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Chapter 25.

Department of Health and Welfare.

Departmental Organization. Powers and Duties.

Cross Reference.—See c. 100, § 6, re forfeitures under §§ 62, 63, 78 to 87, 93 to 103, 150 to 156, inure to town where offense committed.

Sec. 1. Organization; commissioner; powers; bureau chiefs and qualifications; compensation; employees.—The department of health and welfare, as heretofore established, shall consist of 2 bureaus, as follows: the bureau of health and the bureau of social welfare, the heads of which shall be called "directors".

The head of the department shall be the commissioner of health and welfare who shall be appointed by the governor with the advice and consent of the council to serve for 3 years, or during the pleasure of the said governor and council. Any vacancy shall be filled by appointment as above for a like term. He may employ, with the approval of the governor and council, such bureau chiefs as may be necessary to carry out the work of the department; and they shall be under the immediate supervision, direction and control of the commissioner. The compensation of the commissioner and his bureau chiefs shall be fixed by the governor and council. The commissioner may also employ such deputies, assistants and employees as may be necessary, subject to the provisions of the personnel law.

In the event of a vacancy in the office of the commissioner because of death, resignation, removal or other cause, the various bureau chiefs, deputies and assistants in said department shall continue in office and perform such duties as have been prescribed for or assigned to them, until said vacancy has been filled by the appointment and qualification of a new commissioner.

The director of health shall be a physician who is schooled in sanitary science and experienced in the organization and administration of public health work.

The director of social welfare shall be a person who has been trained in a school for social work or in equivalent college or university courses in the social sciences, or who has had satisfactory experience in the direction of organized social welfare work of a comparable nature. (R. S. c. 22, § 1.)

See c. 79, § 1, re water pollution.

Sec. 2. Attorney general to furnish legal assistance.—The attorney general and the several county attorneys within their respective counties, when requested, shall furnish such legal assistance, counsel or advice as the department may require in the discharge of its duties. (R. S. c. 22, § 13.)

Sec. 3. Duties.—The department shall have the general supervision of the interests of health and life of the citizens of the state. It shall study the vital statistics of the state and endeavor to make intelligent and profitable use of the collected records of deaths and of sickness among people; it shall make sanitary investigations and inquiries respecting the causes of disease and especially of communicable diseases and epidemics, the causes of mortality and the effects of localities, employments, conditions, ingesta, habits and circumstances on the health of the people; it shall investigate the causes of disease occurring among the stock and domestic animals in the state and the methods of remedying the same; it shall gather such information in respect to all these matters as it may deem proper for diffusion among the people; it shall, when required or when it shall deem it best, advise officers of the government, or other boards within the state, in regard to the location, drainage, water supply, disposal of excreta, heating and ventilation of any public institution or building; it shall from time to time examine and report upon works on the subject of hygiene for the use of the schools of the state; it shall have general oversight and direction of the enforcement of the statutes respecting the preservation of health; and it may direct any officer or employee of the department to assist in the study, suppression or prevention

of disease in any part of the state. The department shall administer all state funds and appropriations for the aid of private institutions and agencies doing health and welfare work in the state. (R. S. c. 22, § 2. 1945, c. 195, § 1.)

Cross references.—See c. 68, § 29, et seq., re narcotic drugs; c. 100, § 8, re rat control on public dumping grounds.

The state department of health was created to have general supervision of the life and health of the citizens of the state; one duty being the preservation of the public health against dangerous diseases. State v. Prescott, 129 Me. 239, 151 A. 426.

Sec. 4. Advise on incorporation of institutions.—The department shall give its opinion as to the advisability of the proposed organization and incorporation of all institutions of a charitable, eleemosynary, correctional or reformatory character which are or shall be subject to the supervision and inspection of the department. (R. S. c. 22, § 3.)

Sec. 5. Inspection and licensing of institutions, agencies and boardinghomes.—No person, firm, corporation or association shall operate an institution or agency for the care and treatment of defectives, dependents and delinquents or conduct and maintain a boardinghouse or home for the aged, blind or other persons 16 years of age or over without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. The term of such license shall be for 1 year and the department may revoke such license at any time. It shall give written notice of such revocation by delivering the notice in hand to the licensee. If the licensee cannot be reached for personal service the notice may be left at the licensed premises. No such license shall be issued until the applicant has furnished the department with a written statement signed by the insurance commissioner or the proper municipal official designated in chapter 97 to make fire safety inspections that the home and premises comply with the provisions of said chapter 97 relating to fire safety. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. Said written statement shall be furnished annually thereafter.

The term "boardinghouse or home" as used in this section shall mean a house or other place maintained by any association, organization or individual partly or wholly for the purpose of boarding and caring for any of the persons enumerated in the first paragraph of this section.

The department shall inspect and investigate as frequently as it deems necessary the conditions and management of all institutions and agencies providing assistance, care or other direct services to children who are neglected, delinquent, defective or dependent, as well as to aged, blind and other dependent persons, and which derive their support wholly or in part from state, county or municipal appropriations or funds. Said institutions and agencies shall not include those of a purely educational or industrial nature, or those under the direction or inspection of the department of institutional service.

Whoever violates the provisions of this section shall be punished by a fine of not more than $500, or by imprisonment for not more than 60 days. (R. S. c. 22, § 4. 1945, c. 195, § 2. 1947, c. 178. 1953, c. 281, § 1.)

Sec. 6. Distribution of functions. — The commissioner shall have the power to distribute the functions and duties outlined in this chapter among the various bureaus so as to integrate the work properly and to promote the most economical and efficient administration of the department.

Wherever in this chapter powers and duties are given to the department these may be and shall be assumed and carried out by such of the bureaus as the commissioner shall designate from time to time, and these powers and duties so delegated may in turn be delegated to subordinates by the said bureau directors with the approval of the commissioner. (R. S. c. 22, § 5.)

Sec. 7. Additional duties.—In addition to the specified functions and duties of the department as outlined by the provisions of this chapter the department shall perform such other functions for the care, custody, treatment and relief of the sick, dependent, defective and delinquent as may be consistent with the general purposes therein defined and not otherwise contrary to law. (R. S. c. 22, § 10.)

Cited in Denaco v. Blanche, 148 Me. 120, 90 A. (2d) 707.

Welfare Laws.

Cross Reference.—See c. 102, § 11, re relief of unemployables.

Sec. 8. Investigate system of public charities.—The department shall investigate and inspect the whole system of public charities in the state which derive their support wholly or in part from state, county or municipal appropriations but not including any institution of a purely educational or industrial nature. (R. S. c. 22, § 11.)

Sec. 9. Transfer of paupers and public assistance recipients between states.—The department shall have authority to enter into reciprocal agreements with corresponding agencies of other states, and to arrange with their local or county boards for the acceptance, transfer and support of persons going from one state to another and becoming public charges and to continue payments of old age assistance, aid to the blind, aid to dependent children and world war assistance until eligibility to receive assistance under a similar program has been established in the other state and the first payment from the other state has been received by such recipient; provided that such reciprocal agreements shall in no way commit the state to support persons who are not, in the opinion of the department, entitled to support under the laws of this state. (R. S. c. 22, § 12. 1947, c. 351.)

Sec. 10. Information upon request.—The commissioner shall give to the governor or council or to the legislature or any committee thereof at any time upon their request information and advice with reference to any charitable or correctional institution about which he has information. The officers in charge of any institution of a charitable or correctional nature under the inspection of the department and local boards or committees having any powers or duties relative to the management of the same, and those who are in any way responsible for the administration of public funds used for the relief or maintenance of the poor, shall furnish to the department such information and statistics as may be demanded on such forms as the department may consider necessary to secure uniformity and accuracy in the statements. (R. S. c. 22, § 18.)

See c. 42, § 17, re reports of departments distributed by and filed in the library.

Sec. 11. Cooperate with the United States department of agriculture.—The department may cooperate and participate in the administration of programs of the United States department of agriculture or any agency thereof.

When in his judgment it appears to be for the best interest of the welfare of the people of the state, the commissioner, with the approval of the governor and council, is authorized to enter into and execute, on behalf of the department, all necessary agreements with the United States department of agriculture or any agency thereof to carry out the provisions of the stamp plan, so called, or other plans for the distribution of food or surplus commodities for relief purposes. Such agreements may include in their provisions that regulations promulgated by the secretary of agriculture governing the administration of programs of the United States department of agriculture shall become part of such agreements.

There shall be established in the department of the treasurer of state, by authority of the governor and council, a revolving fund for use in connection with participation in the federal program of the United States department of agriculture or any agency thereof.

This revolving fund so established shall not be in excess of $100,000. This fund must at all times consist of cash on hand, stamps purchased, and not resold, and accounts receivable, against the cities and towns of Maine that have purchased stamps from this fund, the aggregate of which shall equal the total fund established by order of the governor and council; it further being understood that this fund shall be used solely for the purpose of purchasing United States government food stamps to be resold to the cities and towns of Maine participating in the so-called food stamp plan.

The above-mentioned fund shall be established by segregating the fund approved by the governor and council as above stated from the amounts on deposit to the credit of the general fund of the state.

This fund shall continue in effect until the governor and council shall determine that the necessity for said fund no longer exists, when such segregation of funds shall cease. (R. S. c. 22, § 19.)

Sec. 12. Commissioner to report.—The commissioner, as soon as practicable after the close of the fiscal year which is indicated by an even number, shall report to the governor and council the activities of the department during the biennial period just ended with such suggestions as to legislative action as he deems necessary or important. (R. S. c. 22, § 20.)

Sec. 13. Rules and regulations.—The department shall issue such rules and regulations as it shall think necessary and proper for the protection of life, health and welfare, and the successful operation of the health and welfare laws. The said rules and regulations shall be published in such manner as the department may direct. The department shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department, and especially those which pertain to the granting of public assistance. The use of such records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. It shall be unlawful for any person, except for purposes directly connected with the administration of public assistance and in accordance with the rules and regulations of the department, to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 22, § 9. 1953, c. 68, § 3.)

Cross reference.—See c. 91, §§ 103, 123, re public health nursing service in towns.

Department not authorized to repeal general statutes.—The legislature, by the delegation to the state department of health of general power to make and publish reasonable rules and regulations for the protection of life and health and the successful operation of the health laws of this state, did not assume to authorize the repeal of general statutes. State v. Prescott, 129 Me. 239, 151 A. 426.

The introduction in evidence of the form "Municipal Acknowledgment of Settlement" by a town is not the use of confidential records of the state. Poland v. Biddeford, 148 Me. 346, 93 A. (2d) 722.

Sec. 14. Advisory committee. — An advisory committee of health and welfare in connection with the department, as heretofore established, shall consist of 15 members, 3 of whom shall represent the general public, 6 shall be persons interested in health or allied fields and 6 shall be persons interested in welfare or allied fields. The members shall be appointed by the governor with the advice of the commissioner. Each member shall be appointed for a term of 3 years, and until his successor is appointed and duly qualified. The members of said committee shall serve without compensation, but may be allowed actual and necessary expenses for attendance at all meetings. The committee shall meet upon the call of the commissioner. The committee shall meet at least twice in each calendar year; one such meeting shall be held annually in October, at which time a chairman and vice-chairman shall be elected from its members. (R. S. c. 22, § 7. 1953, c. 68, § 1.)

Sec. 15. Powers and duties of advisory committee. — The advisory committee of health and welfare shall have authority:

I. To make such investigation of the social problems of the state, with the aid of the departmental staff, as the commissioner may request;

II. To advise the commissioner with reference to the policy of the department and other matters falling within the jurisdiction of said department;

III. To recommend to the commissioner the enactment of such laws as may be deemed necessary relative to the activities of the department;

IV. To recommend to the commissioner the issuance of such rules and regulations as may be deemed necessary to carry out the intent of the public health and welfare laws of the state. [1953, c. 68, § 2]. (R. S. c. 22, § 8. 1953, c. 68, § 2.)

Sec. 16. Definitions.—Wherever in this chapter the word "department" appears it shall mean "department of health and welfare" and the word "commissioner" shall mean "commissioner of health and welfare". Wherever in this chapter the word "chapter" appears without definite reference to a particular place, it refers to this chapter; if the chapter is given a number, it refers to the chapter so numbered in the revised statutes. Wherever in this chapter the word "section" appears without reference to a numbered chapter, it refers to a section of this chapter. (R. S. c. 22, § 6.)

Sec. 17. Appropriated funds transferable. — The appropriations made by the legislature to any division of the department may be combined or transferred from one division to another thereof by authority of the governor and council when such is deemed necessary. (R. S. c. 22, § 14.)

Sec. 18. Appropriations for aid of public and private hospitals. — Such sums of money as may be appropriated by the legislature in aid of public and private hospitals shall be expended under the direction of the department, and the expense of administration shall be charged to the appropriation of that department for general administration. The department is authorized to compensate hospitals located in the state of New Hampshire within 5 miles from the Maine-New Hampshire state line for cases where the hospital care is for persons resident in the state of Maine. The department may compensate hospitals at such rates as it may establish for hospital care of persons whose resources or the resources of whose responsible relatives are insufficient therefor. Bills itemizing the expenses of hospital care under the provisions hereof, when approved by the department and audited by the state controller, shall be paid by the treasurer of state. (R. S. c. 22, § 16. 1951, c. 206.)

Sec. 19. Responsible relatives defined; duty of hospitals. — The spouse, parents and adult children of a person receiving hospital care shall, if of sufficient ability, be responsible for the hospital bill of such person. The hospital furnishing care to a person may recover the amount due for such care from a responsible relative in an action on the case.

Hospitals shall make every reasonable attempt to arrange for payment by the responsible relatives or the person hospitalized before making application for hospital aid.

Hospitals making application for hospital aid must submit to the department such information as the department deems necessary concerning the financial condition of the responsible relatives and of the person hospitalized. (1953, c. 163.)

Sec. 20. Charitable and benevolent institutions to submit itemized bills; recipients not deemed paupers.—No part of any appropriations made by the state for the care, treatment, support or education of any person in any charitable or benevolent institution not wholly owned or controlled by the state shall be paid until duly itemized bills, showing the name of the person cared for, the date on which the service was rendered, and the rate charged therefor per day or week, shall have been filed with the state controller together with a certificate from the department that satisfactory evidence has been filed in its office by the institution furnishing the service that the persons receiving care were in need of such treatment, support or education; that they were not able to pay for the same; that the rates charged are not greater than those charged to the general public for the same service.

Payments made by the state to charitable and benevolent institutions under the provisions of this section shall be governed by such rules and regulations and rates as are prescribed by the department. No person shall be deemed a pauper by reason of having received the benefit of any funds, either state or municipal, which shall have been expended in his behalf under the provisions of this section for care, support, medical or surgical treatment or education. (R. S. c. 22, § 17. 1951, c. 29.)

Sec. 21. Penalties and jurisdiction; certificate of commissioner as evidence.—Whoever hinders, obstructs or interferes with any officer, inspector or duly authorized agent of the department while in the performance of his duties shall be punished by a fine of not less than $5, nor more than $50, or by imprisonment for not less than 10 days, nor more than 30 days. Whoever violates any order, rule or regulation of the department made for the protection of life or health under the provisions of law shall be punished by a fine of not less than $10, nor more than $100, for each offense. Whoever violates any provision of this chapter or willfully fails, neglects or refuses to perform any of the duties imposed upon him by the provisions of this chapter shall be punished by a fine of not more than $500, or by imprisonment for not more than 6 months, unless specific penalties are elsewhere provided for. Trial justices shall have jurisdiction of all offenses under this section. Any certificate of the commissioner in regard to the records of the department shall be admissible in evidence in all prosecutions under the provisions of this chapter. (R. S. c. 22, § 21. 1951, c. 33.)

Private Mental Hospitals.

Sec. 22. Private hospitals to be licensed; subject to visitation.—The department may license any suitable person to establish and keep a private hospital or private house for the reception and treatment of patients who are mentally deranged, and may revoke such license at any time. Such hospital or

private house shall be subject to visitation by the department or any member thereof. (R. S. c. 23, § 144. 1945, c. 355, §§ 3, 4.)

Sec. 23. Violation of § 22.—Whoever establishes or keeps such private hospital or private house without a license, or after revocation of said license, shall forfeit not more than $500. (R. S. c. 23, § 145. 1945, c. 355, §§ 3, 4.)

Sec. 24. Voluntary patients received on written application; release on request.—The superintendent or manager of such licensed hospital or house for the treatment of mental patients may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment and who makes written application therefor, and is mentally competent to make the application; and any such person who desires so to submit himself for treatment may make such written application. No such person shall be detained more than 5 days after having given notice of his intention, in writing, to leave such institution. (R. S. c. 23, § 146. 1945, c. 355, §§ 3, 4.)

Sec. 25. Commitment to private hospitals.—If a person is found by 2 regular physicians registered in this state to be in such mental condition that his commitment to such hospital or house for mental treatment is necessary for his proper care or observation, when the expense of his care and support are to be paid by himself, or relatives, or friends, or legal or natural guardians, he may be committed for treatment to said private hospital or house for a period not exceeding 30 days, provided such person be accompanied by a certificate signed by said physicians, which certificate shall show that in the judgment of the 2 physicians after an examination by each of them, such person needs treatment in such institution because of his mental condition. Such certificate shall be filed at such institution at the time of admission of the patient, together with a statement of facts regarding the family and personal history of the patient. Within 30 days after such commitment, if, in the opinion of the superintendent or manager or the attending physician, the said person has recovered or improved mentally to such an extent that in the judgment of said physician further treatment at such hospital or house is not necessary, the said person shall be discharged. (R. S. c. 23, § 147. 1945, c. 355, §§ 3, 4.)

Sec. 26. If patient kept more than 30 days, examination made and hearing held.—If after a patient has been committed to such hospital or house for treatment for a period not exceeding 30 days by 2 registered physicians, and it is the opinion of the superintendent or the manager or attending physician, after 15 days or more of observation and treatment, that such patient will not improve or recover to such an extent that it will be for his welfare to leave such hospital or house at the end of the 30 day period, it shall be the duty of the superintendent, manager or attending physician to have the said patient examined by 2 disinterested, registered physicians who have practiced 3 years or more in this state and who are not employed by such hospital or house, and if in the opinion of these physicians the said patient should require further treatment at said hospital or house, the superintendent, manager or attending physician shall make application to the judge of a municipal court or probate court in the county where said hospital or house is located, for a hearing, before the expiration of the 30 day period. Said judge shall then cause a notice of time of hearing to be served upon such patient at least 24 hours prior to the time of hearing, and the superintendent, manager or attending physician shall give the patient an opportunity to be present at the hearing if the patient so wishes, provided that in the opinion of the superintendent, manager or attending physician the patient's physical and mental condition is such that it would not be injurious to his health or dangerous to others for the patient to attend the hearing, and the said patient shall have the right to be represented at said hearing by relatives, friends, legal or natural guardians or attorneys at his own expense, if he so wishes. (R. S. c. 23, § 148. 1945, c. 355, §§ 3, 4.)

Sec. 27. Patient committed for indefinite treatment on oath of 2 physicians and order of judge.—In all such cases for commitment of any person to such licensed hospital or house for treatment for an indefinite period, the opinion that the patient requires further treatment at such hospital or house shall be given under oath by at least 2 registered physicians who have practiced at least 3 years in this state, and if in the opinion of the judge additional medical testimony as to the mental condition of the patient is required, he may appoint a physician to examine and report thereon, the expense of said examination and report to be paid by the patient. The said judge may then commit such person to said hospital or house for further treatment by an order of commitment directed to the superintendent or manager accompanied by a certificate of at least 2 registered physicians who have practiced three or more years in this state, which certificate shall set forth that in their opinion such patient requires further treatment. The order of commitment shall direct the superintendent or manager to detain such patient for further treatment in said hospital until such time as in the opinion of a recognized alienist the patient has recovered or improved mentally to such an extent that his detention in such hospital is no longer necessary for his own welfare or the safety of the public; or until suitable arrangements have been made for said patient's proper care and supervision outside of said institution by his legal or natural guardians; or until on 3 days' notice, said superintendent or manager shall notify the legal or natural guardian to remove said patient from said institution; or until such time as it shall become necessary to commit said patient to a state hospital, or said patient shall be discharged by order of law. (R. S. c. 23, § 149. 1945, c. 355, §§ 3, 4.)

Sec. 28. Private hospital visited.—Each of said licensed hospitals or houses shall be visited at least once a year, and oftener if the commissioner so directs, by a member of the department who shall carefully inspect every part of said hospital or house visited with reference to its cleanliness and sanitary conditions and who shall make a report to the department with such recommendations to improve conditions as said department may deem necessary. (R. S. c. 23, § 150. 1945, c. 355, §§ 3, 4.)

Sec. 29. License revoked after hearing.—Upon the failure of any superintendent or manager of such licensed hospital or house to comply with any of the provisions of the 7 preceding sections, the commissioner may order a hearing to be held and notify in writing said superintendent or manager of such hearing, by 7 days' notice, to be held at the state house at Augusta, and if it shall appear to the commissioner that the provisions of said sections have not been complied with, he may revoke the license of said hospital or house. (R. S. c. 23, § 151. 1945, c. 355, §§ 3, 4.)

Vocational Rehabilitation.

Sec. 30. Rehabilitation work.—The department, under the direction of the governor and council, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance. Such rehabilitation work shall be in cooperation with vocational education, as provided by sections 196 to 207, inclusive, of chapter 41 in the department of education.

Funds provided for aid and assistance carried on by the department may be used in providing such vocational rehabilitation. (R. S. c. 22, § 22.)

Diagnostic Laboratory.

Sec. 31. Laboratory of hygiene.—The department may establish and equip with the proper and necessary apparatus, instruments and supplies a state laboratory of hygiene for the chemical and bacteriological examination of water supplies, milk and food products, and the examination of cases and suspected

cases of diphtheria, typhoid fever, tuberculosis, glanders and other infectious and contagious diseases. (R. S. c. 22, § 23.)

