and payable from the city or town to the contractor; provided, however, that the state military defense commission shall have certified in writing to the treasurer of state that such instalment is justly due and payable from the city or town for work performed and material furnished in conformity to the aforesaid contract; provided also that the city or town shall have deposited with the treasurer of state a recorded deed conveying to the state a good and sufficient title to the armory lot and building; and provided further, that not more than three such armories shall be erected during the 2-year term of any legislature.

**Sec. 113. Armories constructed under 2 preceding sections to be for exclusive use of national guard; exceptions.** R. S. c. 5, § 75. All armories erected under the provisions of the 2 preceding sections shall be subject to the provisions of section 25 of chapter 12; but nothing herein contained shall be construed to prevent the use of any armory erected under the provisions of said 2 preceding sections for such other purposes, not interfering with its use for military purposes, as the municipal officers may authorize.

**Sec. 114. Municipalities, power to build or acquire and raise money by taxation.** R. S. c. 18, § 52. 1943, c. 257, § 25. All municipalities in this state are given power and authority to build or acquire by purchase, lease, gift, or otherwise suitable armories, drill rooms, stables, headquarters offices, and the land necessary therefor and for target ranges for such organizations of the national guard or other authorized state military or naval forces as may be stationed or located therein, and to provide for the maintenance and repair of the same; and all municipalities are authorized, and it shall be the duty of the officers thereof to raise money by taxation or otherwise for the purpose of providing suitable armories, drill rooms, stables, headquarters offices, and target ranges for such organizations of the national guard or other authorized state military or naval forces as may be stationed and located therein, in such manner as is by law provided for the erection and maintenance of all municipal public buildings and improvements.

**Sec. 115. Exemption from taxation.** R. S. c. 18, § 53. 1943, c. 257, § 26. All armories, drill rooms, offices, stables, headquarters offices, and target ranges owned by the state or by any municipality, or by any organization of the national guard or other authorized state military or naval forces, and such portion of buildings and lands leased by the state or by any municipality, or by an officer or organization of the national guard or other authorized state military or naval forces, to be used as an armory, drill room, stable, headquarters office, target range, or for other military purposes shall be exempt from taxation for all purposes during the period of such ownership or lease and use.

#### Accounting System for Cities, Towns, and Village Corporations

See c. 16, § 3, re audit.

**Sec. 116. Annual audit of cities, towns, plantations, and village corporations provided for.** R. S. c. 5, § 97. 1937, c. 216, § 1. 1941, c. 268. The municipal officers of every city, town, plantation, and village corporation in the state shall have an audit made of its accounts annually covering the last complete municipal year by either the state department of audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

In case of dissatisfaction with the audit made by others than the state department of audit, upon petition of 10% of the legally qualified voters of any city, town, plantation, or village corporation, the state department of audit shall make another audit, and the parties making such audits shall have access to all necessary papers, books, and records.

**Sec. 117. State uniform system may be installed; state department of audit may approve systems.** R. S. c. 5, § 98. 1937, c. 216, § 2. Cities, towns, plantations, and village corporations shall adopt and have installed an adequate accounting system approved by the state department of audit on or before the beginning of its municipal year; provided that accounting systems now in use and approved by the state department of audit may be continued.

**Sec. 118. Accounting system installed to secure uniformity; books, forms, and supplies may be supplied by state auditor.** R. S. c. 5, § 99. The accounting systems installed in accordance with the provisions of this chapter shall be such as will, in the judgment of the state auditor, be most effective in securing uniformity of classification in the accounts of such cities, towns, or village corporations. The state auditor may supply approximately at cost to cities, towns, and village corporations where such accounting systems have been installed such books, forms, or other supplies as may be required from time to time after the original installation of such systems.

**Sec. 119. Report of audit to be rendered to municipal officers.** R. S. c. 5, § 100. Upon the completion of an audit under the provisions of sections 116 and 117, the state auditor shall render a report to the municipal officers, embodying the results of his findings, with such suggestions as he may deem advisable for the proper administration of the city, town, or village corporation.