Sec. 32. Superintendent; appointment, duties; services free.—The department shall appoint a superintendent of such laboratory, who shall hold that position at the pleasure of the department. He shall keep a record of all specimens sent to him for examination, and examine these specimens without unnecessary delay, and do such other work and make such other investigations relating to the public health as said department may from time to time direct. The services of the laboratory and all investigations therein made shall be free to the people of the state, except that the department subject to the approval of the governor and council may fix charges when deemed advisable or necessary. (R. S. c. 22, § 24.)

Health Services.

Sec. 33. Purposes; acceptance of provisions of federal law; federal grants.—The department, through its bureau of health, is authorized to administer a program to extend and improve its services for promoting the general public health.

The department is authorized to:

I. Apply for federal aid under the provisions of the Public Health Service Act (Public Law No. 410, 78th Congress Second Session as heretofore or hereafter amended); (1949, c. 62)

II. Cooperate with the federal government through the United States public health service in matters of mutual concern pertaining to general public health, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;

III. Make such reports in such form and containing such information as the surgeon general of the United States public health service may require, and comply with such provisions as said surgeon general may find necessary to assure the correctness and verification of such reports.

The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of general public health services as contemplated by Public Health Service Act, as heretofore or hereafter amended, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 25. 1949, c. 62.)

See c. 91, §§ 103, 123, re public health nursing service in towns.

Hospital Survey. Advisory Hospital Council.

Sec. 34. Hospital survey.—The department shall make a survey of the location, size and character of all existing public and private hospitals and health centers in the state; evaluate the sufficiency of such hospitals and health centers to supply the necessary physical facilities for furnishing adequate hospital, clinic and similar services to all the people of the state; compile such data and conclusions, together with a statement of the additional facilities necessary, in conjunction with existing structures, to supply such services; and utilize, so far as practicable, any appropriate reports, surveys and plans prepared by other state agencies. (1945, c. 223.)

Sec. 35. Authority to accept federal or other funds.—The department shall have authority to accept the provisions of any federal law now in effect or hereafter enacted which makes federal funds available for public health services of all kinds including the construction of hospitals and health centers and to meet such federal requirements with respect to the administration of such

funds as are required as conditions precedent to receiving federal funds. The department, subject to the approval of the governor and council, shall also have authority to accept funds from other sources for the same purposes. (1945, c. 223.)

Sec. 36. Advisory hospital council.—An advisory hospital council, as heretofore established, shall be appointed by the governor, with the advice and consent of the council, to advise and consult with the department of health and welfare in carrying out the administration of sections 34 to 36, inclusive. The council shall consist of 8 members and shall include the commissioner of health and welfare, ex officio, and shall include at least 1 member of the Maine medical association and at least 1 osteopathic physician and representatives of non-government organizations or groups, and of state agencies, concerned with the operation, construction or utilization of hospitals, including representatives of the consumers of hospital services selected from among persons familiar with the need for such services in urban or rural areas. The chairman shall be appointed by the governor. Each member shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Council members, while serving on business of the council, shall receive no compensation but shall be entitled to receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. The council shall meet as frequently as the chairman deems necessary but not less than once each year. Upon request by 2 or more members, it shall be the duty of the commissioner to call a meeting of the council. (1947, c. 391, § 1.)

Infectious Diseases. Regulations.

Sec. 37. System of inspection.—The more effectually to protect the public health, the department may establish such systems of inspection as in its judgment may be necessary to ascertain the actual or threatened presence of the infection of Asiatic cholera, smallpox, diphtheria, scarlet fever, plague, typhoid fever or other dangerous, infectious or contagious disease; and any duly authorized agent or inspector of said department may enter any building, vessel, railroad car or other public vehicle to inspect the same and to remove therefrom any person affected by said diseases; and for this purpose he may require the person in charge of any vessel or public vehicle other than a railroad car to stop such vessel or vehicle at any place, and he may require the conductor of any railroad train to stop his train at any station or upon any sidetrack and there detain it for a reasonable time; provided that no conductor shall be required to stop his train when telegraphic communication with the dispatcher's office cannot be obtained or at such times or under such circumstances as may endanger the safety of the train and passengers; and provided further, that any such agent or inspector may cause any car which he may think may be infected with any of said diseases to be sidetracked at any suitable place and there be cleansed, fumigated and disinfected. The department may from time to time make, alter, modify or revoke rules and regulations for guarding against the introduction of any infectious or contagious diseases into the state, including rabies or hydrophobia of animals and men; for the control and suppression thereof if within the state; for the quarantine and disinfection of persons, localities and things infected or suspected of being infected by such diseases; for guarding against the transmission of infectious and contagious diseases through the medium of common towels, common drinking cups and other articles which may carry infection from person to person; for the sanitation of railroad service and that of other common carriers; for the transportation of dead bodies; for the speedy and private interment of the bodies of persons who have died from said diseases; and, in emergency, for providing those sick with said diseases with necessary medical aid and with temporary hospitals for

their accommodation and for the accommodation of their nurses and attendants. The department may declare any and all of its rules and regulations made in accordance with the provisions of this section to be in force within the whole state, or within any specified part thereof, and to apply to any person or persons, family, camp, building, vessel, railroad car or public vehicle of any kind. (R. S. c. 22, § 26.)

Sec. 38. Rules and regulations; publication; supersede all local rules.—Such rules and regulations, if of general application, shall be published in the state paper; but whenever in the judgment of the department it shall be necessary to do so, special rules and regulations, or orders relating to said diseases may be made for any town, village or city without such publication, and the service of copies of such rules, regulations or orders upon such town, village or city through the officers thereof shall be a sufficient notice thereto; and the rules, regulations or orders of the department made in accordance with the provisions of this section shall, for the time being and until the same are revoked, supersede all local rules, regulations, by-laws or ordinances that may be inconsistent or in conflict therewith. (R. S. c. 22, § 27. 1953, c. 68, § 4.)

Sec. 39. Refusing to obey rules.—All health officers, municipal officers, sheriffs, constables, police officers and marshals shall enforce the rules and regulations of the department made as provided in the 2 preceding sections in every particular affecting their respective localities and duties; and any person who shall neglect or refuse to obey the said rules and regulations, or who shall willfully obstruct or hinder the execution thereof, shall be punished by a fine of not more than $500, or by imprisonment for a period of not more than 6 months, or by both such fine and imprisonment. All authorities of every county, city, town and village corporation, all health officers, and all officers and persons in charge of the institutions, buildings and vehicles mentioned in section 37 shall cooperate with the department in carrying out the provisions of this section and the 2 preceding sections; and in case such cooperation be refused, withheld or neglected, the said department may execute its orders and directions by agents of its own appointment; and all expenses incurred by members of the department or by duly appointed agents of said department under the provisions of this section shall be paid by the town. (R. S. c. 22, § 28.)

See §§ 146-149, re prevention of disease arising from impure milk; c. 58, §§ 26-38, re authority of state bureau of health as to construction of mausoleums and burial vaults; c. 100, §§ 154-156, re inspectors of dairy products in municipalities.

Sec. 40. District health officers, appointment, duties, qualifications.—The commissioner, with the advice of the director of health, shall from time to time divide the state into three or more health districts and shall appoint and may remove district health officers for each district. The district health officers shall not be engaged in any other occupation and shall give their entire time to the performance of their duties. The department may order two or more of said district health officers to work in one district in order to study, suppress or prevent disease. Each district health officer shall, under the direction of the department, perform such duties as may be prescribed by the department and shall act as the representative of the department and under its direction shall secure the enforcement within his district of the public health laws and regulations. Said district health officers shall be graduates of an incorporated medical school and admitted to practice medicine in this state, or shall have been certified in public health by a reputable institution of collegiate grade. (R. S. c. 22, § 29.)

Sec. 41. Individual to select own physician.—Nothing in this chapter shall be construed to empower or authorize the department or its representative to interfere in any manner with the right of any individual to select the physician

or mode of treatment of his choice, providing that sanitary laws, rules and regulations are complied with. (R. S. c. 22, § 30.)

Sec. 42. Powers in emergency or threatened epidemics.—In case of emergency or threatened epidemic of disease which may affect more than one city, town or plantation, the said department, if it shall appear to it necessary and proper for the protection of life and health, may make such further orders and regulations as in its opinion the public exigency may require and which shall become effective immediately on their promulgation. (R. S. c. 22, § 31.)

Quoted in State v. Prescott, 129 Me. 239, 151 A. 426.

Sec. 43. Threatened epidemics of rabies or hydrophobia; impounded dogs killed.—The department may, in the case of an emergency or threatened epidemic of rabies or hydrophobia when in its opinion the health and safety of the people in a community are endangered, issue orders to the mayor of any city or the municipal officers of any town or plantation to have killed any dogs found loose in violation of quarantine regulations and impounded for a period of 72 hours without being claimed by their owner.

The mayor of any city or the municipal officers of any town or plantation shall forthwith direct that such dogs be killed by a police officer or constable. (R. S. c. 22, § 32.)

See c. 100, §§ 14, 24, 25, re licensing of dogs; to be killed under certain circumstances.

Sec. 44. Information to department upon request.—In order to afford the department better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, all officers of the state, the physicians of all incorporated companies and the president or agent of any company chartered, organized or transacting business under the laws of this state, as far as practicable, shall furnish to the department any information bearing upon public health which may be requested by said department for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject. (R. S. c. 22, § 33.)

Local Health Officers.

Sec. 45. Appointment of local health officers.—Every city, town and organized plantation in the state shall employ an official who shall be known as the local health officer who shall be appointed by the municipal officers of such city, town or organized plantation. The local health officer shall be appointed for a term of 3 years and until his successor is appointed, provided that on expiration of the term of office the municipal officers shall appoint a successor within 30 days of such resignation or expiration. The municipal officers or clerk of all municipalities shall within 10 days notify the department in writing of the appointment of a health officer, stating the health officer's name, age, address and the dates of appointment and beginning of 3-year term. The health officer in towns or plantations contiguous to unorganized territory shall perform the duties of health officer in such territory; provided, however, that the director of the bureau of health may appoint, subject to the approval of the commissioner, health officers in remote unorganized territory whenever he shall deem it advisable, and the compensation of such health officers shall be determined and paid by the department.

In the event of incapacity or absence of the local health officer, the municipal officers shall appoint a person to act as health officer during such incapacity or absence. Failing such appointment, the chairman of the municipal officers shall perform the duties of local health officer until the regular health officer is returned to duty or appointment of another person has been made.

In municipalities with a manager form of government, when the charter so provides, the appointments provided for in this section may be made by the said manager and the duty prescribed for the chairman of the municipal officers during incapacity or absence of the health officer shall be performed by the manager.

In no case shall a person be appointed to hold office as a local health officer or as a member of the local board of health who shall have any pecuniary interest, directly or indirectly, in any private sewer corporation over which said officer or board has general supervision. (R. S. c. 22, § 34. 1945, c. 351, § 1. 1953, c. 260.)

Local health officers are expressly subordinate to the state department of health. State v. Prescott, 129 Me. 239, 151 A. 426.

Health officer not servant or agent of municipality.—The town or city chooses its health officers in pursuance of the requirements of this section. Neither the relation of master and servant, nor that of principal and agent exists between them and the municipal corporation to which they owe their appointment. They are appointed for public purposes. Mitchell v. Rockland, 52 Me. 118.

And municipality not liable for unlawful act of officer.—Neither the relation of master and servant, nor of principal and agent exists between a town and its health officers; nor is the town liable for their unlawful or negligent acts. Mitchell v. Rockland, 52 Me. 118.

Former provision of section considered.—For a consideration of this section when it required that all appointments by municipal officers were subject to the approval of the state commissioner of health, see Mahoney v. Biddeford, 130 Me. 295, 155 A. 560.

Sec. 46. Compensation.—Health officers may be employed to devote a part or all of their time to the duties of the office. When employed to devote their entire time to their duties, and if they possess the qualifications required of a district health officer as stated in section 40, the department is authorized and directed to pay from money appropriated to said department for district health services not to exceed 1/3 of the total salary of said official, but not more than $800 per year, payment to be made direct by the state to the town by which said local health officer is employed.

No city, town or organized plantation employing a health officer to devote his entire time to the duties of his office shall receive any payment from the state as provided in this section unless the appointment of said health officer has been approved by the commissioner or his duly authorized agent.

The offices of local health officer and town or school physician shall be combined when in the opinion of the municipal officers the health needs of the people would be better served. Such combination must be approved by the commissioner when the state contributes to the salary of such office. (R. S. c. 22, § 35. 1945, c. 351, § 2.)

Sec. 47. Boards of health.—Any municipality may appoint, in addition to the local health officer, a board of health consisting of 3 members besides the local health officer, one of whom shall be a physician if available in the community, and one a woman. When first appointed members of the board shall be appointed one for 1 year, one for 2 years and one for 3 years. Subsequent appointments shall be for 3-year terms.

The local health officer shall be secretary ex officio of said board and keep a record of all proceedings. The local board of health shall constitute an advisory body to the local health officer. (1945, c. 351, § 3.)

Sec. 48. Duties.—The local health officer shall, in a book kept for that purpose, make and keep a record of all the proceedings and of all the transactions, doings, orders and regulations of himself as health officer. Said local health officers shall assist in the reporting, prevention and suppression of diseases and all conditions dangerous to health, and shall be subject to the supervision and direction of the department.

The local health officer shall guard against the introduction of contagious and

infectious diseases, by the exercise of proper and vigilant medical inspection and control of all persons and things coming within the limits of his jurisdiction from infected places, or which for any cause are liable to communicate contagion; give public notice of infected places by displaying red flags or by posting placards on the entrances of the premises; require the isolation of all persons and things that are infected with, or have been exposed to, contagious or infectious diseases, and provide suitable places for the reception of the same; and furnish medical treatment and care for persons sick with such diseases who cannot otherwise be provided for; prohibit and prevent all intercourse and communication with, or use of, infected premises, places and things, and require and, if necessary, provide the means for the thorough cleansing and disinfection of the same before general intercourse therewith, or use thereof, shall be allowed. He shall report to the department, promptly, facts which relate to infectious and epidemic diseases occurring within the limits of his jurisdiction, and shall report to said department every case of such infectious or contagious diseases as the rules and regulations of said department shall require. Those diseases which the rules and regulations of the department may require to be reported shall be known, under the terms of this chapter, as notifiable diseases. Diseases which the department may promulgate as those which shall be quarantined or isolated shall be known as quarantinable diseases.

The local health officer shall receive and examine into the nature of complaints made by any of the inhabitants concerning nuisances dangerous to life and health within the limits of his jurisdiction; enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and personally, or by appointed agents, inspect and examine the same; and all owners, agents and occupants shall permit such sanitary examinations; and every such health officer shall order the suppression and removal of nuisances and conditions detrimental to life and health found to exist within the limits of his jurisdiction. (R. S. c. 22, § 36.)

Sec. 49. Reports.—The health officer, at least once in each year, shall report to the department his proceedings and such other facts required, on blanks and in accordance with instructions received from said department. He shall also make special reports whenever required to do so by the department. (R. S. c. 22, § 37.)

Sec. 50. Municipalities may combine into districts; state aid.—Subject to the approval of the commissioner, several towns, cities or organized plantations may unite in employing the same local health officer, who shall possess the qualifications enumerated in section 40 or be approved by the commissioner on the basis of experience in public health administration. He shall devote his entire time to the performance of his duties and shall receive 1/3 of his salary, but not more than $800 a year, from the state. (R. S. c. 22, § 38.)

Sec. 51. Notice of existence of any infectious disease.—Whenever any householder knows or has reason to believe that any person within his family or household has smallpox, diphtheria, scarlet fever, cholera, typhus or typhoid fever, cerebrospinal meningitis, measles, membraneous croup, so called, whooping cough or any other disease which is made notifiable by the rules and regulations of the department, he shall, within 24 hours, give notice thereof to the health officer of the town in which he resides, and such notice shall be given either at the office of the health officer, or by letter or telephone, the communication to be mailed or delivered to him within the time above specified, and in case there is no health officer, to the department, either at its office or by communication as aforesaid. (R. S. c. 22, § 39.)

Cited in Anderson v. Portland, 130 Me. 214, 154 A. 572.

Sec. 52. When indigent resident of another town is quarantined,

notice to responsible town.—Whenever the local health officer, or, if there is none, any selectman is informed that a person who is a charge on another town is suspected of having a communicable or infectious disease, he shall notify the town or towns that may be charged with the expenses necessary for his care within 10 days. (R. S. c. 22, § 40.)

Sec. 53. Infected person not removed without permission of local health officer.—No householder in whose dwelling there occurs any of the notifiable diseases shall permit any person suffering from any such disease or any clothing or other property to be removed from his house without the consent of the local health officer, and the said health officer shall prescribe the conditions of removal. (R. S. c. 22, § 41.)

Sec. 54. Children, affected, shall not attend school, etc.—No parent, guardian or other person shall carelessly carry about children or others affected with infectious diseases, or knowingly or willfully introduce infectious persons into other persons' houses, or permit such children under his care to attend any school, theatre, church or any public place. (R. S. c. 22, § 42.)

Sec. 55. Persons affected with smallpox, etc., shall not mingle with the public.—No person afflicted with smallpox, scarlet fever, diphtheria, pulmonary tuberculosis or any infectious or communicable disease so defined under the rules and regulations of the bureau of health, shall mingle with the general public until such time as such person has become noninfectious or has complied with the regulations of the department for control of the disease with which such person may be afflicted.

Any person who is or has been in direct contact with a person afflicted with any disease as above stated shall comply with the rules and regulations of the department, now in effect or hereafter adopted, concerning quarantine or necessary measures to render such contacts noninfectious. Nothing herein shall be construed to affect the provisions of section 41. (R. S. c. 22, § 43.)

Sec. 56. Convalescents and nurses not to leave premises without certificate from local health officer.—Persons recovering from smallpox, scarlet fever, diphtheria or other diseases for which disinfection may be required by the department and nurses who have been in attendance on any person suffering from any such disease shall not leave the premises until they have received from the local health officer a certificate that they have taken such precautions as to their persons, clothing and all other things which they propose bringing from the premises as are necessary to insure the immunity from infection of other persons with whom they may come in contact, and no such person shall expose himself in any public place, shop, street, inn or public conveyance without having first adopted such precautions. (R. S. c. 22, § 44.)

Sec. 57. Children who have been exposed to contagion excluded from public schools.—Whenever smallpox, diphtheria, scarlet fever or other contagious disease shall appear in a town, the local health officer shall immediately notify the teachers of the public schools in the neighborhood of the fact, and all teachers and school officers when thus notified, or when otherwise they shall know or have good reason to believe that any such disease exists in any house in the neighborhood, shall exclude from the schoolhouse all children and other persons living in such infected houses or who have called or visited at such houses, until such time as the local health officer shall certify that such children or other persons may safely be readmitted. (R. S. c. 22, § 45.)

Sec. 58. Persons infected not allowed to enter any conveyance without notice to owner.—No person having smallpox, diphtheria, scarlet fever, cholera or other disease dangerous to public health shall enter, nor shall any person allow anyone under his charge who has any such disease to enter, any con-

veyance without having previously notified the owner or person in charge of such conveyance of the fact of his having such disease. (R. S. c. 22, § 46.)

Sec. 59. When such conveyance has been so used, it shall be disinfected.—The owner or person in charge of any such conveyance shall not, after the entry of any person so infected into his conveyance, allow any other person to enter it, without having sufficiently disinfected it under the direction of the local health officer. (R. S. c. 22, § 47.)

Sec. 60. Precautions against infected persons.—When any person is or has recently been infected with any disease or sickness dangerous to the public health, the local health officer of the town where he is shall provide for the safety of the inhabitants, as he thinks best, by removing him to a separate house, if it can be done without great danger to his health, and by providing nurses and other assistants and necessaries, at his charge or that of his parents, if able. (R. S. c. 22, § 48.)

History of section.—See Eden v. Southwest Harbor, 108 Me. 489, 81 A. 1003.

Section constitutional.—It is very clear and well settled that this section is not obnoxious to the constitution. It is unquestionable that the legislature can confer police powers upon public officers for the protection of the public health. Haverty v. Bass, 66 Me. 71.

Object of section.—The primary object of this section appears to have been the protection of the people against contagious sickness. Kennebunk v. Alfred, 19 Me. 221.

This section has never been one of the pauper statutes, enacted for the relief of the poor. In case of an infectious disease or one dangerous to the public health, local health officers are given these powers and duties in order not merely to relieve the patient, but "to provide for the safety of the inhabitants." The assistance rendered and the expenses incurred are in no sense pauper supplies. They need not be applied for by the pauper himself nor by some one authorized by him, and no notice need be given to the town where the patient has his pauper settlement. The health officers have full power to act when the emergency arises and it is outside the jurisdiction of the overseers of the poor. Eden v. Southwest Harbor, 108 Me. 489, 81 A. 1003.

And town not authorized to recover expenses from another town.—This section empowers health officers to make provision for the preservation of the inhabitants, and for the removal of the sick into separate houses, but does not authorize the town to recover the expenses incurred for these purposes from another town. Kennebunk v. Alfred, 19 Me. 221.

This section is not applicable to a case of insanity. Casco v. Limington, 102 Me. 37, 65 A. 523.

Health officer acts in fiduciary capacity.—In making the provisions of this section for the care of a person placed in quarantine, the health officer acts in a fiduciary capacity. His contracts therefor impose upon others the burden of paying the expenses thereby incurred. He is a public officer clothed by the legislature with power to incur expenses for others to pay. The law requires of him perfect fidelity in the exercise of that power, and whatever has a tendency to prevent his exercise of such fidelity is contrary to the policy of the law, and should not be recognized as lawful and enforceable through the administration of the law. Lesieur v. Rumford, 113 Me. 317, 93 A. 838.