**Sec. 120. Expenses to be paid by state in first instance, and amounts assessed by towns and paid into state treasury.** R. S. c. 5, § 101. The expenses incurred under the provisions of sections 116 to 119, inclusive, shall be paid in the first instance by the state; and the treasurer of state shall issue his warrant requiring the assessors of the cities, town, and village corporations concerned to assess a tax to the amount of said expense, and such amounts shall be collected and paid to the treasurer of state in the same manner and subject to the same penalties as state taxes. Any balance due shall be assessed in the succeeding year in the same manner as other state taxes.

**Sec. 121. State department of audit to furnish schedules for uniform reports; to collect information pertaining to municipal affairs.** R. S. c. 5, § 102. 1937, c. 216, § 3. The state department of audit shall furnish to the qualified public accountant auditing the accounts of any city, town, plantation, or village corporation in accordance with the provisions of section 116, forms so arranged as to provide for uniform reports and said department of audit shall prescribe standard forms intended to promote the systematic accounting of financial transactions and the publication of same in the report of the city, town, plantation, or village corporation and it shall be the duty of the officers of all cities, towns, plantations, and village corporations to keep and render to the state department of audit in the manner and form prescribed by said department accounts of all business transacted. It shall collect from the proper local authorities such other information pertaining to municipal affairs as in its judgment may be of public interest. All accounting and other officials and custodians of public money of cities, towns, plantations, or village corporations shall fill out properly and return promptly to the state department of audit all schedules transmitted by it to them.

**Sec. 122. State auditor to investigate systems of municipal accounting.** R. S. c. 5, § 103. The state auditor shall inquire into the systems of accounting of public funds in all cities, towns, and village corporations and it shall be the duty of all municipal officers to furnish information relative thereto on such forms as he may prescribe.

**Sec. 123. Statistics of financial affairs of municipalities to be published by state auditor.** R. S. c. 5, § 104. The state auditor shall publish biennially statistics relative to the financial affairs of cities, towns, and village corporations and other information of public interest pertaining to municipal affairs, said part of his report to be printed and distributed as a separate document, if he believes it to be advisable.

**Sec. 124. Necessary clerical assistants and examiners to be employed.** R. S. c. 5, § 105. 1937, c. 221. The state auditor shall employ, subject to the provisions of the personnel law, necessary clerical assistants and one or more examiners as may be necessary to carry on the work provided for in sections 116 to 125, inclusive.

**Sec. 125. Attendance of witnesses and production of books and documents required.** R. S. c. 5, § 106. The state auditor may require the attendance of witnesses and the production of books and documents and may examine witnesses under oath in all matters arising under the provisions of sections 116 to 125, inclusive.

**Sec. 126. Penalty.** 1937, c. 216, § 4. Any public official who violates any of the provisions of sections 116 to 125, inclusive, or neglects or refuses to perform any duty therein imposed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100, and such conviction shall be deemed cause for his removal from office.

#### Protected Reserves

**Sec. 127. Annual town appropriations; limitation; credit reserve account.** 1943, c. 262, § 1. Any town may annually appropriate money for the purpose of providing a reserve of borrowing power which can be applied, in periods of financial stringency or depression, to assist in carrying forward normal expenditures of the town without increase in the tax rate thereof. Such appropriations shall be made in the same manner as other appropriations, but no such annual appropriation shall in any case exceed 5% of the total amount to be raised by tax levy for the municipal financial year exclusive of state and county taxes and overlay. Such appropriation shall be covered by the tax rate of the town for the year, and shall be carried upon the books of the town as a separate item, to be known as the credit reserve account.

**Sec. 128. Investment of funds.** 1943, c. 262, § 2. The funds credited to the credit reserve account shall be invested by the treasurer of the town in securities which are legal investments for savings banks or in bonds or other evidences of indebtedness of the federal government, or bonds of any federal agency, the interest and principal of which have been guaranteed by the federal government. The total of the funds invested in the aforementioned issues of the federal government or its agencies shall be at no time less than 10% nor more than 30% of the municipal credit reserve fund.