Patient liable for expenses only if able to pay entire amount.—By this section, the expenses of nurses and other assistants and necessaries are chargeable to the patient if he is able to pay them. If he is not able to pay them the section imposes no liability upon him. It does not make him chargeable for such portions of the expenses as he is able to pay, if not able to pay the whole amount. Orono v. Peavey, 66 Me. 60.

When a person is quarantined under this section and furnished medical attendance, he becomes liable to reimburse the town, "if able." But if he is not able to pay the full amount of the expense incurred, he is not chargeable with any part of it. Greenville v. Beauto, 99 Me. 214, 58 A. 1026.

At time expenses incurred.—The liability contemplated by this section is fixed and definite, and not contingent and uncertain. It has reference to the time when the expenses are incurred. The patient is not chargeable until he is "able"

and it follows that if he is not "able" at the time the expenses are incurred, he is not chargeable at any time afterwards. Greenville v. Beauto, 99 Me. 214, 58 A. 1026.

The legislature did not intend the question of liability to depend upon the narrow and often inperceptible balance between the earnings and expenses of a laboring man. Such a test would be both uncertain and unsatisfactory. The only reasonable test is the existing financial ability to pay at the time the expenses were incurred. Greenville v. Beauto, 99 Me. 214, 58 A. 1026.

And no implied promise to pay for services while in involuntary quarantine.— Where a person is quarantined under this section to provide for the safety of the inhabitants of the town and prevent the spread of a contagious disease, and not by his own request or consent, and supplies are furnished while he is removed from his house and under the control of the officers of the town, the law will not imply a promise by him to pay for the supplies furnished. Orono v. Peavey, 66 Me. 60.

The power committed to health officers by this section is, in the terms of the section, unconditional. It is not qualified by any other section. On the contrary, enlarged powers are given to such officers by other provisions of this chapter. Haverty v. Bass, 66 Me. 71.

And the power of removal granted by this section can be legally exercised without the use of the warrant described in § 78, and health officers who, without such warrant, remove a sick person against his will, are not trespassers. Haverty v Bass, 66 Me. 71. See notes to § 78.

Applied in Hampden v. Newburgh, 67 Me. 370; Machias v. Wesley, 99 Me. 17, 58 A. 240.

Cited in Machias v. East Machias, 116 Me. 423, 102 A. 181.

Sec. 61. Local health officer to assist persons placed in quarantine; expenses incurred charged to town.—Whenever any person or family is placed in quarantine by a local health officer to protect the public against smallpox, scarlet fever, diphtheria or any other dangerous or contagious disease, said local health officer shall assist such person or family, if indigent or in a needy condition while in quarantine, in such a manner as in his judgment may be deemed wise and necessary.

All expenses for medical care and medicine, including antitoxin, incurred in carrying out the provisions of this section, or incurred in furnishing families or persons affected with tuberculosis with supplies needed to prevent the spread of infection, shall be deemed a legitimate expenditure for the protection of the public health and shall be charged to the account of incidental expenses of the town, but not to any pauper account, nor shall any person so quarantined and assisted be considered a pauper, or be subject to disfranchisement for that cause, unless such persons are already paupers as defined in the revised statutes. All other expenses may be recovered from the person quarantined, or whose family is quarantined or from his parents, if able; otherwise from the town in which he has legal settlement. The provisions of this section shall not release the state from the obligations which are imposed upon it by sections 21 to 24, inclusive, of chapter 94. (R. S. c. 22, § 49.)

This section relates to the public health and the prevention of contagious diseases. It affects the affluent as well as the destitute and it is expressly provided that supplies furnished thereunder shall not be charged to the pauper account but to the incidental expenses of the town. They are in no sense pauper supplies. Machias v. East Machias, 116 Me. 423, 102 A. 181.

History of section.—See Eden v. Southwest Harbor, 108 Me. 489, 81 A. 1003.

Applied in Ellsworth v. Bar Harbor, 122 Me. 356, 120 A. 50; Ellsworth v. Waltham, 125 Me. 214, 132 A. 423.

Quoted in part in Lesieur v. Rumford, 113 Me. 317, 93 A. 838.

Cited in Anderson v. Portland, 130 Me. 214, 154 A. 572.

Sec. 62. Precautions against persons arriving from infected places; restrictions.—When an infectious or malignant distemper is known to exist in any place out of the state, the local health officer of any town in the state may, by giving such public notice therein as he finds convenient, require any person coming from such place to inform him or the town clerk of his arrival and from what place he came; and if he does not, within 2 hours after arrival, or after

actual notice of such requirement, give such information, he forfeits $100 to the town.

The local health officer may prohibit any such person from going to any part of his town where he thinks that the presence of such person would be unsafe for the inhabitants; and if he does not comply, the health officer may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road which he directs; and if such person neglects or refuses to do so, any justice of the peace or judge or recorder in the county, on complaint of said local health officer, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the state; and if during the prevalence of such distemper in the place where such person resides, he returns to any town in the state without the license of its local health officer, he forfeits not more than $100. (R. S. c. 22, § 50.)

See c. 100, § 6, re forfeitures inure to town where offense is committed.

Sec. 63. Precautions authorized in border towns.—The local health officer of any town near or adjoining the state line may, by writing under his hand, appoint suitable persons to attend at any places by which travelers may pass into such town from infected places in other states or provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by said local health officer; and any such passenger who without such license travels in this state, except to return by the most direct way to the state or province whence he came, after he has been cautioned to depart by the persons so appointed, forfeits not more than $100. (R. S. c. 22, § 51.)

See c. 100, § 6, re forfeitures inure to town where offense is committed.

Sec. 64. Antitoxin, vaccines and drugs, in certain cases, furnished free.—To provide for the control of diphtheria and other contagious diseases, the local health officer shall furnish antitoxin, vaccines, drugs and necessary medical attention free to all indigent persons suffering from such diseases at the expense of the town, in such manner as the department may direct.

If the health officer fails to furnish the supplies as provided in this section, the state may do so and charge the account to the town. (R. S. c. 22, § 52.)

Sec. 65. Medical supplies to indigent nonresidents. — The local health officer in any town furnishing an indigent person, having pauper settlement in another town, antitoxin or other medical supplies shall be reimbursed by the town in which the patient has pauper settlement. The state shall reimburse cities or towns furnishing such supplies to any person having no legal settlement in any city or town within the state. (R. S. c. 22, § 53.)

Quoted in part in Eden v. Southwest Harbor, 108 Me. 489, 81 A. 1003.

Infectious Diseases. General Provisions.

Sec. 66. Free vaccination annually.—The local health officer of each city, town and plantation shall annually on a day or days specified by him during the month of March, or oftener if he deems it prudent, provide for the free vaccination with cowpox of all inhabitants within his jurisdiction; and shall provide for free inoculation with suitable material against diphtheria and whooping cough of all children under 12 years of age at a time specified by him, not less than 1 month preceding the fall opening of public schools. Vaccinations and inoculations shall be done under the care of skilled, practicing physicians and under such circumstances and restrictions as the health officer may adopt therefor, not contrary to law or in violation of any regulations of the department of health and welfare.

The health officer is authorized and empowered to arrange with any available, skilled, practicing physician for the purpose of carrying out the provisions of this section, and when he deems it necessary for the proper discharge of his duties as outlined in section 48, anything in any city charter to the contrary notwithstanding.

The municipal officers of cities, towns and plantations shall approve, and the cities, towns and plantations shall pay any reasonable bills or charges incident to the foregoing when approved by the local health officer.

Nothing in this section is to be interpreted so as to relieve the local health officer or any selectman of the duty imposed by section 52. (R. S. c. 22, § 54. 1947, c. 173.)

Sec. 67. Distribution of antitoxins in time of emergency.—The department, with the approval of the governor and council may, for the purpose of aiding in national defense in case of war or in any state emergency declared by the governor under the provisions of the civil defense law, procure and distribute within the state, and sell or give away, in its discretion, antitoxins, serums, vaccines, viruses and analogous products applicable to the prevention or cure of disease of man. (1951, c. 135.)

Sec. 68. Physician shall give notice of existence of contagious disease.—Whenever any physician knows or has reason to believe that any person whom he is called upon to visit has or is infected with any of the notifiable diseases, such physician shall forthwith give notice thereof to the local health officer of the town in which such person lives, except that venereal diseases shall be reported in the manner set forth in section 110. Any local health officer in the state, who shall have knowledge of any violation of the provisions of this section occurring within the jurisdiction of his town, shall forthwith give notice thereof in writing and of all facts within his knowledge in relation thereto to the county attorney of the county in which such violation has occurred, and said county attorney shall thereupon examine into the case and take such action in the matter as the circumstances of the case require. (R. S. c. 22, § 61. 1945, c. 295.)

Infectious Diseases, Persons, Places and Articles. Prevention.

Sec. 69. Notice to owner of any infected house, etc., requiring disinfecting.—When any local health officer is of opinion that the cleansing and disinfecting of any house, building, car, vessel or vehicle, or any part thereof, and of any article therein likely to contain infection, would tend to prevent or check infectious disease, such local health officer shall give notice in writing to the owner, agent or occupier of such house, building, car, vessel or vehicle, or part thereof, requiring him to cleanse and disinfect to the satisfaction of the health officer, such house, building, car, vessel or vehicle, and said articles within a time specified in such notice.

If the person to whom notice is given fails to comply therewith, he shall be punished by a fine of not less than $5, nor more than $10, for every day during which he continues to make default; and the local health officer shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent or occupier in default, by an action of special assumpsit. (R. S. c. 22, § 62.)

Sec. 70. Schoolhouses, when infected, closed. — When persons from houses or places which are infected with any of the diseases for which disinfection may be required by the department have entered any schoolroom, or when, from any other cause, the schoolroom has probably become infected, the teacher shall dismiss the school and notify the school officers and local health

officer, and no school shall be again held in such school room until the room has been disinfected to the satisfaction of the local health officer, and the school officers and health officer shall cause the room to be disinfected as soon as possible. (R. S. c. 22, § 63.)

Sec. 71. When any place unfit for occupancy, notice to owner to cleanse; if refusal, cleansed at owner's expense.—The local health officer, when satisfied upon due examination, that a cellar, room, tenement or building in his town, occupied as a dwelling place, has become, by reason of want of cleanliness or other cause, unfit for such purpose and a cause of sickness to the occupants or the public, may issue a notice in writing to such occupants, or the owner or his agent, or any one of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the local health officer may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the local health officer may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling place until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied without putting the same in proper sanitary condition, he shall forfeit not less than $10, nor more than $50. (R. S. c. 22, § 64.)

Sec. 72. Where contagion existed, houses disinfected. — No person shall let or hire any house or room in a house in which any of the diseases have existed for which disinfection may be required by the department, without having caused the house and the premises used in connection therewith to be disinfected to the satisfaction of the local health officer. (R. S. c. 22, § 65.)

Sec. 73. Disinfection, excreta, bedding, etc.—Nurses and other attendants upon persons sick with smallpox, scarlet fever, diphtheria or other quarantinable disease shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be ordered in writing by the local health officer. (R. S. c. 22, § 66.)

Sec. 74. Use of bedding and clothing until disinfected prohibited.—No person shall give, lend, transmit, sell or expose any bedding, clothing, furniture or other article which has been used by persons affected with smallpox, scarlet fever, diphtheria or other disease for which disinfection may be required by the department, or from rooms which have been occupied by such persons, without first having said articles disinfected to the satisfaction of the local health officer. (R. S. c. 22, § 67.)

Sec. 75. Bedding and clothing destroyed.—Any local health officer may direct the destruction of any bedding, clothing or other articles which have been exposed to infection. (R. S. c. 22, § 68.)

Sec. 76. Officers obstructed in performance of duty.—Any health officer or other person employed by the local health officer may, when obstructed in the performance of his duty, call to his assistance any constable or other person he thinks fit, and every such constable or person so called upon shall render assistance. (R. S. c. 22, § 69.)

Sec. 77. Penalties. — Whoever willfully violates any provision of section 45, sections 48 to 51, inclusive, sections 53 to 59, inclusive, and sections 68 to 76, inclusive, or of said regulations and by-laws, or neglects or refuses to obey any order or direction of any local health officer authorized by said provisions, the penalty for which is not herein specifically provided, or willfully interferes with any person or thing to prevent the execution of the provisions of said sec-

tions or of said regulations and by-laws shall be punished by a fine of not more than $50, or by imprisonment for not more than 6 months, or by both such fine and imprisonment; judges of municipal courts shall have jurisdiction, original and concurrent with the superior court, of all offenses under said sections. (R. S. c. 22, § 70.)

Removal of Infected Persons and Goods.

Cross Reference.—See c. 100, § 6, re forfeitures under §§ 78-87 inuring to town.

Sec. 78. Removal or separate accommodations of infected persons.—Upon complaint made to any trial justice or judge of a municipal court, such trial justice or judge of a municipal court may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the local health officer of the town where he is; or to impress and take convenient houses, lodgings, nurses, attendants and other necessaries for the accommodation, safety and relief of the sick, or for the protection of the public health. (R. S. c. 22, § 134.)

Section constitutional.—It is very clear and well settled that this section is not obnoxious to the constitution. It is unquestionable, that the legislature can confer police powers upon public officers, for the protection of the public health. Haverty v. Bass, 66 Me. 71.

This section was designed not to cripple and impair the powers conferred upon health officers under § 60, but to make such powers more effectual. It gives health officers extra means wherewith to execute the authority entrusted to them. It enables them to command the services of others. It might be difficult to obtain the necessary assistance in an undertaking so hazardous to health. But, by means of a warrant, they can compel executive officers to act. They can remove a sick person without the aid of a warrant, or they can use that instrumentality to enforce obedience to their commands, if a resort to such means of assistance becomes necessary. Haverty v. Bass, 66 Me. 71. See note to § 60.

Health officer has no authority to take possession of building for use as hospital—The officers of a city, acting within the scope of their official duties as defined by the laws of the state, cannot bind the city to pay rent or damages by taking possession of a house and using it for a hospital for smallpox patients under this section. No power is given by the officers of a town or city to impress any building for a hospital—that power being conferred only upon the trial justice or judge of the municipal court. Lynde v. Rockland, 66 Me. 309.

Compensation for premises impressed.—See § 83 and note.

Cited in Mitchell v. Rockland, 45 Me. 496.

Sec. 79. Securing infected articles.—When on application of the local health officer of a town it appears to any trial justice or judge of a municipal court that there is just cause to suspect that any baggage, clothing or goods therein are infected with any malignant contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as said trial justice or judge thinks necessary, to secure such infected articles, and to post said men as a guard over the place where the articles are lodged, who shall prevent any persons from removing or approaching such articles, until due inquiry is made into the circumstances. (R. S. c. 22, § 135.)

Sec. 80. Safekeeping of infected articles ordered by warrant.—Any trial justice or judge of a municipal court may by the same warrant, if it appears to him necessary, require said officer, under the direction of the local health officer, to impress and take convenient houses or stores for the safekeeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the local health officer thinks that they are free from infection. (R. S. c. 22, § 136.)

Sec. 81. Powers of officers in executing such process.—Said officer, if need be, may break open any house, shop or other place mentioned in the war-

rant, where infected articles are, and require such aid as is necessary to execute it; and any person who, at the command of any such officer, fails to assist in such execution shall be punished by a fine of not more than $10. (R. S. c. 22, § 137.)

Sec. 82. Expenses.—The charges for securing such infected articles and of transporting and purifying them shall be paid by the owners thereof, at the price determined by the local health officer. (R. S. c. 22, § 138.)

Sec. 83. Compensation for men or property impressed.—When the officer impresses or takes any house, store, lodging or other necessaries, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed. (R. S. c. 22, § 139.)

Trespass cannot be maintained against city.—A plaintiff desiring compensation when his premises have been impressed under § 78 should sue in assumpsit with the proper averments to establish the legal liability of the city to pay the rent or just compensation. No action of trespass against the city can be maintained in such a case. Lynde v. Rockland, 66 Me. 309.

Stated in Brown v. Vinalhaven, 65 Me. 402.

Sec. 84. Removal of infected prisoners from places of confinement.—When any person in a jail, house of correction or workhouse is attacked with a disease which the local health officer of his town, by medical advice, considers dangerous to the safety and health of other prisoners or of the inhabitants of the town, he shall, by his order in writing, direct his removal to some place of safety, there to be securely kept and provided for until his further order; and if he recovers from such disease, he shall be returned to his place of confinement. (R. S. c. 22, § 140.)

Sec. 85. Order for removal; removal, not an escape.—If any person was committed under the provisions of the preceding section by an order of court or judicial process, the order for his removal, or a copy thereof attested by the local health officer, shall be returned by him with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape. (R. S. c. 22, § 141.)

Sec. 86. Removal of private nuisances.—When any source of filth or other cause of sickness is found on private property, the owner or occupant thereof shall, within 24 hours after notice from the local health officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits not exceeding $100; and said local health officer shall cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it. (R. S. c. 22, § 142.)

Cross references.—See c. 100, § 54, re lunch wagons; c. 141, § 23, re steam engines, etc., as nuisances.

Remedy is against either owner or occupant.—The remedy against the owner or occupant provided for in this section is construed to be against either at the option of the officer, as he should decide as to the responsibility of the respective parties. Bangor v. Rowe, 57 Me. 436.

And fact of lease is no defense in proceeding against owner.—In a proceeding against the owner of premises to recover the expenses of removing the nuisance, it is no defense that the premises were leased to certain individuals, who created or suffered the nuisance, for whose acts the owner is not responsible. Bangor v. Rowe, 57 Me. 436.

Filth must be "cause of sickness."—In an action to recover the forfeiture under this section, it must be alleged that the filth found upon the defendant's property is a "cause of sickness," as described in the section. That the filth is declared to be a "menace to the public health of the people" of the city is not sufficient. Rockland v. Farnsworth, 87 Me. 473, 32 A. 1012.

This section is aimed at "causes of sick-

ness." Filth upon private property may be a cause of sickness or may not. If it is, the owner of the property must remove the filth upon notice. If it is not, he cannot be required to remove it under this section. That it is a "cause of sickness" is the occasion for its removal. That it is a "cause of sickness" should be alleged in the declaration for the penalty for non-removal. Rockland v. Farnsworth, 87 Me. 473, 32 A. 1012.

A city can maintain an action of debt for the forfeiture under this section and need not leave it to be recovered for the city's benefit by the state by indictment. Rockland v. Farnsworth, 87 Me. 473, 32 A. 1012.

In giving to the town, in compensation for a local duty, the forfeiture resulting from a local offense giving rise to that duty, the legislature must be held to have given the right to recover the forfeiture by the customary form of action, otherwise the gift would be unavailing. Rockland v. Farnsworth, 87 Me. 473, 32 A. 1012.

Each town to execute section within its limits.—It seems to be the clear intent of the legislature that each town should execute this section within its limits; and for that purpose, and as partial compensation for the expense, should have all the forfeitures imposed by the section for offenses within the town. Rockland v. Farnsworth, 87 Me. 473, 32 A. 1012.

Stated in Brightman v. Bristol, 65 Me. 426.

Sec. 87. Depositing carcass of dead animal where it may cause nuisance.—Whoever personally or through the agency of another leaves or deposits the carcass of a dead horse, cow, sheep, hog or of any other of the larger domestic animals in any place where it may cause a nuisance shall, upon receiving a notice to that effect from the local health officer, promptly remove, bury or otherwise dispose of such carcass, and if he fails to do so within such time as may be prescribed by the local health officer, and in such manner as may be satisfactory to such health officer, he shall be punished by a fine of not less than $5, nor more than $25, or by imprisonment for not more than 1 month. (R. S. c. 22, § 143.)

Occupational Diseases.

Cross Reference.—See c. 31, §§ 57-71, re Occupational Disease Law.

Sec. 88. Reports from physicians.—Every physician attending upon or called to visit a person whom he believes to be suffering from poisoning from lead, phosphorus, arsenic or mercury or their compounds, or from anthrax, or from compressed air illness, or any other ailment or disease contracted as a result of such person's occupation or employment shall, within 10 days after his first attendance upon such person, send to the department a written notice stating the name, post-office address and place of employment of such person, the nature of the occupation and the disease or ailment from which, in the opinion of the physician, the person is suffering, with such other specific information as may be required by the department. (R. S. c. 22, § 71.)

Sec. 89. Lead poisoning.—In like manner as is provided in the preceding section, every case of lead poisoning and of suspected lead poisoning, which has resulted from the use of water which contains lead or is suspected of containing lead, shall be reported to the department; and when such reports are received, the said department shall assist, by laboratory work and otherwise, the attending physician to determine whether the case is one of lead poisoning, and if so, the source of the poison. (R. S. c. 22, § 72.)

Sec. 90. Penalty; prosecutions.—Any physician who fails to perform the duty imposed by the 2 preceding sections within the time therein limited shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than $5, nor more than $10. The department and the county attorney of the county wherein any such physician resides shall prosecute all violations of said sections which shall come to the knowledge of them or either of them. (R. S. c. 22, § 73.)

Alcoholism.

Sec. 91. Alcoholism.—Alcoholism is declared to be an acute problem requiring such efforts as may reasonably be made in the treatment thereof. The department is authorized to take such action as it may deem necessary to assist in bringing about the reduction in alcoholism. (1953, c. 270, § 1.)

Sec. 92. Advisory committee.—An advisory committee, as heretofore established, shall be appointed by the governor, with the advice and consent of the council, to advise and consult with the department of health and welfare in carrying out the administration of section 91. The committee shall consist of 7 members and shall include the commissioner of health and welfare ex officio. The chairman shall be appointed by the governor. Each member shall hold office for a term of 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Committee members, while serving on business of the committee, shall receive no compensation but shall be entitled to receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. The committee shall meet as frequently as the chairman deems necessary but not less than once each year. (1953, c. 270, § 1-A.)