**Sec. 129. Treasurer of town to develop formula; duties.** 1943, c. 262, § 3. Annually at the beginning of the fiscal year, the treasurer of the town which has established such a credit reserve account shall develop the following formula according to the financial records of the town:

**I. Assessed values.** Assessed values in the previous year less the average assessed values of the 2 preceding years prior thereto times the tax rate of the previous year.

(Plus or minus) ..... \$

**II. Per cent taxes collected.** Per cent of the previous year's taxes commitment actually collected in the previous year, less the average per cent of taxes committed in the 2 preceding years prior thereto which were actually collected within each of the respective years, times the assessed taxes of the previous year. (Taxes as used herein shall not include excise taxes.)

(Plus or minus) ..... \$

**III. Welfare expenditures.** The welfare expenditures of the previous year subtracted from the average welfare expenditures of the 2 preceding years prior thereto. Welfare expenditures as used herein shall be held to mean the total expenditures for the relief, support, maintenance, and employment of the poor for the year referred to, including administration expenses, but deducting the reimbursements received during the year from individuals, from towns, and from the state, and excluding expenditures of federal funds, and expenditures of local funds in connection with grants in aid for public works and work relief projects.

(Plus or minus) ..... \$

Total (Plus or Minus) ..... \$

If the result of the formula above stated is a plus amount, there shall be no withdrawal from the credit reserve account. If the result of the formula is a minus amount, the treasurer of the town may withdraw from the fund a sum not exceeding the minus amount produced by the formula and credit the current budget with such item.

**Sec. 130. Capital reserve funds created; purpose.** 1943, c. 262, § 4. Any town or county may establish capital reserve funds for the financing of all or part of the cost of:

**I.** The construction, reconstruction, or acquisition of a specific capital improvement, or the acquisition of a specific item or specific items of equipment; or

**II.** The construction, reconstruction, or acquisition of a type of capital improvement, or the acquisition of a type of equipment.

**Sec. 131. Money paid into or transferred to capital reserve fund.** 1943, c. 262, § 5. Any town or county may appropriate money to be paid into such capital reserve fund or may authorize the transfer thereto of any part or all of the unencumbered surplus funds remaining on hand at the end of any fiscal year.

**Sec. 132. Trustees of capital reserve fund; deposit of moneys; limitation.** 1943, c. 262, § 6. The municipal officers or county commissioners as the case may be are constituted trustees of such capital reserve fund and shall be subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by action commenced by the town or county as the case may be, or by any officer or taxpayer thereof. All moneys

in said fund shall be either deposited in savings banks, trust companies, or national banks in this state, the deposit in any one bank in no case to exceed \$5,000, or shall be invested in whole or in part in the bonds of this state, in bonds of municipalities of this state which are purchasable by the treasurer of state, or in bonds or other evidences of indebtedness of the federal government, or in bonds of any federal agency, the interest and principal of which have been guaranteed by the federal government. Any interest earned or capital gains realized on the moneys so deposited in any such fund shall accrue to and become part thereof. The separate identity of each such fund shall be maintained whether its assets consist of cash or investments, or both.

**Sec. 133. Expenditures.** 1943, c. 262, § 7. Expenditures from each such fund shall be only for or in connection with a capital improvement of the specific nature and within the specific purpose for which the particular fund was established.

**Sec. 134. Unexpended balances transferred.** 1943, c. 262, § 8. Any town or county may transfer to another capital reserve fund all or part of:

I. The unexpended balance remaining in any capital reserve fund after the completion of the work to be financed therefrom and the payment of all costs incurred therefor; or

II. The unexpended balance remaining in any capital reserve fund established for a project which the town or county has decided to abandon in whole or in part.

#### City and Town Records

**Sec. 135. Cities and towns to provide safes and vaults.** R. S. c. 5, § 66. Cities and towns of more than 1,300 inhabitants shall provide fire proof safes or vaults of ample size for the reception and preservation of all completed books of record and registry belonging thereto. Upon the completion of any such book of record and registry, the clerk of the city or town shall deposit the same in such safe or vault, and such books shall be kept in such safe or vault, except when required for use.

**Sec. 136. Clerks to make return of books of record and registry.** R. S. c. 5, § 67. The clerks of all cities and towns shall, in the month of December in each year, make a return to the clerks of the judicial courts in the several counties, showing the number and nature of such books of record and registry as are in their custody, and where they are kept and deposited; said return shall also show where the books of the municipal officers and treasurer are kept and deposited.

**Sec. 137. Penalty for neglect of duties prescribed by § 135.** R. S. c. 5, § 68. Any city or town which neglects to perform the duties prescribed by section 135 shall forfeit for each month so neglecting, the sum of \$10, ½ to the complaint and ½ to the county in which such city or town is located.

**Sec. 138. Attesting of records of city and town clerks by volume.** R. S. c. 5, § 69. 1939, c. 100. The records of the city and town clerks in the several cities and towns of 15,000 inhabitants and over may be attested by volume, and it shall be a sufficient attestation of each document recorded therein when each volume thereof bears the attest with the written signature of the clerk or other person authorized by law to attest such records.

See c. 100, §§ 144, 145, 146, re copies of records by various processes and admissibility in evidence.

Town Lines

Sec. 139. Perambulation of town lines every 5 years; penalty for neglect. R. S. c. 5, § 189. 1941, c. 160. Lines between towns shall be run once every 5 years, except as mentioned in the 2 following sections. The municipal officers of the oldest town shall give 10 days' notice in writing to such officers of the adjoining towns of the time and place of meeting for perambulation; and each officer who neglects to notify or attend in person, or by substitute, forfeits \$10, 2/3 to the town which complies with his duty, and 1/3 to any two or more of said officers of the town complying, to be recovered within 2 years after the forfeiture is incurred; and the proceedings of such officers, after every such renewal of boundaries, shall be recorded in their town books. In cases where a town adjoins an unincorporated township, the county wherein lies such unincorporated township, shall stand in the same relation as a town for the purposes of perambulating lines between the town and the unincorporated township; the county commissioners of such county shall assume and perform the same duties as are required of municipal officers for similar purposes; also, for said purposes of perambulating such lines, said county shall be deemed in the same relation as the oldest town and shall give the notices hereinbefore referred to; 1/2 of the expenses of such perambulation shall be borne by the county; the same rights of appeal are granted such county as is given to towns for similar purposes.

\*56 Me. 30.

Sec. 140. Monuments may be erected at angles; perambulation every 10 years. R. S. c. 5, § 190. Towns which have perambulated, or shall perambulate their lines as by law prescribed, and set up stone monuments, at least 2 feet high, at all the angles, and where the lines cross highways, or on or near the banks of all rivers, bays, lakes, or ponds, which said lines cross, or which bound said lines, are exempt from the duty of perambulating said lines, except once every 10 years, commencing 10 years from the time that the stone monuments were so erected.

Sec. 141. Disputed town lines; compensation of commissioners. R. S. c. 5, § 191. When a town petitions the superior court, stating that a controversy exists between it and an adjoining town respecting a town line and praying that it may be run, the court, after due notice to all parties concerned, may appoint 3 commissioners who shall, after giving notice of the time and place of meeting to all persons interested, ascertain and determine the lines in dispute and describe them by courses and distances and make, set, and mention in their return suitable monuments and marks for the permanent establishment thereof, and make duplicate returns of their proceedings, one of which shall be returned to the court and the other to the office of the secretary of state; and such lines shall be deemed in every court and for every purpose the dividing lines between such towns. The court may allow the commissioners a proper compensation for their services, and issue a warrant of distress for its collection from said towns in equal proportions.

53 Me. 325; 65 Me. 201-3; 66 Me. 354; 70 Me. 179; 76 Me. 30; \*79 Me. 172; 84 Me. 178; \*89 Me. 214; \*90 Me. 235; 123 Me. 123; 132 Me. 328.