Tuberculosis.

Cross Reference.—See c. 100, § 6, re forfeitures under §§ 93-103 inuring to towns.

Sec. 93. Tuberculosis declared infectious; duty of physicians and others.—Tuberculosis is declared to be an infectious and communicable disease, dangerous to the public health. Every physician in the state shall report in writing to the local health officer within 48 hours after the fact comes to the knowledge of said physicians, the name, age, sex, color, occupation, place where last employed, if known, and address of every person known by said physician to have tuberculosis. Such report shall be made on forms furnished by the department.

The name of the householder, where the tuberculous person lives or boards, and such other facts as may be called for on the blank reports so furnished shall also be included in the report. The chief officer having charge for the time being of any hospital, dispensary, asylum, sanatorium or other similar private or public institution in the state shall report to the department in like manner the name, age, sex, color, occupation, place where last employed, if known, and previous address of every patient having tuberculosis who comes into his care or under his observation, within 48 hours thereafter. Such physician or chief officer shall also give notice to the department of the change of address of any tuberculous patient who is, or has lately been under his care, if he is able to give such information. (R. S. c. 22, § 74.)

Cross references.—See § 384, re town and city clerks to send copy of certificate of death from tuberculosis to health officer; c. 27, § 14, re inmates of state prison and other institutions may be transferred to sanatorium; c. 100, § 7, re sanatorium prohibited unless approved.

Cited in Machias v. East Machias, 116 Me. 423, 102 A. 181.

Sec. 94. Tuberculous persons registered.—The department shall keep a register of all persons in the state who are known to be affected with tuberculosis. The department shall have sole and exclusive control of said register, and shall not permit inspection thereof nor disclose any of its personal particulars, except to its own agents or to local officials when in the interest of the public health and safety it is deemed necessary to do so. (R. S. c. 22, § 75.)

Sec. 95. Notice of vacancy.—Whenever any apartment or premises are vacated by the death or removal therefrom of a person having tuberculosis, the

attending physician, or if there be no such physician or if the physician be absent, the owner, lessee, occupant or other person having charge of said apartments or premises shall notify the local health officer of the town of said death or removal within 24 hours thereafter, and such apartments or premises so vacated shall not again be occupied until duly disinfected, cleansed or renovated as hereinafter provided. (R. S. c. 22, § 76.)

See c. 41, § 61, re notice of disease of any child to parents or guardians by school committee.

Sec. 96. Infected articles disinfected. — When notified as provided in the preceding section that any apartments or premises have been vacated, the local health officer or his agent shall within 24 hours thereafter visit said apartments or premises, and shall order and direct that, except for the purposes of cleansing or disinfection, no infected article shall be removed therefrom until properly and suitably cleansed or disinfected; and said local health officer shall determine the manner in which such apartments or premises shall be disinfected, cleansed or renovated in order that they may be rendered safe and suitable for occupancy. If the local health officer determines that disinfection is sufficient to render them safe and suitable for occupancy, such apartments or premises, together with all infected articles therein, shall immediately be disinfected by said health officer at public expense, or if the owner prefers, by the owner at his expense, to the satisfaction of the local health officer; but the methods or processes of disinfection and the material or agencies with which it shall be done shall be those which are advised by the department for work of that kind in connection with tuberculosis. (R. S. c. 22, § 77.)

Sec. 97. When orders of local health officer are not obeyed. — In case the orders or directions of the local health officer requiring the disinfection, cleansing or renovation of any apartments or premises or any articles therein, as hereinbefore provided, shall not be complied with within 48 hours after such order or directions shall be given, the health officer may cause a placard in words and form substantially as follows to be placed upon the door of the infected apartments or premises:

"Tuberculosis is a communicable disease. These apartments have been occupied by a consumptive and may be infected. They must not be occupied until the order of the health officer directing their disinfection or renovation has been complied with. This notice must not be removed under penalty of the law except by the local health officer or other duly authorized official." (R. S. c. 22, § 78.)

Sec. 98. Tuberculous persons to exercise care; duty of local health officer.—Any person having tuberculosis, who shall dispose of his sputum, saliva or other bodily secretion or excretion so as to cause offense or danger to any person or persons in the same room or apartment, house or part of a house, shall, on complaint of any person or persons subjected to such offense or danger, be deemed guilty of a nuisance; and any person subjected to such a nuisance may make complaint in person or writing to the local health officer of any town where the nuisance complained of is committed. The local health officer upon receiving such complaint shall investigate, and if it appears that the nuisance complained of is such as to cause offense or danger to any person in the same room, apartment, house or part of a house, he shall serve a notice upon the person so complained of, reciting the alleged cause of offense or danger, and requiring him to dispose of his sputum, saliva or other bodily secretion or excretion in such manner as to remove all reasonable cause of offense or danger. Any person failing or refusing to comply with orders or regulations of the local health officer of any town, requiring him to cease to commit such nuisance, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $10. (R. S. c. 22, § 79.)

Sec. 99. Duty of physician.—Any physician attending a patient having tuberculosis shall take all proper precautions and shall give proper instructions to provide for the safety of all individuals occupying the same house or apartment, and if no physician be attending such patient, this duty shall devolve upon the local health officer; all duties imposed upon physicians by the provisions of sections 93 to 103, inclusive, shall be performed by the local health officer in all cases of tuberculosis not attended by a physician, or when the physician fails to perform the duties herein specified, and shall so report. (R. S. c. 22, § 80.)

Sec. 100. Precautionary measures; needy patients.—Precautionary measures carried out by physicians, local health officers and others to prevent the transmission of infection to other persons shall be in accordance with the advice given by the department in its printed circulars, and reports to the department shall include a statement of what procedures and precautions have been taken to prevent the spread of infection. In cases of needy patients, who are not able to provide themselves with proper supplies or material in the opinion of the attending physician needed to prevent the communication of infection, the physician may send a requisition to the local health officer of the town in which the tuberculous patient lives, for such supplies and material to aid him in preventing the spread of the disease, and all local health officers shall honor, so far as possible, any requisition signed by the attending physician, and the bill for these supplies shall be paid by the town. (R. S. c. 22, § 81.)

Sec. 101. Recoveries reported.—Upon the recovery of any person having tuberculosis, the attending physician shall make a report of this fact to the department, which shall record the same in the records of its office, and shall relieve said person from further liability to any requirements imposed by the 8 preceding sections. (R. S. c. 22, § 82.)

Sec. 102. Penalty.—Any person violating any provision of the 9 preceding sections shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished, except as herein otherwise provided, by a fine of not less than $5, nor more than $50. (R. S. c. 22, § 83.)

Sec. 103. False statement by physician.—Any physician who shall knowingly report as affected with tuberculosis any person who is not so affected, or who shall willfully make any false statement concerning the name, age, sex, color, occupation or other facts called for on the blanks prepared by the department of any person reported as affected with tuberculosis, or who shall certify falsely as to any of the precautions taken to prevent the spread of infection, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $100. (R. S. c. 22, § 84.)

Sec. 104. Investigation of suspected cases of tuberculosis or glanders in domestic animals.—Whenever a local health officer has notice of, or suspects the existence of, a case of tuberculosis or glanders in domestic animals, such officer shall forthwith investigate or cause to be investigated the truth of such notification or the grounds of such suspicion; and if there appear to be good grounds for believing that such disease is present, the local health officer shall notify the commissioner of agriculture, reciting in said notification the grounds for his belief or suspicion. (R. S. c. 22, § 85.)

Sec. 105. Control of tuberculosis. — The department is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever said department has cause to believe that any person is infected with tuberculosis so as to expose others to the dangers thereof, said department by its representative shall petition a justice of the superior court in the county where said person resides or is found, setting forth said facts and requesting an examination of such person. Said justice, in

term or vacation, may order such notice thereon as he may deem proper for such person to appear and answer thereto. Upon hearing, if said justice finds cause to believe that such person is so infected, he may issue an order requiring said person to be examined by a board of 3 physicians licensed to practice in this state at the expense of said department. Said board shall be comprised of the superintendent of one of the state sanatoriums, a physician chosen by the person suspected of having tuberculosis and the third appointed by the justice. The board shall make a report to the justice within the time designated by him. Upon receipt of said report the court may issue such order as the circumstances of the case warrant.

Either party may appeal the finding or the order to the next term of the supreme judicial court.

The court may use all necessary legal processes to carry its decrees into effect. (1949, c. 208, § 1.)

Cancer Control.

Sec. 106. Cancer control.—The department is authorized to make investigations concerning cancer, the prevention and treatment thereof, and the mortality therefrom; and to take such action as it may deem will assist in bringing about a reduction in the mortality due thereto. (R. S. c. 22, § 86.)

Venereal Diseases.

Sec. 107. Venereal diseases; acceptance of provisions of federal law; federal grants.—The department, through its bureau of health, is authorized to administer a program to extend and improve its services for controlling and eradicating venereal diseases.

The department is authorized to:

I. Apply for federal aid under the provisions of the Venereal Disease Control Act of 1938;

II. Cooperate with the federal government through the United States public health service in matters of mutual concern pertaining to venereal diseases, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;

III. Make such reports in such form and containing such information as the surgeon general of the United States public health service may require, and comply with such provisions as said surgeon general may find necessary to assure the correctness and verification of such reports.

The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of venereal disease services as contemplated by the Venereal Disease Control Act of 1938, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 87.)

Sec. 108. Examination and treatment of gonorrhea and syphilis.—The department shall provide, at the state laboratory of hygiene or elsewhere, facilities for the free bacteriological examination of discharges for the diagnosis of gonorrheal infections, and shall also provide at cost vaccine or antitoxin for the treatment of such infections. Said department shall make at the expense of the state the Wassermann test or its equivalent for the diagnosis of syphilis; and shall furnish the treatment known as Salvarsan or other accredited specific treatment at cost. (R. S. c. 22, § 88.)

Sec. 109. Information concerning venereal diseases in bulletins.—The department shall include in bulletins and circulars distributed by it, information concerning the diseases covered by the preceding section, provided that nothing shall be contained in such bulletins or circulars which will disclose the

identity of the persons suffering from such venereal disease nor the identity of any state-aided, county-aided or municipally-aided charitable institution in which such persons are treated or cared for. (R. S. c. 22, § 89.)

Infectious and Communicable Diseases.

Sec. 110. Definition; duties of physicians and officers of institutions; reports.—Syphilis, gonorrhea, chancroid and lymphogranuloma venereum are declared to be infectious and communicable diseases, dangerous to the public health.

Every physician in the state, within 48 hours of the time the fact comes to the knowledge of said physician, shall report in writing to the bureau of health any person known by said physician to have any of the above diseases, and shall keep a record of such cases by number, and name and address. Such report shall be made on a form furnished and numbered by the bureau of health, which shall state only the age, sex and color of the person infected. In case such person having any of the above-named diseases fails to observe the necessary precautions indicated in the treatment thereof, or in cases where financial obligations for treatment are incurred by the bureau of health, the name and address of such person shall be submitted at once to the bureau of health.

All information and reports concerning persons suffering with venereal diseases shall be made on forms furnished and numbered by the bureau of health, shall be held confidential and shall not be available to any person not an agent of the said bureau, or for any other than a public health purpose.

The chief officer having charge for the time being of any hospital, asylum, dispensary, jail, sanatorium or other similar private or public institution in the state shall report in like manner any cases of the above-named diseases which come into his care or under his observation and shall comply with such rules and regulations as are made by the department to prevent the spread of venereal disease. (R. S. c. 22, § 90.)

See § 68, re contagious diseases; § 113, re penalty; c. 100, § 7, re sanatorium prohibited unless approved.

Sec. 111. Examination requested.—The bureau of health is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever said bureau has cause to believe that any person is infected with any of the above diseases so as to expose others to the dangers thereof, said bureau by its representative shall petition a judge of the municipal court or a justice of the superior court in the county where said person resides or is found, setting forth said facts and requesting an examination of such person. Said judge or justice may order such notice thereon as he may deem proper for such person to appear and answer thereto. Upon hearing, if said court finds cause to believe that such person is so infected, he may issue an order requiring said person to be examined by a licensed physician, at the expense of the bureau; and use all necessary legal processes to carry its decrees into effect. (R. S. c. 22, § 91.)

See § 113, re penalty

Sec. 112. Supervise cure of disease.—It shall be the duty of said bureau, when the report provided for in section 110 or the examination provided for in section 111 reveals that such person has any of the above diseases and has not consulted a physician or has not taken the necessary treatment, to place such person immediately under medical treatment in order to effect a cure. Such treatment shall continue until, in the opinion of the attending physician, the cure of said disease has been effected or is rendered noninfectious.

Nothing in the provisions of sections 110 to 112, inclusive, shall be construed as

denying to any person the right to be examined or treated by a licensed physician of his own choice. (R. S. c. 22, § 92.)

See § 113, re penalty.

Sec. 113. Penalty.—Any person who violates the provisions of sections 110, 111 and 112 shall be punished by a fine of not more than $100, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 22, § 93.)

Prophylactic Rubber Articles.

Sec. 114. Prevention of disease.—No sanitary or prophylactic rubber or other articles for the prevention of venereal diseases shall be sold or otherwise disposed of in this state without a license therefor issued by the bureau of health. (R. S. c. 22, § 94.)

Sec. 115. Licenses.—There shall be 2 kinds of licenses issued by the bureau of health, to wit:

I. Wholesale license;

II. Retail license. (R. S. c. 22, § 95.)

Sec. 116. Wholesale licenses.—Wholesale licenses shall be issued only to wholesale druggists, jobbers or manufacturers and no licensed wholesaler, jobber or manufacturer shall sell any rubber or other articles specified in sections 114 to 126, inclusive, to anyone who is not a duly licensed retailer as herein provided. (R. S. c. 22, § 96.)

Sec. 117. Retail licenses.—Retail licenses shall be issued only to retail drug stores regularly registered and licensed by this state. (R. S. c. 22, § 97.)

Sec. 118. Application for license.—A license provided by sections 114 to 126, inclusive, shall be issued by the bureau of health on written application and payment of the license fee therefor for 1 year by an applicant entitled and qualified hereunder to receive the license asked. (R. S. c. 22, § 98.)

Sec. 119. Fees.—The annual fees for licenses under the provisions of sections 114 to 126, inclusive, shall be: wholesale license $15; retail license $2. All fees received for licenses under the provisions of this section shall be placed in a separate fund and expended for inspection under, and enforcement of, the provisions of sections 114 to 126, inclusive. (R. S. c. 22, § 99.)

Sec. 120. Term of license.—All licenses issued under the provisions of sections 114 to 126, inclusive, shall begin on the 1st day of July in each year and annual fee therefor shall be fully paid before issuance of any license; except when the application for license, accompanied by 50% of the annual license fee shall be made by a qualified applicant hereunder between January 1st and July 1st of any year, the bureau of health shall issue to such applicant a license which shall cover the period from the date of application to the next July 1st. (R. S. c. 22, § 100.)

Sec. 121. Information furnished.—In addition to such other information as the bureau of health may determine shall be furnished in any application for license under sections 114 to 126, inclusive, the following information shall be given under oath, all of which shall be deemed material:

I. The name of the applicant, and if there be more than one and they be partners, the partnership name, age and residence of the several persons so applying, and the facts of his or her citizenship, or if said applicant be a corporation, the names of its officers and board of directors and the state under the laws of which it is organized;

II. The business location, street and number where such business is to be carried on. (R. S. c. 22, § 101.)

Sec. 122. Licenses not transferable.—A license issued to any applicant pursuant to the provisions of sections 114 to 126, inclusive, for certain premises shall not be transferable except on written consent of the bureau of health, and each license issued shall be available only to the person or persons, firm or corporation therein specified and for the premises licensed and for no other. (R. S. c. 22, § 102.)

Sec. 123. License for separate locations.—Any person, firm or corporation eligible for license under the provisions of section 114 and who shall operate his business in more than one location shall secure a separate license for each location where the business specified herein shall be conducted. (R. S. c. 22, § 103.)

Sec. 124. License displayed.—Every holder of a license under the provisions of section 114 shall at all times keep same on display visible for inspection within the place of business for which same is issued. (R. S. c. 22, § 104.)

Sec. 125. Penalty.—Any person or persons, firm, corporation, or any member of a firm, or any officer, director or employee of a corporation who violates any provision of sections 114 to 126, inclusive, shall upon conviction be punished by a fine of not more than $100, or by imprisonment for not less than 30 days, nor more than 90 days. (R. S. c. 22, § 105.)

Sec. 126. Disposition of fines.—When any fines shall be collected from anyone guilty of violating the provisions of sections 114 to 126, inclusive, ½ of any sum collected as such fine shall accrue to the bureau of health and be added to the fund specified in section 119 to be expended for expenses of inspection under, and enforcement of, sections 114 to 126, inclusive. (R. S. c. 22, § 106.)

Premarital Medical Examinations.

Sec. 127. Premarital medical examinations.—Except as herein otherwise provided in sections 128 to 135, inclusive, no application for a marriage license shall be accepted by the town or city clerk unless accompanied by or unless there shall have been previously filed with him a statement or statements signed by a physician duly licensed to practice in the state of Maine, or by a physician duly licensed to practice outside of the state of Maine who is a graduate of a class A medical school, that each applicant has been given a physical examination, including a standard blood test, as required by the bureau of health for the discovery of syphilis, made on a day specified in the statement, which shall not be more than the 30th day prior to that on which the license is applied for, said blood test to be made by the state laboratory or by a hospital laboratory approved by the bureau of health, and that in the opinion of the physician the person therein named is not infected with syphilis, or, if so infected, is not in a stage of that disease whereby it may become communicable. Provided, however, that if it appears from said first test that the applicant is infected with syphilis, every such applicant shall have the right to have a minimum of 3 tests in connection with said application, of which not less than two shall establish the opinion of the physician that such applicant is infected with such venereal disease. Provided further, that in case an application for a marriage license is finally denied, the person making such application may again apply for a marriage license when he or she has reason to believe that the cause for denial no longer exists. (R. S. c. 22, § 107.)

Sec. 128. Waiver on emergency.—Because of emergency or other cause shown by affidavit or other proof, any justice of the superior court or judge of probate, if satisfied that the public health and welfare will not be injuriously af-

fected thereby, may make an order, in his discretion, on joint application of both of the parties desiring the marriage license, dispensing with the requirements of the preceding section as to either or both of the parties, including the laboratory statement specified below, or, if the statement or statements provided for by such section have been filed, extending the 30-day period following the examination and test to not later than a day specified, which, however, shall be not more than 90 days after the examination and test. The order shall be accompanied by a memorandum in writing of the said justice or judge reciting his reasons for granting the order. Application for such extension may be made before or on the expiration of such 30-day period. The order and the accompanying memorandum shall be filed with the town or city clerk, and he then shall accept and consider application for the marriage license without the production or filing of any of the physician's statements dispensed with by the order, or shall accept and consider the application within any such extended period, as the case may be. The clerk shall hold such memorandum of a judge or justice in absolute confidence. (R. S. c. 22, § 108.)

Sec. 129. Physician's statement and laboratory test.—Each physician's statement shall be accompanied by a statement from the person in charge of the laboratory making the test or tests, or from some other person authorized to make such statement, setting forth the name of the test or tests, the date it was completed and the name and address of each person whose blood was tested, but not stating the result of the test or tests. The physician's statement and the laboratory statement shall be on the same form sheet. Upon a separate form a detailed report of the laboratory test or tests, showing the result of the test or tests, shall be transmitted by the laboratory to the physician, who, after examining it, shall file it with the bureau of health, and it shall be held in confidence and shall not be open to public inspection; provided, however, that it may be produced under subpoena in a proceeding upon appeal as provided for in section 134. (R. S. c. 22, § 109. 1945, c. 181.)

Sec. 130. Free blood test for those unable to pay.—A blood sample may be sent to the state laboratory and shall be examined free of charge. An applicant who is unable to pay costs of the physician for taking the blood sample and making required statement may go to any of the established clinics maintained by the state for such examination and certificate or to the town or city physician in the town or city in which said applicant resides, such service to be performed without charge. (R. S. c. 22, § 110.)

Sec. 131. Exception to requirement of physician's certificate.—The physician's certificate as to whether either applicant is infected with communicable syphilis at the time of application for marriage license shall not be required for the granting of such license when the woman states that she is pregnant and the license may be granted whether a report has been received from the laboratory or not and irrespective of what that report shows, but a physician's statement must be filed with the town or city clerk stating that a blood sample has been taken from each applicant. (R. S. c. 22, § 111.)

Sec. 132. Fee.—All fees and charges of any physician making the necessary examination or examinations of and issuing the necessary certificate to any one party, as provided in sections 127 to 135, inclusive, shall not exceed the sum of $3 for each person examined. (R. S. c. 22, § 112.)

Sec. 133. Form sheets, certificates, etc.—The bureau of health shall arrange and provide the form sheets, and certificates required in sections 127 to 135, inclusive, and shall supply without charge such form sheets and certificates upon application to any duly licensed physician in the state. (R. S. c. 22, § 113.)

Sec. 134. Appeal.—When an applicant has been refused a marriage license,

such applicant shall have the right to appeal to the superior court within 90 days from the date of such refusal. The court may try such appeal without the intervention of a jury upon the evidence provided by the certificate or certificates of the medical examiner or examiners, and the decision of such court shall be final. (R. S. c. 22, § 114.)

Cited in In re Hadlock, 142 Me. 116, 48 A. (2d) 628.

Sec. 135. Misrepresentation.—Any applicant for marriage license, any physician or any representative of a laboratory who shall misrepresent any of the facts called for by the physician's statement and the laboratory report or statement, or any town or city clerk who shall issue a license without the required certificate, or any officer of the bureau of health or any employee of said department who shall not hold the laboratory record confidential, except as provided in section 129 with respect to its production for evidence on order of the justice or judge of any court, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than $100, nor more than $500, or by imprisonment for not less than 30 days, nor more than 90 days, in the county jail. (R. S. c. 22, § 115.)

Prenatal Examination.

Sec. 136. Sample of blood for laboratory test.—Every physician attending a woman in the state by reason of her being pregnant during gestation shall in the case of every woman so attended take or cause to be taken, with her consent, a sample of blood of such woman, and submit such sample for a standard serological test for syphilis and R. H. factors to a laboratory of the department or to a laboratory approved for these tests by the department. Such laboratory tests as are required by sections 136 to 139, inclusive, shall be made on request without charge by the department. (R. S. c. 22, § 116. 1953, c. 351, § 1.)

Sec. 137. Standard tests approved by department.—The department is authorized to approve one or more tests for syphilis and R. H. factor which shall be known as standard tests, and may approve and appoint other laboratories in addition to the state laboratory to make such tests. (R. S. c. 22, § 117. 1953, c. 351, § 2.)

Sec. 138. Blood specimens accompanied by information blank; report.—Blood specimens sent to a laboratory in compliance with section 136 shall be accompanied by an information blank which shall contain the initials of the person whose blood is submitted or a number or other suitable means of identification, and also the word "Prenatal" to indicate the purpose of the examination.

If the person in question is found to be infected with syphilis, the physician in charge shall make a report to the bureau of health on a regular blank, supplied by the bureau for the reporting of venereal diseases, adding thereto the word "Prenatal" in addition to such other information as may be indicated on said blanks.

Such reports shall be kept in a special file at the bureau and shall not be considered a public record. However, such reports may be produced in any court procedure where they may be material and relevant on an order of the justice presiding. (R. S. c. 22, § 118.)

Sec. 139. Civil action not maintainable.—No civil action shall be maintainable for failure to comply with the provisions of the 3 preceding sections. (R. S. c. 22, § 119.)

Prevention of Blindness.

Sec. 140. Duty of physician, midwife or nurse.—If one or both eyes of an infant become reddened or inflamed at any time within 4 weeks after birth,

the midwife, nurse or person having charge of said infant shall report the condition of the eyes at once to some legally qualified practitioner of medicine of the town in which the parents of the infant reside. Every physician, midwife or nurse in charge shall instill or cause to be instilled into the eyes of the infant immediately upon its birth 1 or 2 drops of a prophylactic solution prescribed by the department, and provided without cost by the department. Any failure to comply with the provisions of this section shall be punishable by a fine of not more than $100, or by imprisonment for not more than 6 months. (R. S. c. 22, § 120. 1945, c. 180.)

Water Sold for Domestic Purposes or Used in Schools.

Sec. 141. Samples for examination of water sold for domestic purposes; if polluted; cost.—The department may require any person selling water for domestic purposes to furnish samples thereof for chemical and bacteriological examination, and if said water is found to be contaminated, polluted and unfit for domestic use, the department may issue an order prohibiting the transporting, sale, distribution or supplying of such water as long as such contamination, pollution and unfitness remains. The department shall charge the average cost of the analysis for such examination to the person required to have such test made. (R. S. c. 22, § 121. 1949, c. 52.)

Sec. 142. Penalty.—Whoever neglects or refuses to furnish such samples of water or violates or disobeys any order of said department as provided in the preceding section shall be punished by a fine of not less than $5, nor more than $50, or by imprisonment for not less than 10 days, nor more than 30 days. (R. S. c. 22, § 122.)

Sec. 143. Samples for examination of water used in schools for drinking or culinary purposes.—The department shall, during each school year, require the school officials of any city, town or plantation to have submitted samples of water for chemical and bacteriological examination, if such water is used by any school for drinking or culinary purposes and is taken from sources other than a municipal water system. If such water is found to be contaminated, polluted and unfit for domestic use, the department may issue an order prohibiting the use or supplying of such water to any school as long as such contamination, pollution and unfitness remains. The department shall charge the average cost of the analysis for such examination to the municipality required to have such test made. (1947, c. 305. 1949, c. 349, § 33.)

Sec. 144. Fluoride in public waters.—No public utility or other agency operating a public water supply shall add any fluoride to any such water supply without written approval of the department of health and welfare. The department is authorized to make such rules and regulations as it deems necessary to carry out the provisions of this section. (1951, c. 131. 1953, c. 324, § 1.)

Sec. 145. Fluoride in public waters; authorization.—No such public utility or agency shall add any fluoride to any such water supply without first having been authorized to do so by the municipality or municipalities served by it. In the case of a city, such authorization shall be by a majority vote of the legal voters voting at a regular or special city election. In the case of a town or plantation, such authorization shall be by a majority vote of the inhabitants present at an annual town or plantation meeting. In the case of a public utility or agency serving more than 1 municipality, such authorization shall be by a majority vote of the voters voting at such city election and a majority vote of the inhabitants present at an annual town or plantation meeting of each town or plantation served by such public utility or agency; provided, however, that au-

thorization by municipalities representing 80% of the customers served by such public utility or agency shall be sufficient. The public utilities commission, upon application, shall determine and allocate the cost of such fluoridation among the customers of such public utility or agency and shall from time to time review such determination and allocation as required. (1953, c. 324, § 2.)

Inspection and Sale of Milk.

Sec. 146. Inspection of dairy buildings.—Whenever, in the opinion of any officer or duly authorized inspector or agent of the department, it may be necessary to guard against the spread of any infectious or communicable disease, or to investigate the source of infection of any case or outbreak of said disease or to facilitate the control of said disease, said officer, inspector or agent may at all times enter and inspect premises, rooms, carriages or other places occupied or used in the production, manufacture, storage, sale, transportation or distribution of milk, cream, ice cream or other dairy product, and may inspect all cans and other utensils or things used in, or appertaining to, the work or business. (R. S. c. 22, § 123.)

Sec. 147. Sale or transportation of infected products.—When any officer, inspector or duly authorized agent of the department has reason to believe that the milk, cream, ice cream or other dairy product from any farm, home or other place has been or is contaminated or infected by being handled or otherwise exposed to any person who has infectious or communicable disease, or to any person of whom there is reason to believe that he may be an infection carrier, or that the milk is otherwise infected, said officer, inspector or agent may issue an order prohibiting the transportation, sale, distribution or use of such milk or other dairy product from that farm, home or other place so long as the danger of contamination or infection is believed to exist; but when such order is given, the department shall, so far as possible, determine the time when the danger of transmitting infection has passed, and shall endeavor to shorten the period during which the milk or other dairy product shall be debarred or withheld from transportation, sale, distribution or use. (R. S. c. 22, § 124.)

Sec. 148. Samples to aid in investigation.—Any officer or authorized inspector or agent of the department may, upon tendering the market price of a sample of milk, cream, ice cream or other dairy product, take such sample from any person, firm, corporation, association or society, when it is believed that such sample may help in any investigations which it may be thought desirable to make. (R. S. c. 22, § 125.)

Sec. 149. Rules and regulations as to diseases transmitted through milk.—The department may make, alter or modify such rules and regulations as may be thought necessary relating to the diseases which it believes may be carried or transmitted through milk or other dairy products, or relating to the ways and means through which the danger of the spread of infection may be prevented or lessened, and the methods which shall be followed by any officer, inspector or agent of the department in the performance of his duties in relation thereto. (R. S. c. 22, § 126.)

Infected Vessels. Quarantine.

Cross Reference.—See c. 100, § 6, re forfeitures under §§ 150-156 inuring to town.

Sec. 150. Masters, seamen or passengers of vessels examined on oath in reference to infectious distempers.—If a master, seaman or passenger of a vessel in which there is, has lately been, or is suspected to have been any infection, or which has come from a port where any infectious distemper pre-

vails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the local health officer of the town to which such vessel comes, which oath the said health officer may administer, he shall forfeit not more than $200, or be imprisoned for not more than 6 months. (R. S. c. 22, § 127.)

Sec. 151. Vessels with infected persons to anchor at a distance from towns.—When a vessel arrives at a port having on board any person infected with a malignant disease, the master, commander or pilot shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in said port; and no person or thing on board shall be brought on shore until the local health officer gives his written permit. For the willful violation of the provisions of this section, such master or commander forfeits not more than $200 and the pilot not more than $50 for each offense. (R. S. c. 22, § 128.)

Quoted in part in Mitchell v. Rockland, 45 Me. 496.

Sec. 152. Quarantine regulations.—The local health officer of a seaport town may cause vessels arriving there to perform quarantine at such place and under such regulations as he judges expedient, when he thinks that the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations shall forfeit not more than $500, or be imprisoned for not more than 6 months. (R. S. c. 22, § 129.)

Health officer has no authority to take possession and control of vessel.—No authority is found, which allows health officers, by virtue of their power to cause quarantine to be performed, ex vi termini, to take the vessel in which such contagious disease is found into their own possession and control, to the exclusion of the owner, or those whom he has put in charge. Mitchell v. Rockland, 41 Me. 363; Mitchell v. Rockland, 45 Me. 496.

The language of this section requires that the vessel shall perform quarantine in the cases prescribed, and all having connection with the vessel, as owner, master, etc., are required to comply with the regulations of health officers. This clearly implies that the owner, and those having possession and control of a vessel under him, shall not be divested of this control and possession by municipal officers. Mitchell v. Rockland, 41 Me. 363; Mitchell v. Rockland, 45 Me. 496.

This and other sections relating to infected vessels give no authority to the health officer to take possession of or to control or appropriate a vessel, or any portion of the same, as a hospital. Mitchell v. Rockland, 45 Me. 496.

And town not responsible for action in so taking.—Health officers are not authorized to take vessels in quarantine into their own possession and control to the exclusion of the owner or of those whom he has put in charge, and when such unauthorized possession and control are taken by the health officers or their servants the town is not responsible for their acts. Mitchell v. Rockland, 52 Me. 118.

Regardless of consent of owner.—If a health officer, who has no right to convert a ship in quarantine into a hospital without the consent of the owners, does it by their consent, such consent of the owners to his so doing cannot give any new right or claim against the town, as a result and consequence of such consent. The person thus occupying by consent may be liable to the person consenting, for the consequences of his negligence during such occupation. The town is not a guarantor against the carelessness or negligence of such occupant, and is not liable to indemnify against losses arising therefrom. Mitchell v. Rockland, 52 Me. 118.

The law does not authorize a health officer to assume the possession of a vessel, her cabin, or any part thereof to use as a hospital to cure a malignant or infectious disease, and if he assumes such possession for such purpose, and any accident which occasions injury to a vessel or cargo happens through the want of ordinary care of such health officer or his servant, the city is not liable for such loss. And this is so whether the owner of the vessel gives his consent or not to the possession by the health officer. Mitchell v. Rockland, 52 Me. 118.

Sec. 153. Duty of pilots to give notice thereof.—When the local health officer thinks it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, he shall give notice thereof to the pilots of his port; who shall make it known to the masters of all vessels which they board. A pilot who neglects to do so, or who contrary thereto pilots any vessels up to said seaport town, forfeits not more than $100. (R. S. c. 22, § 130.)

Stated in Mitchell v. Rockland, 45 Me. 496.

Sec. 154. Penalty for violation or evasion of quarantine, after notice.—If the master or commander of a vessel takes it up to any seaport town after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed; or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the local health officer, he shall forfeit not more than $500, or be imprisoned for not more than 6 months. (R. S. c. 22, §§ 129, 131.)

Stated in Mitchell v. Rockland, 45 Me. 496.

Sec. 155. Red flags on vessels at quarantine.—The local health officer of every seaport town requiring vessels to perform quarantine shall provide, at the expense of such town, a suitable number of red flags at least 3 yards in length; and the master of every vessel ordered to perform quarantine shall, during the term thereof, cause one of them to be continually kept at the head of the mainmast of his vessel; and no person shall board such vessel during said term unless by permission of said local health officer; if he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel; and shall there be detained by force, if necessary, until discharged by said local health officer. (R. S. c. 22, § 132.)

Stated in Mitchell v. Rockland, 45 Me. 496.

Sec. 156. Expenses.—Expenses incurred on account of any person, vessel or goods under quarantine regulations shall be paid by such person, or the owner of the vessel or goods, as the case may be. (R. S. c. 22, § 133.)

See § 385, re proceedings as to burial of body of person dying of contagious disease; c. 137, § 1, re penalty for polluting water supply; c. 137, §§ 3, 4, re selling milk from cows diseased or fed upon injurious substances; c. 137, §§ 2-8, re selling unwholesome provisions or drinks.

Extermination of Mosquitoes.

Sec. 157. Extermination of mosquitoes; cooperate with state entomologist in study of mosquito life history, breeding places, etc.—The department is authorized and directed to use all lawful methods for the extermination of mosquitoes and prevention of their breeding. In cooperation with the state entomologist it is authorized to carry on such investigation of mosquito life history and control and of the prevalence of mosquito breeding places in this state and particularly in any locality when so requested by the local health officer as will in its judgment furnish information necessary to the successful carrying on of mosquito extermination by any agency within the state. It shall also be the duty of said department to cause to be carried on, by such means as it may deem best, the spread of information concerning the nature and results of mosquito extermination among the people of the state. (R. S. c. 22, § 144.)

Sec. 158. Breeding places; control; delegation of authority. — Rep-

resentatives of the department shall be authorized to enter upon areas suspected of being breeding places of salt-marsh or fresh-water mosquitoes wheresoever located and to carry out necessary control measures for the abatement of mosquito nuisances and the eradication of such mosquitoes. Said department may delegate authority to carry out such control measures to local health officers or other officials of cities, towns or plantations in which control work is deemed necessary. (R. S. c. 22, § 145.)

Sec. 159. Expenditure of legislative appropriation.—For the purpose of carrying into effect the provisions of sections 157 and 158, said department shall have power to expend such amount of money annually as may be appropriated by the legislature. (R. S. c. 22, § 146.)

Recreational Camps and Roadside Places.

Sec. 160. Eating and lodging places, recreational and overnight camps licensed.—No person, corporation, firm or copartnership shall conduct, control, manage or operate, directly or indirectly, any eating or lodging place, recreational or overnight camp, unless the same shall be licensed by the department. (R. S. c. 22, § 152.)

Sec. 161. "Overnight camp" defined. — The designation "overnight camp" shall include in addition to the usual interpretation; filling stations, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where trailers, auto homes or house cars are permitted to be parked for compensation, either directly or indirectly, and such places shall be subject to the license requirements of the department as now provided by the provisions of sections 160 to 166, inclusive, and to such regulations as may be adopted by the department for regulating the conduct and sanitation of such establishments. (R. S. c. 22, § 153.)

Sec. 162. License; terms and fees.—The department is empowered to license eating and lodging places, recreational and overnight camps. Such licenses shall be issued by the department under such terms and conditions as it deems advisable, and fees for licenses not exceeding $10 may be charged. The fees thus received shall constitute a permanent fund to carry out the provisions of sections 160 to 166, inclusive. (R. S. c. 22, § 154. 1947, c. 331. 1953, c. 315.)

Sec. 163. Licenses; duration; not transferable.—No person, corporation, firm or copartnership shall engage in the business of conducting an eating or lodging place, recreational camp or overnight camp without first procuring a license from the department for each eating or lodging place, recreational camp or overnight camp so conducted or proposed to be conducted, provided that one license shall be sufficient for each combined eating place and lodging place where both are conducted in the same building and under the same management. Each license shall expire on the 30th day of June next following the issuance and shall not be transferable. (R. S. c. 22, § 155.)

Sec. 164. Exceptions to license requirements. — Private homes shall not be deemed or considered lodging places and subject to a license where not more than 2 rooms are let to other than transient guests, unless they hold themselves in any way as ready to accept or do accept transient guests. License shall not be required from dormitories of charitable, educational or philanthropic institutions, nor from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating and lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boardinghouses and camps conducted

in connection with wood cutting and logging operations, nor from any boarding-homes for the aged, blind or other persons over 16 years of age which are licensed under the provisions of section 5, nor from any homes boarding children exclusively and which are licensed under the provisions of sections 254 and 255.

Stores or other establishments where bottled soft drinks or ice cream are sold for consumption from the original containers only, and where no tables, chairs, glasses or other utensils are provided in connection with such sale shall not be considered eating places within the meaning of this section; but at such establishments straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, provided they shall be supplied in original individual single service sterile packages.

Such establishments and all eating places, subject to license under the provisions of this chapter, shall be subject to such inspections as may be deemed necessary by the department to insure compliance with the rules and regulations of the department relating to sanitation and the prevention of communicable diseases. (R. S. c. 22, § 156. 1947, c. 161.)

Sec. 165. Revocation of licenses; appeal.—The bureau of health shall have the power to issue, renew, suspend and revoke such licenses and to hold hearings on violations of the provisions of sections 160 to 166, inclusive, and regulations adopted under the provisions of said sections. The director of health, or his duly authorized representative in charge of the hearings, may administer oaths and issue subpoenas for witnesses.

Whenever the commissioner of agriculture informs the bureau of health that a licensee holding a license to operate an eating place in a hotel, restaurant, lunch cart or lunch counter, or any eating place is not complying with the laws and regulations governing the sale of food, the bureau of health shall revoke the license of the licensee.

The licensee shall have notice in writing of the charge or charges against him and shall have reasonable opportunity to be heard in his defense. Any license suspended or revoked shall be delivered to any agent of the bureau of health upon demand. Any person whose license has been suspended or revoked may apply to have same reissued and it shall be reissued upon satisfactory evidence that the violations no longer exist. Any person operating an eating or lodging place after such license shall have been revoked shall be considered as operating without a license and liable to all the penalties therefor.

Any person aggrieved by the decision of the bureau of health in revoking or suspending a license or by the refusal of said bureau of health to issue a license may within 10 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the bureau of health; and after hearing, such justice may affirm or reverse the decision of the bureau of health, and the decision of such justice shall be final. Pending judgment of the court, the decision of the bureau of health in revoking or suspending any license shall remain in full force and effect. The bureau shall, within 3 days after notice of such appeal, forward to the said court a certified copy of the proceedings. (R. S. c. 22, § 157.)

Sec. 166. Penalty.—Whoever violates any of the provisions of sections 160 to 166, inclusive, shall be punished by a fine of not less than $10, nor more than $100, for each offense. (R. S. c. 22, § 158.)

Persons Suffering from Opiates.

Sec. 167. Persons suffering from use of opiates committed to general hospital.—A person alleged to be suffering from the effects of the use of

an opiate, cocaine, chloral hydrate or other narcotic may be committed to the care of any hospital or any legally qualified physician of not less than 5 years' actual practice for treatment; and the medical authorities of said hospital or said physician to whom said patient is committed may restrain said patient, so committed, in such manner as may be necessary for his protection, for a period of not more than 90 days. (R. S. c. 22, § 159.)

Sec. 168. Agreement for personal restraint. — Before any restraint shall be imposed under the authority of the preceding section, a voluntary agreement shall be made in writing by the person suffering from the effects of any drug mentioned in said section, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person, so suffering, is a resident, and approved, after reasonable notice, by a justice of the superior court or the judge of probate in the county where the patient resides. (R. S. c. 22, § 160.)

Sec. 169. Investigation as to progress of cases.—Any justice of the superior court or the judge of probate in the county where the patient resides may, at his discretion, require the department, or one of the county examiners of insane criminals, to investigate as to the progress of any such case; and, upon his or its certificate that further restraint is unnecessary, may annul the agreement and the person restrained shall be immediately released upon the order of said justice. (R. S. c. 22, § 161.)

Inspection of Plumbing; Plumbers.

Sec. 170. Plumbing.—In every city or town where there is a system of water supply or sewerage, the local health officer may, whenever necessary, appoint one or more inspectors of plumbing, who may or may not be residents of the town or city for which they are appointed, and who shall hold office for 1 year.

The appointments of local plumbing inspectors shall be subject to the approval of the commissioner, and any vacancies in their offices not filled subject to the commissioner's approval may be filled by the commissioner for the unexpired term, provided the commissioner may delegate authority to approve appointments of plumbing inspectors to the director of health. (R. S. c. 22, § 162.)

Sec. 171. Compensation of inspectors; duties.—The compensation of said inspectors shall be determined by the local health officer appointing them, subject to the approval of the municipal officers, and shall be paid from the treasury of their respective cities or towns. Such inspectors shall inspect all plumbing, for which permits are granted, within their respective cities or towns, which is in process of construction, alteration or repair, and shall report to said health officer all violations of any law, ordinance, by-law, rule or regulation relative to plumbing; and also perform such other appropriate duties as may be required. The approval of plumbing by any inspector, other than those appointed as provided in the preceding section, shall not be a compliance with the provisions hereof. (R. S. c. 22, § 163.)

Sec. 172. No inspector shall approve his own work; additional inspector.—No inspector of plumbing shall inspect or approve any plumbing work done by himself, or by any person by whom he is employed, or who is employed by or with him; but in a city or town which is subject to the provisions of the 2 preceding sections, the local health officer shall appoint an additional inspector of plumbing, in the same manner and subject to the same qualifications as the regular inspector of plumbing, who shall inspect, in the manner herein prescribed,

plumbing done by the regular inspector or by any person by whom he is employed or who is employed by or with him. Said additional inspector may act in case of the absence or inability of the regular inspector, and shall receive for his services the same compensation as the regular inspector for a like duty. (R. S. c. 22, § 164.)

Sec. 173. Plumbing regulations, subject to state minimum. — Any city or town may, by ordinance or by-law, prescribe regulations for the materials, construction, alteration and inspection of all pipes, tanks, faucets, valves and other fixtures by and through which waste or sewage is used and carried, and for the materials and sizes of pipe which carry water to all plumbing fixtures, which regulations shall provide not less than the minimum requirements of the rules and regulations of the department in relation to plumbing work, for the carrying of such waste and sewage and for the materials and sizes of pipe which carry water to all plumbing fixtures, and shall provide that such pipes, tanks, faucets, valves or other fixtures shall not be placed in any building in such city or town, nor shall any septic tank or other system of private sewage disposal be installed to receive the drainage from such plumbing, except to repair leaks or replace an old fixture to be used for the same purpose, except after the issuing of a permit for the installation of such work, issued by the inspector of plumbing in such city or town in accordance with a written description or information on such application blanks as shall be approved and furnished to such cities or towns by the department. (R. S. c. 22, § 165. 1951, c. 396.)

Plumbing defined.—Plumbing, as indicated by this section, may be defined as the installing, altering or repairing of pipes, tanks, faucets, valves, and other fixtures through which gas, water, waste or sewage is conducted and carried. State v. Hahnel, 118 Me. 452, 108 A. 755.

In a prosecution for violation of an ordinance enacted under authority of this section, a provision of the ordinance that requires rainwater leaders to be properly trapped must be construed as applying only when they enter house drains, soil pipes or other waste pipes. It is only when they enter such waste carrying pipes or drains that their installation and repair, or any part of, it can be regarded as plumbing within the meaning of the ordinance and this section. State v. Hahnel, 118 Me. 452, 108 A. 755.

Cited in State v. Prescott, 129 Me. 239, 151 A. 426.

Sec. 174. Permits, fees; distribution of fees; hearings on regulations.—The permit required by the preceding section shall be issued on the payment of a fee of not less than 50¢ for each such permit but not more than $1 per fixture, up to a total of 5 fixtures; for over 5 fixtures not less than 10¢ and not more than 30¢ shall be charged for each additional fixture, as shall be determined by such ordinance or by-law; 1/3 of the amount of such fees shall be paid through the department to the treasurer of state to be maintained as a permanent fund and used by the department for the carrying out of the provisions of sections 173 to 175, inclusive. The remainder shall be paid to the treasury of the city or town and used exclusively for carrying out the plumbing laws in such cities or towns. Fixtures for the purposes of sections 173 to 175, inclusive, shall be defined as: receptacles intended to receive and discharge water, liquid or water carried wastes into a drainage system with which they are connected.

The department shall hold hearings on the 1st Tuesdays of February and August of each year or oftener if deemed advisable for the purpose of considering changes in the rules and regulations pertaining to plumbing. (R. S. c. 22, § 166.)

Sec. 175. Regulations of department control where no local regulations made; local inspectors.—In any city or town which does not prescribe plumbing regulations as provided for in section 173, the rules and regulations of the department in relation to plumbing work for the carrying of such waste and

sewage and for the materials and sizes of pipe which carry water to all plumbing fixtures shall have full force and effect. Permits for the installation of such plumbing in such cities or towns shall be issued by a local inspector appointed or approved by the department on the payment of such fees as shall be determined by that department within the limitations as to amount set forth in section 174. All amounts so received shall be paid into the state fund described in section 174. (R. S. c. 22, § 167.)

Sec. 176. Annual reports.—Inspectors of plumbing and local health officers shall annually, before the 1st day of June, make a full report in detail to their respective cities or towns of all their proceedings during the year under the provisions of the 5 preceding sections. (R. S. c. 22, § 168.)

Sec. 177. Penalty. — Whoever violates any provision of the 7 preceding sections and of section 179, or any ordinance, by-law or regulation made thereunder, shall be punished by a fine of not less than $10, nor more than $50, for each offense. Trial justices shall have jurisdiction of all offenses under said sections. (R. S. c. 22, § 169.)

Sec. 178. Plumbers.—No plumbing shall hereafter be done for compensation, except as hereinafter provided, unless done by a plumber or other person licensed by the plumbers' examining board hereinafter created. (R. S. c. 22, § 170.)

See § 192, re exceptions.

Sec. 179. Definitions.—The following words and phrases when used in sections 178 to 193, inclusive, shall be construed as follows:

I. A "master plumber" shall mean any person, firm or corporation that as a business, hires or employs a person or persons to do plumbing work, or without hiring any person does such work as a principal business or as auxiliary to a principal business for his or its own account.

II. A "journeyman plumber" shall mean any person who customarily performs the work of installing plumbing and drainage under the direction of a master plumber or, not being a master plumber as herein defined, does plumbing repair work as a regular part time occupation.

III. "The board" shall be the plumbers' examining board appointed under the provisions of section 180.

IV. "Apprentice" shall mean any person other than a journeyman plumber or master plumber who is engaged in learning and assisting in the installation of plumbing and drainage.

V. "Plumbing" is the art of installing in buildings the pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried wastes. (R. S. c. 22, § 171.)

Sec. 180. Plumbers' examining board; vacancies; removal of members; compensation.—A plumbers' examining board, as heretofore established, and hereinafter in sections 180 to 193, inclusive, called "the board," shall consist of an executive officer who shall be the director of the division of sanitary engineering of the bureau of health and 2 other members, hereinafter called the appointive members, who shall be appointed by the governor with the advice and consent of the council. One of said appointive members shall be a master plumber as defined in section 179, and the other a journeyman plumber as defined in section 179, and who has been engaged in the business of plumbing for at least 2 years. As the terms of said appointive members expire, new appointive members shall be appointed for terms of 2 years. Any vacancy in said board caused by

death, resignation or removal of any member shall be filled by the appointment of a person qualified as aforesaid, to hold office during the unexpired term of the member whose place is thus filled. Any member of said board may be removed from office for cause, by the governor, with the advice and consent of the council. The members of the board shall each be allowed the sum of $10 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for license and for any necessary hearings. (R. S. c. 22, § 172.)

Sec. 181. Employees.—The board shall be empowered to appoint and remove such employees as it shall deem necessary and to fix their compensation within the limitations of the funds provided by sections 178 to 193, inclusive. (R. S. c. 22, § 173.)

Sec. 182. Meetings; rules and regulations.—The plumbers' examining board shall hold regular meetings semiannually and shall hold additional meetings at such other times as they shall determine by their rules, or upon request of the 2 appointive members of their board, or upon request of the director of the division of sanitary engineering. Said board shall keep correct records of all its proceedings and shall be authorized to make such rules and regulations as it shall deem necessary for the holding of examinations and for carrying out the purpose of the provisions of sections 178 to 193, inclusive, and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this state. (R. S. c. 22, § 174.)

Sec. 183. Licensing of master plumbers.—Any person shall, upon the payment of a fee of $15, be entitled to examination and, if found qualified by a majority of the members of the board, shall be licensed as a master plumber and shall receive a certificate thereof under the seal of the board and with the signature of the executive officer, which shall state the facts and which must be publicly displayed at the principal place of business of said master plumber as long as said person continues in the business as herein defined. Any person refused a license may be reexamined at any subsequent meeting of said board, within 1 year of the time of such refusal, without additional fee and thereafter may be examined as often as he may desire upon payment of the fee of $15 for each examination. (R. S. c. 22, § 175.)

Sec. 184. Licensing of journeymen plumbers.—Any person shall, upon payment of a fee of $3, be entitled to examination and, if found qualified by a majority of the members of the board, shall be licensed as a journeyman plumber and shall receive a certificate thereof under the seal of the board and with the signature of the executive officer, which shall state the facts, and which shall be carried on the person and displayed at any time upon request. Any journeyman plumber refused a license may be reexamined at any subsequent meeting of said board within 1 year of the time of such refusal, without additional fee and thereafter may be examined as often as he may desire upon payment of a fee of $3 for each examination. (R. S. c. 22, § 176.)

Sec. 185. Examinations for license. — Each applicant for license shall present to the executive officer of the board on blanks furnished by the board, a written application for examination and license, containing such information as the board may require, accompanied by the fee provided for in sections 183 and 184. Examinations shall be in whole or in part in writing and shall be of a thorough and practical character. They shall cover the theoretical and practical nature of plumbing and such branches thereof as the board may deem necessary. (R. S. c. 22, § 177.)

Sec. 186. Renewal of licenses; master plumbers.—All licenses issued

as aforesaid shall expire on the last day of the calendar year in which issued, and they may be renewed thereafter for periods of 1 year without further examination on payment of a fee of $20 for each year for a master plumber. (R. S. c. 22, § 178. 1953, c. 232, § 1.)

Sec. 187. Renewal of licenses; journeymen plumbers. – All licenses issued as aforesaid shall expire on the last day of the calendar year in which issued, and they may be renewed thereafter for periods of 1 year without further examination on payment of a fee of $3 for each year for a journeyman plumber. (R. S. c. 22, § 179. 1953, c. 232, § 2.)

Sec. 188. Corporations and partnerships licensed. — The board may issue its license to corporations and partnerships engaged in the plumbing business and applying therefor, provided that one or more officers or employees of any such corporation directly in charge of the business affairs of such corporation, or the members of such partnership directly in charge of the business affairs, apply for the examinations hereinbefore provided and satisfy the board of their qualifications as master plumbers. (R. S. c. 22, § 180.)

Sec. 189. Disposal of fees.—All fees received by the board shall be paid by the executive officer thereof into the treasury of the state and may be used for carrying out the provisions of sections 178 to 193, inclusive. (R. S. c. 22, § 181.)

See c. 18, § 31, re fund for payment of fees, etc.

Sec. 190. Investigation of complaints; revocation of licenses.—The board shall investigate all complaints made to it and all cases of noncompliance with or violation of the provisions of sections 178 to 193, inclusive, and shall bring all such cases to the notice of the proper prosecuting officers. The board, after a conviction for crime in the course of plumbing business, of any person, firm or corporation to whom a license has been issued by them and after hearing, may by vote of majority of the board revoke the license and cancel the registration of the person, firm or corporation to whom the same was issued. Said board may also suspend or revoke any license by a majority vote of the board, in any case where such license has been wrongfully obtained or for any fraud connected with the said registration. (R. S. c. 22, § 182.)

Sec. 191. Records.—The board shall keep a record of the names and residences of all persons registered under the provisions of sections 178 to 193, inclusive, and a record of all moneys received and disbursed by it, and said records or duplicates thereof shall be open for inspection during office hours. (R. S. c. 22, § 183.)

Sec. 192. Exceptions.—The provisions of sections 178 to 193, inclusive, shall not apply to regular employees of public utilities as defined in section 16 of chapter 44 when working as such, nor to regular employees of owners or lessees of real property when working as such, nor to persons whose occupation is the doing of miscellaneous jobs of manual labor in the course of which some incidental plumbing repairs or alterations are made by them. (R. S. c. 22, § 184. 1953, c. 322.)

Sec. 193. Penalties.—Any person who installs any plumbing or drainage without having first obtained a license either as a master plumber or as a journeyman plumber or employing a person to do plumbing who has not such a license, unless he be an apprentice within the meaning of sections 178 to 193, inclusive, or procures any license wrongfully or by fraud, or violates any of the provisions of sections 178 to 193, inclusive, shall be deemed guilty of a misdemeanor and

if convicted thereof shall be punished by a fine of not more than $100, or by imprisonment for not more than 3 months, or by both such fine and imprisonment. (R. S. c. 22, § 185.)

Sec. 194. Provisions in city charters not affected.—Sections 178 to 193, inclusive, shall not prevent the licensing of plumbers licensed hereunder by cities under the provisions of the charters or ordinances thereof. (R. S. c. 22, § 186.)

Funeral Directors and Embalmers.

Sec. 195. Business of funeral director and practice of embalming; qualifications.—Any person wishing to become an embalmer of dead human bodies for burial shall be at least 21 years of age, with not less than a high school education or its equivalent, be a citizen of the United States, shall have practiced embalming, caring for and preparing for burial, dead human bodies, for at least 2 years, and shall have embalmed a minimum of 25 human bodies under the direction and supervision of a licensed embalmer and shall have taken and completed at least a 12 months' course of study of some school or college of embalming, the requirements and standards of which school or college shall have the approval of the state board of examiners of funeral directors and embalmers. Such person shall also present to said board a certificate or diploma certifying that he has taken and successfully passed the required examination of said school or college of embalming, and shall have an intelligent comprehension of such rudiments of anatomy, pathology, bacteriology, hygiene, and of the characteristics of, and the dangers from, contagious and infectious diseases, and of the actions and uses of disinfectant agencies as the bureau of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners appointed under the following section before he is permitted to practice said profession within the state, provided, however, that the provisions of sections 195 to 205, inclusive, shall apply only to persons who hold themselves out to embalm dead human bodies for burial or to prepare the same for transportation or cremation. Embalmer's assistants, partners or members of firms who have not received a license as provided in the following sections shall not engage in the practice of embalming dead human bodies for burial, transportation or cremation, except under the personal supervision of a licensed embalmer.

Any person wishing to become a funeral director and to engage in the business or profession of funeral directing, and of preparing, other than by embalming, or disposing of dead human bodies by any means whatever in this state shall be at least 21 years of age, a citizen of the United States, be of good moral character, with not less than a high school education or its equivalent, shall have practiced funeral directing for at least 2 years under the direction and supervision of a licensed funeral director, and graduated from a 12 months' course in an approved school, and shall have an intelligent comprehension of the dangers from contagious and infectious diseases and of the actions and uses of disinfectant agencies as the bureau of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners as appointed under the provisions of the following section. (R. S. c. 22, § 187. 1949, c. 333, § 1.)

Sec. 196. State board of examiners of funeral directors and embalmers; rules and regulations; compensation; expenses.—The board of examiners of funeral directors and embalmers, as heretofore established, shall consist of 5 members, one of whom shall be the director of health, who shall be secretary of said board, and the other members shall be licensed funeral directors and embalmers, who shall be appointed by the governor, with the advice and consent of the council, and they shall hold office for the term of 4 years. In case of a vacancy due to death, resignation or other cause, the vacancy shall be filled by an appointment for the unexpired term, as is provided for original appointments.

The board may adopt rules and regulations consistent with law governing the care, preparation, transportation, cremation, burial or disposition of dead human bodies, and governing embalming and funeral directing; provided that no such rule or regulation shall require that an embalmer be permanently employed by a funeral director. Such rules and regulations shall not become effective until approved by the department of health and welfare.

The members of the board shall each receive $15 a day and expenses while engaged in the business of said board. The secretary shall receive actual expenses while engaged in the business of the board.

The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law.

The secretary of said board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as said board shall direct, cause inspections to be made at least once every 3 years of all establishments or places of business of any person carrying on the business of funeral director or embalmer in the state and perform such other duties as shall be designated by the board. Such inspection shall be for the purpose of determining that such establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained therein and that the laws and the regulations of the board and of the department of health and welfare relating to the conduct of such establishments are observed. The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and such inspection may also be made by members of the board upon authorization by the board. (R. S. c. 22, § 188. 1949, c. 333, § 2. 1951, c. 202, § 1. 1953, c. 292, §§ 1, 2.)

Sec. 197. Examinations for licenses; revocation of licenses.—Examinations for licenses shall be given by the board at least twice a year at such times and places as it may determine. Applicants for embalmers' licenses shall pass an examination upon their knowledge of embalming, sanitation, preservation of the dead, disinfection of a deceased person and the apartments, bedding, clothing or anything likely to be affected in the case of death from infectious or contagious diseases, in accordance with the rules and regulations of the department. They shall also be conversant with the law and rules governing the transportation of dead human bodies, and such other subjects as the board may, from time to time, see fit to name, and if found qualified, a certificate of a licensed embalmer shall be issued to the applicant under which he shall have legal authority to perform all acts relating to preparing, embalming, shipping or burying dead human bodies, and to do work coming within the province of said vocation.

Applicants for funeral directors' licenses shall pass an examination upon their knowledge of sanitation, disinfection of the apartments, bedding, clothing or anything likely to be affected in the case of death from infectious or contagious diseases in accordance with the rules and regulations of the department. They shall also be conversant with the law and rules governing the transportation of dead human bodies, and such other subjects as the board may, from time to time, see fit to name, and if found qualified, a certificate of a licensed funeral director shall be issued to the applicant under which he shall have legal authority to engage in the business or profession of funeral directing and of preparing, other than by embalming, or disposing of dead human bodies by any means whatever, and to do any work coming within the province of said vocation.

The board may revoke for cause any license issued by it and failure to comply with the law and the regulations of the department shall be deemed sufficient cause for the revocation of a license.

All funeral establishments must be operated by a person or persons holding a funeral director's license and said license shall be conspicuously displayed at or in such establishments.

All branch establishments must be operated by a person or persons holding a funeral director's license and the license must be displayed in all such branch establishments.

A funeral establishment must contain a preparation room equipped with tile, cement or composition floor, necessary drainage or proper disposal of waste satisfactory to the local health officer, and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition.

The board may adopt such rules, regulations and classifications as may be reasonable, sufficient and proper to define what shall be deemed the proper drainage and ventilation and what instruments are necessary and suitable in a funeral establishment.

The board may adopt rules and regulations governing its own procedure. It may also adopt rules and regulations consistent with the law governing the time, place, method and grading of examinations. Written examinations shall be retained for a period of 5 years but need not be retained for a longer period. (R. S. c. 22, § 189. 1949, c. 333, § 3. 1953, c. 292, § 3.)

Sec. 198. Blanks and forms of procedure; lists of licensees and examinations.—The department may adopt such blanks and forms of procedure as it may deem necessary to carry out the provisions of sections 195 to 205, inclusive, and shall keep on file a list of all registered and licensed embalmers and funeral directors and a record of examinations, together with the examination papers, all of which shall be open to public inspection. (R. S. c. 22, § 190.)

Sec. 199. Record of licensed embalmers and funeral directors; report of board.—The board of examiners shall keep a record containing the names and residences of all persons licensed hereunder and a record of all moneys received and disbursed by said board, and said records, or duplicates thereof, shall always be open to inspection in the office of the director of health during regular office hours. The board of examiners shall report to the department, on or before the 1st day of May in each year, a full and complete account of all of its official acts during the year, together with a statement of its receipts and disbursements and such comment as may be deemed proper. (R. S. c. 22, § 191.)

Sec. 200. Fees; expiration and renewal of licenses.—The fee for examinations under the provisions of section 197 shall be $5, and all licenses and certificates of registration which have been or may be issued to funeral directors and embalmers by the board of examiners shall expire on the 31st day of December, annually. Any person holding an embalmer's license or certificate of registration or funeral director's license issued under the provisions of this or any other law, may have the same renewed by making and filing with the secretary of said board of examiners an application therefor within 30 days preceding the expiration of his or her license or certificate of registration, upon blanks prescribed by said board, and upon the payment of a renewal fee of $2 for an embalmer's license, $2 for a funeral director's license, $3 for a combination embalmer's and funeral director's license and $1 for an apprentice's license, provided, however, that any person neglecting or failing to have his or her license or certificate of registration renewed as above may have the same renewed by making application therefor within 30 days after the date of such expiration and upon the payment of $4, revival and renewal fee. Provided, however, that any person who held an embalmer's license or certificate of registration or funeral director's license issued in accordance with the laws of this state, but who failed to have such license renewed and who, solely because of such failure to renew said license, is not now entitled to engage in the business of embalming dead bodies, shall be allowed to take an examination for a license to engage in said business, and upon successfully passing such examination and paying the required fees shall be granted a license

as an embalmer, and the said board of examiners is authorized and directed to give such examination and grant such license to any applicant complying with the above provisions. (R. S. c. 22, § 192.)

Sec. 201. Application of moneys collected.—The money received under the provisions of sections 195 to 205, inclusive, shall constitute a permanent fund for carrying on the work of the board of examiners of funeral directors and embalmers and the compensation of its members, and for such expenses as may be necessarily incurred from time to time by said board on account of investigations which said board may be required to make by reason of the provisions of sections 195 to 205, inclusive; and for such educational purposes as said board may deem for the best interests and advantage to the funeral directors and embalmers of this state; provided always, that none of the expenses designated hereunder shall reduce the fund hereby created under the sum of $1,000. (R. S. c. 22, § 193.)

See c. 18, § 31, re fees, fund for payment of expenses, etc.

Sec. 202. List of licensed funeral directors and embalmers for transportation companies.—In the month of January of each year, the secretary of the board of examiners shall supply each licensed embalmer and funeral director, and the various transportation companies within the state, with a list of all registered funeral directors and all funeral directors and embalmers holding licenses, then in force, giving the names of such persons, their business addresses and the numbers of their licenses. (R. S. c. 22, § 194.)

Sec. 203. Notice to holders of expiring licenses.—The secretary of the board of examiners shall, at least 40 days prior to the expiration of any license, mail to the holder of any license about to expire a notice advising him or her to that effect, and enclosing a blank application for renewal thereof. The secretary of said board shall also mail a notice to each holder of a license that has not been renewed in accordance with the foregoing provisions, advising him or her of the expiration of his or her license and of the penalty for embalming, caring for or preparing for burial, transportation or cremation of dead human bodies without holding a license, and the conditions and terms upon which his or her license may be revived and renewed. All notices required to be mailed by provisions of this section shall be directed to the last known post-office address of the person to whom the notice is addressed. (R. S. c. 22, § 195.)

Sec. 204. In accidental death, embalming fluids not injected until cause of death legally determined.—No person shall inject into any cavity or artery of the body of any person who has died from an accidental or sudden death or under suspicious circumstances, any fluid or substance until a legal certificate of the cause of death from the attending physician or medical examiner has been obtained, nor until a legal investigation has determined the cause of death. If a criminal cause of death is alleged or suspected, no fluid or other substance shall be injected into a body until the cause of death is legally established. (R. S. c. 22, § 196.)

Sec. 205. Suspension and revocation of licenses; appeals.—Whenever the board shall have reason to believe that any person to whom a license has been issued has become unfitted to practice funeral directing, embalming and disinfecting, as the case may be, or has violated any of the provisions of sections 195 to 205, inclusive, or any rule or regulation prescribed, or whenever written complaint, charging the holder of a funeral director's or an embalmer's license with the violation of any provision of this or the preceding 10 sections is filed with the board, it shall be the duty of said board to conduct an investigation, and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violation or vio-

lations charged, a time and place shall be set by the board for a hearing to determine whether or not the license of the accused shall be revoked. Any member of said board shall have the right to administer oaths to witnesses.

No action to suspend, revoke or cancel any license shall be taken by the board until the accused has been furnished with a statement of charges against him and a notice of the time and place of hearing thereof, such notices shall be given to the accused at least 15 days prior to the hearing. The accused may be present at such hearing in person or by counsel or both to disprove the charges made against him. If upon such hearing the board finds the charges are true, it may revoke or suspend the license of the accused. A stenographic report of each proceeding to revoke or suspend a license shall be made at the expense of the board, and a transcript thereof kept in its files.

Any person who has been refused a renewal of his license or whose license has been revoked or suspended may, within 30 days after the decision of the board, file with the secretary of said board a written notice setting forth that he feels himself aggrieved by such decision and appeals therefrom to the superior court of the county within which such person resides and said court shall hear and determine as to whether the action of the board was in accord or consistent with the provisions of sections 195 to 205, inclusive, or the constitution of this state or that said decision of the board was arbitrary, unwarranted or in abuse of discretion. Upon the filing of such notice the secretary of the board shall transmit forthwith to the clerk of said superior court a copy of the records and findings of such proceedings. The appeal may be heard by a justice of the said superior court either in term time or vacation. An appeal from said superior court may be reviewed by the supreme judicial court the same as appeals from chancery decrees.

The board may also refuse to issue or may refuse to renew, or may suspend or may revoke any license, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of such license to be guilty of any of the following acts or omissions:

I. Conviction of a crime involving moral turpitude.

II. Conviction of a felony.

III. Unprofessional conduct which is defined to include:

A. Misrepresentation or fraud in obtaining a license or in the conduct of the business or the profession of a funeral director or embalmer;

B. False or misleading advertising as a funeral director or embalmer; advertising or using the name of an unlicensed person in connection with that of any funeral establishment;

C. Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending; provided that this shall not be deemed to prohibit general advertising;

D. Employment by the licensee of persons known as "Cappers," "steerers" or "solicitors," or other such persons to obtain funeral directing or embalming;

E. Employment directly or indirectly of an apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

F. The direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;

G. Gross immorality;

H. Aiding or abetting an unlicensed person to practice funeral directing or embalming;

I. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

J. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.

K. Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits. (1951, c. 202, § 2.)

L. Gross incompetency, negligence or misconduct in carrying on the business or profession of embalming or funeral directing. (1953, c. 292, § 4.)

M. Abuse or disrespect in the handling of a dead human body, violation of any law or ordinance affecting the handling, custody, care or transportation of dead human bodies. (1953, c. 292, § 4).

In addition to the foregoing provisions of this section, it is further provided that whoever violates any provision of this and the 10 preceding sections, or any rule or regulation prescribed by said board for the preparation, embalming, transportation or burial of any dead human body may be punished by a fine of not more than $100, or by imprisonment for not more than 60 days, or by both such fine and imprisonment, and the county attorney of the county in which such violation occurs shall prosecute all such persons. Trial justices and municipal courts within their counties shall have original and concurrent jurisdiction with the superior court in all prosecutions under the provisions of sections 195 to 205, inclusive. (R. S. c. 22, § 197. 1949, c. 333, § 4. 1951, c. 202, § 2. 1953, c. 292, §§ 4, 5.)

Cosmetics.

Sec. 206. Certificate of registration.—The department is authorized to issue and shall issue a certificate of registration to the manufacturer, proprietor or producer of any cosmetic preparation manufactured or produced in this state on the payment of an initial registration fee of 50c per preparation, which certificate shall be renewed annually on or before the 1st day of January in each succeeding year on the payment of a fee of 50c.

The department is authorized to regulate or to refuse the issuance of certificates of registration or to prohibit the sale of cosmetic preparations which in its judgment contain injurious substances in such amounts as to be poisonous, injurious or detrimental to the person. Temporary certificates of registration may be issued by the department for any preparation pending investigation of the same.

The department is authorized to make such regulations as may be necessary for carrying out the purposes of sections 206 to 212, inclusive, to safeguard the public health.

Fees received under the provisions of said sections shall be used by the department for carrying out the purposes of said sections.

From the refusal of the department to issue a certificate of registration for any cosmetic preparation, appeal shall lie to the superior court in the county of Kennebec or any other county in the state from which the same was offered for registration. (R. S. c. 22, § 198. 1953, c. 321, § 1.)

Sec. 207. "Cosmetic preparations" defined.—"Cosmetic preparations" shall mean tonics, lotions, creams, powders, antiseptics, clays, bleaches, colors, dyes or other substance used with or without mechanical or electrical apparatus to massage, cleanse, stimulate, manipulate, color, bleach or otherwise to treat, improve or to beautify the scalp, face, neck, shoulders, busts, arms, arm pits, hands or to manicure the fingernails of any person, or to arrange, dress, curl, wave, cleanse, bleach, color or similarly treat the hair of any person, and shall

include all shampoo preparations. Household and toilet soaps shall not be held to be cosmetic preparations but shall be subject to the provisions of sections 206 to 212, inclusive, if such soaps are represented by the manufacturer or the producer thereof as a preparation for the treatment of disease. (R. S. c. 22, § 199.)

See § 214, re definitions.

Sec. 208. Registration.—No person, firm, corporation or copartnership shall hold for sale, sell or offer for sale in intrastate commerce; or give away or deal in within this state; or supply or apply in the conduct of a beauty shop, barber shop, hairdressing establishment or similar establishment any cosmetic preparation unless the said preparation has been registered with and a certificate of registration secured from the department. The foregoing sentence shall apply only to persons, firms, corporations or copartnerships which manufacture or produce cosmetic preparations within this state. (R. S. c. 22, § 200. 1953, c. 321, § 2.)

Sec. 209. Cosmetic preparations for unlawful sale or use forfeited.—Cosmetic preparations kept or deposited within the state intended for unlawful sale or use and the vessels in which they are contained are contraband and are subject to forfeiture to the state unless they have been registered with the said department as prescribed in the preceding sections. Sheriffs, deputy sheriffs, police officers, state police officers and duly authorized agents of the said department shall have the power to seize the same with or without process. In cases where cosmetic preparations are seized without a warrant, said preparations shall be kept in some safe place for a reasonable time until a warrant can be procured. (R. S. c. 22, § 201.)

Sec. 210. Duty of officer or duly authorized agent of the department.—When cosmetic preparations and vessels are seized as provided in the preceding sections, the officer or duly authorized agent of the department who made such seizure shall immediately file with the magistrate before whom such warrant is returnable a libel against such preparations and vessels, setting forth the seizure by him describing the cosmetic preparations, their vessels and the place of seizure, and that they were kept or intended for unlawful sale and use in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall fix a time for the hearing of such libel and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed to show cause why said preparations and vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in 2 public and conspicuous places in the town or place where such preparations were seized, 10 days at least before said libel is returnable. (R. S. c. 22, § 202.)

Sec. 211. Forfeiture when no claimant appears; proceedings when claimant admitted as party.—If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same to be forfeited to the state. If any person appears and claims such preparations, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer or duly authorized agent of the department by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale and use as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate, upon hearing, is satisfied that

said preparations were not so kept or deposited for unlawful sale or use, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer or duly authorized agent of the department having the same in custody, commanding him to deliver to said claimant the cosmetic preparation to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said preparation, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said preparation forfeited to the state. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate. (R. S. c. 22, § 203.)

Sec. 212. Penalty.—Any person, firm or corporation that violates any of the provisions of sections 206 to 212, inclusive, or regulation made thereunder, shall be punished by a fine of not more than $100.

All fines, forfeitures and costs collected under the provisions of sections 206 to 212, inclusive, shall be paid to the county. (R. S. c. 22, § 204. 1949, c. 349, § 34.)

Barbers and Barber Shops. Hairdressing and Beauty Culture.

Sec. 213. State board of barbers and hairdressers; executive secretary; compensation.—The state board of barbers and hairdressers, as heretofore established and hereinafter in sections 213 to 230, inclusive, designated as the "board" shall consist of 5 members who shall be citizens of this state, two of whom shall have been engaged in the practice of barbering for at least 5 years prior to their appointment, and two of whom shall have been engaged in the practice of hairdressing and beauty culture in this state for at least 5 years prior to their appointment. The 5th member of the board shall be the director of health who shall be the executive secretary of the board. Each of the appointive members of the board shall be appointed by the governor with the advice and consent of the council for a term of 2 years and until his successor is appointed and qualified.

The chief clerk of the board shall be paid a salary not in excess of $500 per year, subject to the approval of the governor and council, to be paid from funds received under the provisions of sections 213 to 230, inclusive.

No person operating or employed by a school of barbering or of hairdressing and beauty culture shall be appointed as a member of the board, and if any member of the board, after appointment, shall affiliate himself in any way with any such school either of barbering or of hairdressing and beauty culture, his membership on the board shall immediately terminate and the vacancy shall be filled by the governor and council in the manner provided for the appointment of new members.

Members shall be appointed in the same manner to fill vacancies caused by death, resignation or removal, who shall serve during the unexpired term of their predecessors.

Each member of the board shall be allowed the sum of $10 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for registration, and for any necessary hearings and board meetings.

The executive secretary of said board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as said board shall direct, make sanitary inspections at least once a year of shops and other establishments subject to license under the provisions of sections 213 to 230, inclusive, and perform such other duties as shall be designated by the board. (R. S. c. 22, § 205.)

See c. 18, § 31, re fees, fund for payment of expenses of board, etc.

Sec. 214. Definitions.—The following words and phrases, when used in sections 213 to 230, inclusive, shall be construed as follows:

I. "The practice of barbering" shall mean any one or any combination of the following practices, when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly:

A. Shaving or trimming the beard or cutting the hair;

B. Giving facial and scalp massage or treatments with cosmetic preparations, either by hand or mechanical or electrical appliances;

C. Singeing, shampooing or applying cosmetic preparations to the scalp, face, neck or upper part of the body;

D. Removing superfluous hair from the face, neck or upper part of the body.

II. "Apprentice barber" shall mean any person who is engaged in learning and acquiring a knowledge of the practice of barbering under the direction and supervision of a person duly authorized under the provisions of sections 213 to 230, inclusive, to practice barbering.

III. "The practice of hairdressing and beauty culture" shall mean the engaging by any person for hire or reward in any one or more of the following practices: the application of the hands or of mechanical or electrical apparatus with or without cosmetic preparations, tonics, lotions, creams, antiseptics or clays, to massage, cleanse, stimulate, manipulate, exercise or otherwise to improve or to beautify the scalp, face, neck, shoulders, arms, hands or to manicure the fingernails of any person; or to arrange, dress, curl, wave, cleanse, cut, singe, bleach, color or similarly treat the hair of any person.

IV. "Apprentice" shall mean any person who is engaged in learning and acquiring a knowledge of the practice of hairdressing and beauty culture under the direction and supervision of a person duly authorized under the provisions of sections 213 to 230, inclusive, to practice hairdressing and beauty culture. (R. S. c. 22, § 206.)

See § 207, re further definitions.

Sec. 215. Rules and regulations.—The board shall make rules and regulations not contrary to law to be approved by the bureau of health concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 214, and prescribing the sanitary requirements to be observed by proprietors of shops and other establishments where barbering or hairdressing or beauty culture are practiced and by persons engaged in such practice and shall make rules and regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause such rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of such shops and establishments, which shall be kept posted in a conspicuous place in such shops so as to be easily read by customers.

The board shall also make rules and regulations not contrary to law to be approved by the bureau of health, prescribing the requirements for the construction, operation, maintenance and sanitary requirements of any school of barbering or of any school of hairdressing and beauty culture, subject to a license under the provisions of sections 213 to 230, inclusive.

Any member of the board shall have power to enter and make reasonable examination of any such shop or establishment during business hours for the purpose of ascertaining whether or not the rules and regulations are being observed.

No person shall give service in any establishment licensed under the provisions of sections 213 to 230, inclusive, who has a disease in a communicable stage.

The failure of any person to observe the requirements of any rule or regulation made by said board shall be cause for the suspension or revocation of such license, but no license shall be suspended or revoked without a reasonable opportunity being offered to such person to show cause to said board why such license shall not be suspended or revoked. Any such license suspended or revoked shall be delivered to any agent of the board upon demand.

Any such shop or establishment in which tools, appliances and furnishings in use therein are kept in an unclean and insanitary condition so as to endanger health is declared to be a common nuisance, and the proprietor thereof shall be subject to prosecution and punishment by a fine of not less than $200, nor more than $1,000, and in addition thereto by imprisonment for not less than 60 days, nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days, nor more than 11 months.

The board shall have the right to require the physical examination of any person employed in any barber shop or beauty parlor suspected of having any contagious or infectious disease. (R. S. c. 22, § 207.)

Sec. 216. Electrolysis.—The use of electrolysis for the removal of hair is not a part of the practice of hairdressing and beauty culture and is prohibited except under the direction of a licensed physician. (R. S. c. 22, § 208. 1949, c. 340. 1953, c. 321, § 3.)

Sec. 217. Registration and licenses.—No person shall practice barbering or hairdressing and beauty culture in this state unless he shall first have obtained a certificate of registration as provided in sections 213 to 230, inclusive, or unless he shall be acting within the scope of his employment as an apprentice.

No apprentice barber may independently practice barbering but he may, as an apprentice, do any or all acts constituting the practice of barbering under the immediate personal supervision of a registered barber, and only one such apprentice shall be employed in any licensed barber shop.

No person, firm or corporation shall operate or cause to be operated a shop or establishment where barbering or hairdressing and beauty culture are practiced unless such shop or establishment has been duly licensed. The fee for a license to operate a barber shop shall be $5 in the first instance and $3 but not exceeding $5, for each yearly renewal thereof. The license shall run from the 1st day of January in each year for 1 year and the fee shall be payable to the secretary of the board. The fee for a license to operate a beauty shop shall be $5 in the first instance and $3 for each yearly renewal thereof. The license shall run from the 1st day of July in each year for 1 year and the fee shall be payable to the secretary of said board.

Booths, attached to or within a beauty shop that are operated independently thereof, shall be subject to license fees in the same manner as an independent shop. (R. S. c. 22, § 209. 1953, c. 133.)

Sec. 218. Persons exempted.—The prohibitions and penalties of sections 213 to 230, inclusive, shall not apply to the following persons when acting within the scope of their profession or occupation:

I. Persons authorized by law of this state to practice medicine and surgery;

II. Commissioned medical officers of the United States army, navy or marine hospital service;

III. Registered nurses.

The provisions of sections 213 to 230, inclusive, apply only to those cosmetic preparations and apparatus sold or offered for sale in intrastate commerce. (R. S. c. 22, § 210. 1953, c. 306, § 1.)

Sec. 219. Registration for barbers.—Any person shall be eligible to ob-

tain a certificate of registration under the provisions of sections 213 to 230, inclusive, as a barber:

I. Who is at least 18 years of age;

II. Who is of good respectable character and temperate habits;

III. Who has satisfactorily completed a course of instruction, of 1,000 hours in not less than 6 months, in a school of barbering approved by said board and a total experience as an apprentice of a period of at least 6 months under a licensed barber, or in lieu thereof has had a total experience in the practice of barbering or as an apprentice of 2,500 hours distributed over a period of at least 18 months. (1951, c. 262, § 1. 1953, c. 306, § 2)

IV. Who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate.

Each applicant for such examination shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under the provisions of sections 213 to 230, inclusive, and shall be sworn to by the applicant. Said applications shall be filed with the secretary of said board and shall be accompanied by an examination fee of $5 which shall include registration, if examination is satisfactory; if not successful, applicant shall have the privilege of taking a second examination without fee at any subsequent examination held by the board within a period of 1 year. (R. S. c. 22, § 211. 1951, c. 262, § 1. 1953, c. 306, § 2.)

Sec. 220. Registration for hairdressing and beauty culture. — Any person shall be eligible to obtain a certificate of registration under the provisions of sections 213 to 230, inclusive, for the practice of hairdressing and beauty culture:

I. Who is at least 17 years of age; (1953, c. 138)

II. Who is of good respectable character;

III. Who has satisfactorily completed a course of instruction in a school of hairdressing and beauty culture approved by said board, or in lieu thereof has had a total experience in the practice of hairdressing and beauty culture or as an apprentice of 2,500 hours distributed over a period of at least 18 months; (1951, c. 262, § 2)

IV. Who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate.

Each applicant for such examination shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under the provisions of sections 213 to 230, inclusive, and shall be sworn to by the applicant. Said applications shall be filed with the secretary of said board and shall be accompanied by an examination fee of $5 which shall include registration, if examination is satisfactory; if not successful, applicant shall have the privilege of taking a second examination without fee at any subsequent examination held by the board within a period of 1 year. (R. S. c. 22, § 212. 1951, c. 262, § 2. 1953, c. 138.)

Sec. 221. Registration without examination.—Any person licensed to practice hairdressing and beauty culture or barbering in another state whose requirements are substantially equal to those specified in sections 213 to 230, inclusive, shall, upon the payment of a fee of $25, be entitled to a certificate of registration without examination, providing that each such state accepts without ex-

amination applicants registered in this state for registration or licenses, as the case may be, in a similar manner. (R. S. c. 22, § 213.)

Sec. 222. Schools of barbering, hairdressing and beauty culture; fees.—No school of barbering shall be approved by the board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, nor unless it has a minimum requirement of a continuous course of study of 1,000 hours distributed over a term of not less than 6 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, fundamentals for barbering, hygiene, histology of the hair, skin, face and neck, diseases of the skin, hair, glands and nails, massaging and manipulating the muscles of the upper body, hair cutting, shaving, and arranging, dressing, coloring, bleaching, tinting the hair, sterilization and the use of antiseptics, cosmetics and electrical appliances customarily used in the practice of barbering, which course of study and instruction shall be subject to the approval of said board. No school of barbering shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be $25 and it shall be good for 1 year from the date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of $25 for each renewal. The board may revoke any such certificate at any time for cause; provided, however, that notice shall be given to such school of said proposed action in order that said school may have an opportunity to be heard. No person shall be engaged to instruct in any practice of barbering as defined in section 214 unless said instructor has a certificate to practice barbering under the provisions of sections 213 to 230, inclusive, excepting physicians as specified above.

No school of hairdressing and beauty culture shall be approved by said board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, and familiar with the installation and use of electrical appliances adapted to hairdressing and beauty culture, nor unless it has a minimum requirement of a continuous course of study of 1,500 hours distributed over a term of not less than 9 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances, which course of study and instruction shall be subject to the approval of said board. No school of hairdressing and beauty culture shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be $25 and it shall be good for 1 year from the date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of $25 for each renewal. The board may revoke any such certificate at any time for cause; provided, however, that notice shall be given to such school of said proposed action in order that said school may have an opportunity to be heard. No person shall be engaged to instruct in any of the branches of hairdressing and beauty culture as defined in section 214 unless said instructor has a certificate to practice hairdressing and beauty culture under the provisions of sections 213 to 230, inclusive, excepting physicians as specified above. (R. S. c. 22, § 214. 1951, c. 262, § 3.)

Sec. 223. Apprentices.—Every apprentice barber, in order to avail himself of the provisions of sections 213 to 230, inclusive, shall, within 10 days after entering upon his apprenticeship, file with the secretary of the board, on blanks which shall be provided by said board, the name and place of business of his

employer, the date of commencement of such apprenticeship and the full name and age of said apprentice, which age shall not be less than 17 years, and said blanks shall be accompanied by a registration fee of $3. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Every apprentice barber, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with the requirements of section 219.

The board shall furnish to each registered apprentice a certificate of registration of said apprenticeship.

Every apprentice, in order to avail himself of the provisions of sections 213 to 230, inclusive, to practice hairdressing and beauty culture shall, within 10 days after entering upon his apprenticeship, file with the secretary of the board the name and place of business of his employer, the date of commencement of such apprenticeship and the full name and age of said apprentice, which age shall not be less than 17 years. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Every apprentice, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with the requirements of section 220. (R. S. c. 22, § 215. 1951, c. 262, § 2.)

Sec. 224. Examinations. — The board shall hold 2 public examinations each year, one on the 1st Tuesday of June and one on the 1st Tuesday of December, at such places as it shall designate. Additional examinations may be held at the discretion of the board. Notice of all examinations shall be given by publication at least 10 days before the holding of any such examination in at least 2 daily newspapers printed and published in the county in which such examinations shall be held. (R. S. c. 22, § 216.)

Sec. 225. Certificate of registration; limited certificate for manicuring, renewal; fees.—The board shall furnish to each registered barber a certificate of registration bearing the seal of the board certifying that the holder thereof is entitled to practice barbering in this state, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons whom he may serve. Said certificate of registration shall be renewed on or before the 1st day of January in each year, and the holder of said certificate of registration shall pay to the secretary of said board the sum of $3 for said renewal.

Said board shall furnish to each registered operator in the practice of hairdressing and beauty culture a certificate of registration bearing the seal of the board and the names of all of its members, certifying that the holder thereof is entitled to practice hairdressing and beauty culture in this state, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons whom he may serve. Said certificate of registration shall be renewed on or before the 1st day of July in each year, and the holder of said certificate of registration shall pay to the secretary of said board the sum of $3 for said renewal. Certificate of registration limited to manicuring only may be issued upon complying with such examination requirements as may be determined by the board and upon payment of the fees as provided by sections 213 to 230, inclusive.

Any registered barber or any person registered to practice hairdressing or beauty culture who fails to renew his certificate of registration during any license year, in subsequent years may renew his certificate of registration only after payment of all unpaid renewal fees. (R. S. c. 22, § 217.)

Sec. 226. Board to keep register.—The board shall keep a register in which shall be entered the names of all persons to whom certificates are issued under the provisions of sections 213 to 230, inclusive, and said register shall be at all times open to public inspection. (R. S. c. 22, § 218.)

Sec. 227. Suspension or revocation of certificates of registration; appeal.—The board may either refuse to issue or renew or may suspend or revoke any certificate of registration granted by it under the provisions of sections 213 to 230, inclusive, for:

I. Conviction of a felony shown by a certified copy of the record of the court of conviction;

II. Gross malpractice or gross incompetency;

III. Continued practice by a person knowingly having an infectious or contagious disease;

IV. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs;

V. Immoral or unprofessional conduct;

VI. The keeping of a shop or other establishment, or the tools, appliances or furnishings thereof in an unclean or insanitary condition;

VII. Failure to comply with any of the prescribed requirements of sections 213 to 230, inclusive;

VIII. For misrepresentation of qualifications; provided that before any certificate shall be suspended or revoked, the holder thereof shall have notice in writing of the charge or charges against him, and shall have reasonable opportunity to be heard in his defense. Any person whose certificate has been so suspended or revoked may apply to have the same reissued, and the same shall be reissued upon satisfactory evidence that the disqualifications have ceased.

Any such certificate of registration suspended or revoked shall be delivered to any agent of the board upon demand. (R. S. c. 22, § 219.)

Sec. 228. Hearings.—The board may neither refuse to issue nor refuse to renew, nor suspend nor revoke any certificate of registration, however, for any of these causes enumerated in section 227, unless the person accused has been given at least 10 days' notice in writing of the charge against him and an opportunity to be heard at a public hearing held by the board.

It shall be deemed that the board has duly notified the person accused of such hearing when the notice has been sent to the last known address of accused by registered letter.

Upon hearing of any such proceeding, the board may administer oaths and may procure by its subpoena, the attendance of witnesses and the production of relevant books and papers.

Any justice of the superior court or of the supreme court, either in term time or in vacation, upon application either of the accused or of the board may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the board in any hearing relating to the refusal, suspension or revocation of certificates of registration. (R. S. c. 22, § 220.)

Sec. 229. Disposition of fees.—The fees received by the board under the provisions of sections 213 to 230, inclusive, shall be paid to the treasurer of state. Fees received under the provisions of said sections shall be used for carrying out the purposes of sections 213 to 230, inclusive. (R. S. c. 22, § 221.)

See c. 18, § 31, re fees, payment of expenses of board, etc.

Sec. 230. Penalties.—Any person engaged in the practice of barbering in this state without having obtained a certificate of registration as provided by sections 213 to 230, inclusive, or employing a person to practice barbering who has not such a certificate of registration or who has not a certificate of registration as an apprentice barber, or falsely pretending to be qualified to practice barbering under the provisions of sections 213 to 230, inclusive, or violating any of the provisions of said sections, and any person engaged in the practice of hairdressing and beauty culture in this state without having obtained a certificate of registration as provided by sections 213 to 230, inclusive, or employing a person to practice hairdressing and beauty culture who has not such a certificate, unless he be an apprentice within the meaning of said sections, or falsely pretending to be qualified to practice hairdressing and beauty culture under the provisions of sections 213 to 230, inclusive, or violating any of the provisions of said sections, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than $100, nor less than $20, or by imprisonment for not more than 3 months, and every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of sections 213 to 230, inclusive. (R. S. c. 22, § 222.)

Child Welfare Services.

Sec. 231. Purposes.—The department, through its bureau of social welfare, is authorized to cooperate with the federal government in establishing, extending and strengthening, especially in predominantly rural areas, child welfare services for the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent, and in expending funds made available for such purposes, provided, however, that nothing in sections 231 to 233, inclusive, shall be construed as authorizing any public official, agent or representative, in carrying out provisions of said sections, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order. (R. S. c. 22, § 223. 1951, c. 266, § 21.)

Sec. 232. Acceptance of provisions of federal law.—The department is authorized to:

I. Apply for federal aid under the provisions of Title V, part 3, of the Social Security Act (Public No. 271, 74th Congress).

II. Cooperate with the federal government in the establishment and administration of such child welfare services on the basis of plans developed jointly by the state agency and the federal government, and acceptable to both. (1951, c. 266, § 22)

III. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports. [1951, c. 266, § 22]. (R. S. c. 22, § 224. 1951, c. 266, § 22.)

Sec. 233. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of child welfare services and administration thereof, as contemplated by Title V, part 3, of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department of health and welfare. (R. S. c. 22, § 225.)

Aid to Dependent Children.

Sec. 234. Definitions.—

I. The term "dependent child" wherever used in sections 234 to 246, inclusive, shall be construed to mean a needy child under the age of 16, or under the age of 18 if found by the state agency to be regularly attending school, who has been deprived of parental support or care by reason of the death, continued absence from home or the physical or mental incapacity of a parent and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in a place of residence maintained by one or more of such relatives as his or their own home. (1953, c. 308, § 24)

II. The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection I and with whom such child is living, within the meaning of such subsection, in a place of residence maintained by such individual, himself or together with any one or more of the other relatives so specified, as his or their own home. (1951, c. 270, § 1)

III. The term "aid to dependent children" means money payments with respect to, or medical care in behalf of or any type of remedial care in behalf of, a dependent child or dependent children, and includes money payments or medical care or any type of remedial care for any month to meet the needs of the relative with whom any dependent child is living if money payments have been made with respect to such child for such month. [1951, c. 270, § 1]. (R. S. c. 22, § 226. 1951, c. 270, § 1. 1953, c. 308, § 24.)

Sec. 235. Eligibility for aid.—Aid shall be granted under the provisions of sections 234 to 246, inclusive, to any dependent child who is living in a suitable family home meeting the standards of care and health fixed by the laws of this state and the rules and regulations of the department thereunder. The provisions of sections 234 to 246, inclusive, shall apply to any dependent child who has resided in the state for 1 year immediately preceding the application for such aid; or who was born within 1 year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the state 1 year immediately preceding the birth of the child. (R. S. c. 22, § 227. 1949, c. 396, § 1. 1951, c. 270, § 2. 1953, c. 308, § 24.)

Sec. 236. Recipients and relative with whom the child is living not to be pauperized. — The receipt of aid to dependent children shall not pauperize the recipient or the relative with whom the child is living and the receipt of general relief by such recipient or relative with whom the child is living, made necessary by the presence of the child in the family, shall not be considered to be pauper support. General relief expenses incurred by any municipality or by the state in behalf of such recipient or relative with whom the child is living, made necessary by the presence of the child in the family, may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement of the recipient, or the state in non-settled cases, shall reimburse the place of residence for such general relief in the same manner as is provided by sections 24 and 28 of chapter 94.

During the period of time that a relative with whom the child is living receives general relief under the provisions of this section, such relative shall not acquire or lose a settlement or be in the process of acquiring or losing a settlement. (1949, c. 396, § 2.)

Quoted in Poland v. Biddeford, 148 Me. 346, 93 A. (2d) 722.

Sec. 237. Application for aid.—Application for aid under the provisions of sections 234 to 246, inclusive, shall be made to the department on forms provided for this purpose by the department. Such applications shall be made by the relative with whom the dependent child is living and shall contain such information as may be required by the department. (R. S. c. 22, § 229. 1949, c. 60, § 2. 1953, c. 308, § 24.)

Sec. 238. Duties of commissioner.—Before granting aid under the provisions of sections 234 to 246, inclusive, the commissioner shall determine that the parent or other relative, with whom such child is living, is fit to bring up such child, that the other members of the household and the home surroundings are such as to make for good character and that it is advisable that such child continue living in such home, and that the granting of such aid is necessary. The commissioner shall make careful inquiry into the resources of the members of such household and their ability to work or otherwise contribute to the support of such child, and the existence of relatives able to assist in supporting such child; shall take all lawful means to compel all persons liable under the provisions of section 294 hereof to support such child and to enforce any other legal rights for the benefit of such child; shall press all members of the household who are able to work, other than such parent or relative and such child, to secure work; and shall secure all possible aid for such parent or relative and such child which can be secured from relatives or other individuals. (1947, c. 370, § 1. 1949, c. 349, § 35. 1953, c. 308, § 24.)

Sec. 239. Amount of aid.—The department shall send a written notice by mail to the chairman of the overseers of the poor or to the department of public welfare of the municipality of residence immediately upon receipt of an application. The notice shall contain the name and address of the applicant and the number of children for whom the grant is requested. The amount of aid which shall be granted for any dependent child shall be determined with due regard to the resources and necessary expenditures of the family and the conditions existing in each case on a budgetary basis in accordance with the rules and regulations of the department and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health. (R. S. c. 22, § 230. 1947, c. 370, § 2. 1949, c. 367, § 1. 1951, c. 278.)

Sec. 240. Department to administer all funds.—The department shall administer all funds appropriated for the purposes of sections 234 to 246, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable. It may grant prompt and suitable temporary aid to any dependent child when in its opinion such aid is immediately necessary. Any moneys heretofore or hereafter appropriated or allocated for mothers' aid or aid to dependent children are made available for the purposes of sections 234 to 246, inclusive. Nothing in said sections shall be construed as authorizing any public official, agent or representative, in carrying out any provision of this chapter, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order. (R. S. c. 22, § 231. 1953, c. 308, § 24.)

Sec. 241. Appeal.—Any person who is denied aid or who is not satisfied with the amount of aid allotted to him by the department, or whose application is not acted upon with reasonable promptness, or any municipality which is dissatisfied with a decision of the department made under any provision of sections 234 to 246, inclusive, shall have the right of appeal to the commissioner,

who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner. (R. S. c. 22, § 232. 1951, c. 270, § 3. 1953, c. 308, § 24.)

Sec. 242. Acceptance of provisions of federal law.—The department is authorized to:

I. Apply for federal aid under the provisions of Title IV of the Federal Social Security Act (Public No. 271, 74th Congress);

II. Cooperate with the federal government in matters of mutual concern pertaining to aid to dependent children, including the provision of such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;

III. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports. (R. S. c. 22, § 233.)

Sec. 243. Towns to be assessed.—The state shall recover from the city, town or plantation in which the child so aided has legal settlement, 18% of the amount expended for aid to each dependent child, which shall be credited to the regular legislative appropriation for aid to dependent children. Whenever it appears that a city, town or plantation is delinquent in making reimbursements to the state, the amounts shall be collected by the 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. (R. S. c. 22, § 234. 1949, c. 416. 1951, c. 266, § 23.)

Remedy provided by section is exclusive.—The state does not have a right of action at law to recover the funds expended for aid to a dependent child. This section creates the liability of the town and provides a remedy. The remedy so provided is exclusive. State v. Swan's Island, 148 Me. 268, 92 A. (2d) 324.

Cited in Poland v. Biddeford, 148 Me. 346, 93 A. (2d) 722.

Sec. 244. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to dependent children and administration thereof, as contemplated by Title IV of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 235.)

Sec. 245. Aid may be paid to a guardian or conservator.—When a relative with whom a child is living is found by the department to be incapable of taking care of his money, payment shall be made only to a legally appointed guardian or conservator of such relative. (1951, c. 270, § 4.)

Sec. 246. Inalienability of assistance.—All rights to aid shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor. (1951, c. 270, § 4.)

Neglect of Children. Custody.

Sec. 247. Compensation of probation officers for services.—County

probation and associate probation officers performing any of the duties specified in the 11 following sections shall be allowed, by their respective counties, their actual expenses and such compensation as their respective boards of county commissioners may from time to time determine. (R. S. c. 22, § 236. 1949, c. 349, § 36. 1951, c. 266, § 24.)

Sec. 248. Investigations and prosecutions.—All municipal boards, their agents and employees, all county probation officers and associate probation officers and the department and its agents, so far as funds are available, shall investigate all cases of cruel or injurious treatment of children coming to their knowledge, and shall cause offenders against any law for the protection of children or prevention of cruelty to the same to be prosecuted. The costs of court proceedings under the provisions of this section shall be taxed and paid in the same manner as in any criminal process. All fines imposed for the punishment of offenses under any of the provisions of the 10 following sections shall be paid over to the county treasurer of the county in which the offenses may have been committed. (R. S. c. 22, § 237. 1949, c. 349, § 37. 1951, c. 266, § 25.)

Sec. 249. Neglect to children; warrants; hearings; custody.—When complaint in writing signed by an agent of the department, sheriff, county probation officer, police officer, member of a municipal board or by three or more citizens of any town or city is made under oath to the probate court of the county or the municipal court having jurisdiction in said city or town, alleging that such child in such city or town is cruelly treated or willfully neglected by its parents or parent or other person having custody or control of such child or by the willful failure of such parents or parent or other person having custody or control of such child is not provided with suitable food, clothing or privileges of education, or is kept at or allowed to frequent any disorderly house, house of ill fame, gambling place or place where intoxicating liquors are sold, or other places injurious to the health or morals, or that such child is an orphan, or is a child whose mother is an inmate of a state institution, without means of support or kindred of sufficient ability who will furnish such support, and praying that suitable and proper provision be made for the care, custody, support and education of the child named in such complaint, the court in term time or vacation may fix a time for hearing upon said complaint to be held in term time or vacation, and may issue a warrant causing the parents or parent or other persons having custody or control of such child and the child, if necessary, to be brought before said court forthwith in term time or vacation, or may order notice to be given to said parents or parent or said other persons in such manner or in such length of time as the court deems proper. The court shall order notice in writing to be given by mail or otherwise to the department, to the municipal board of the town and to the county attorney of the county where the child is residing at least 10 days before the date set for hearing, provided, however, that the department and the municipal board and the county attorney may waive such notice. It shall be the duty of the county attorney to represent the interests of the department at the hearing. If, after hearing, it appears that any material allegations of said complaint are true, the court may order said child committed into the custody of the department itself or into the custody of any suitable person or duly incorporated children's institution or child welfare organization, whose standards of care and maintenance are approved by the department, and who consent to receive said child, at their own expense, unless the payment of such expense by the state shall be approved by the department which approval and payment may at any time be withdrawn. The court shall cause a copy of the order of commitment and of any subsequent modifications thereof to be sent forthwith to the department. The court in term time or vacation may order said child, pending hearing upon said complaint, committed into the custody of the department or into the custody of any suitable person approved by the court, without regard to the provisions of

section 251 as to bond, or into the custody of a duly incorporated children's institution or child welfare organization approved as aforesaid, and direct the municipal board where the child is residing to make such provision for its care as may be necessary pending hearing, and the expense, if any, of such care, in the first instance, shall be paid by the town or city in which the child is residing at time of complaint. When any child has been committed to the custody of the department, or into the custody of any suitable person or duly incorporated children's institution or child welfare organization under the provisions of this section, the court may order the parent of such child to contribute to the support of his minor child or children such sums payable weekly, monthly or quarterly as deemed reasonable and just, and may enforce obedience by appropriate decrees. Execution may issue for said sums, when payable, and for costs as in actions of tort. Whoever, being a parent of any child committed under the provisions of this section, shall be found guilty of having without just and sufficient cause failed or neglected to support said child, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. It shall be the duty of the county attorneys in their respective counties to prosecute all violations of this section that are brought to their attention. (R. S. c. 22, § 238. 1945, c. 286. 1947, c. 135.)

See c. 27, § 58, re care of children of women committed to reformatory for women; c. 27, § 82, re boys committed to custody of department of health and welfare.

Sec. 250. Parent divested of legal rights by court order; responsibility for support; decree altered; guardianship.—Orders and decrees provided for in the 3 preceding sections shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in section 40 of chapter 158, but shall not relieve the parent or parents of liability for the support of such child or from the penalties for failure to support which are provided in sections 1 to 4, inclusive, of chapter 138. Such original orders shall not extend beyond the time when the child shall reach the age of 18 years; but upon application by the department the court, for sufficient cause, may extend such orders to the time when the child shall reach the age of 21 years. The children's institution or organization or suitable person or department to which said child is committed shall have full custody and control over said child thereafter for said time and, if no other guardian is appointed, the department shall have all the powers as to the person, property, earnings and education of every child committed to its custody during the term of commitment which a guardian has as to a ward, and shall have authority to give the consent required in section 37 of chapter 158. An appeal may be taken from the order or decree of any probate or municipal court determining the custody of the child under the provisions of sections 247 to 258, inclusive, to the next term of the superior court to be holden within the county not earlier than 14 days after the date of said order or decree. The proceedings under such appeal from the probate court shall follow the form prescribed for appeal from probate courts and under such appeal from a municipal court shall follow the provisions of any special charter of the municipal court concerned, but pending action upon any such appeal, the court may order the custody of the child to be retained by said suitable person, children's institution, child welfare organization or the department. Upon application by the department, by a municipal board, by the parent or parents or guardian of any such child, or by the children's institution or child welfare organization or suitable person to which such child may have been committed, to the court making the commitment said court shall examine into the conditions and welfare of the said child and may at any time make such further order in relation to his care, custody, support and education as justice may demand and may discharge any child from custody or restore its custody to its parents, or either of them, if satisfied that the objects of commitment have been accomplished; this latter provision shall

not apply, however, to a child who was legally adopted subsequent to the date of commitment. (R. S. c. 22, § 239. 1945, c. 378, § 20.)

Cross references.—See c. 27, § 58, re care of children of women committed to reformatory for women; c. 146, § 7, re support of child committed to agency.

Cited in Drowin v. Ellis C. Snodgrass Co., 138 Me. 145, 23 A. (2d) 631, overruled in Rolutaille's Case, 140 Me. 121, 34 A. (2d) 473.

Sec. 251. Bond when child in custody of individual; maintenance and education; children or parents not paupers.—Whenever the court deems it suitable and conducive to the public welfare that any such child be placed under the control of an individual, the court shall first take a bond from such person running to the state in such sum and with such sureties as the court approves, conditioned that such person shall humanely treat and properly support, clothe and educate the child, and in case of non-performance of the conditions of said bond, a suit may be commenced thereon and the sum so recovered shall be paid into the treasury of the state for the joint benefit of the state and town of settlement, if any, of said child in proportion to the amount of expenses incurred by the state and said town because of the failure of said person so to treat, support, clothe and educate said child. The department shall provide for the maintenance and education in or by duly incorporated children's institutions and child welfare organizations, or in family homes, of any children committed to its custody under the provisions of the preceding sections. Bills itemizing the expense of maintenance and education of children committed under the provisions of sections 247 to 258, inclusive, when approved by the department, shall be paid by the state as provided by law. At the request of the parents or next friend of any dependent child under 18 years of age who is without parent or grandparent of sufficient ability, or without other relatives able and willing to provide for its care, the department may make provision, without intervention of court, for the care of such child. No such child, nor the parents or grandparents of such child who are unable to provide for its care, shall be deemed paupers by reason of any care furnished to the child under the provisions of sections 247 to 258, inclusive. The settlement of a child committed to custody other than that of a parent under the provisions of sections 247 to 258, inclusive, shall not change during the period of such custody. (R. S. c. 22, § 240. 1947, c. 398.)

Cross references.—See c. 27, § 58, re care of children of women committed to reformatory for women; c. 27, § 82, re boys committed to custody of department of health and welfare; c. 146, § 7, re support of child committed to agency.

Cited in Limington v. Alfred, 122 Me. 171, 119 A. 121.

Sec. 252. Religious faith of parents.—Any child who shall come in any way under the inspection or supervision of the department or under the provisions of sections 247 to 258, inclusive, shall, when placed in a family, be placed in a family of the same religious faith as that of the parents or surviving parent of such child, where a suitable family of such faith can be found willing to take such child. Any written promise made to either parent shall be faithfully carried out by the agent, institution or private person concerned. If such family cannot be found, then such child shall be placed in an institution maintained for children of such faith. In case no institution of such faith exists in this state or is able to take care of said child, then it may be placed in such family or institution as may be approved by the department until such a family has been secured; provided, however, that if the parents of such child are of different religious faiths, or the faith of its parents cannot for any reason be ascertained, then such child shall be placed in a family or institution of that religious faith in which such child has been reared and educated, but where no such family or institution can be found to take such child, then in some family or institution approved by said department until such family or institution can be found. No child when placed in any home or institution shall be denied the opportunity of attending the religious

worship or exercising the religious belief of its parents or surviving parent or in which it was reared and educated. (R. S. c. 22, § 241.)

See c. 27, § 58, re care of children of women committed to reformatory for women; c. 146, § 7, re support of child committed to agency.

Sec. 253. No child under 16 placed in almshouse.—No child under 16 years of age shall be placed in any almshouse in this state or be suffered by the overseers of the poor to remain in such almshouse except in cases of emergency, and then for a period not exceeding 60 days, provided that children under 2 years of age may be kept in almshouses when their mother is also an inmate; provided further, that with the consent of the department children when in need of medical or surgical treatment may be kept in hospitals or infirmaries connected with such almshouses for such length of time as they are in need of such treatment; provided also that when, upon a certificate of 2 physicians who are graduates of some legally organized medical college and have practiced 3 years in this state, it shall be made to appear that any child is a proper subject for the Pownal state school, such child may, with the consent of and under such regulations as the department may determine, be kept in the almshouse until such time as it can, under the provisions of section 145 of chapter 27, be committed to said school. Whenever any child or children under 16 years of age are placed or allowed by the overseers of the poor to remain in an almshouse, or in hospitals or infirmaries connected therewith, notice of that fact giving the name, parentage and such other facts as the department may require shall be sent by the overseers of the poor to said department within 48 hours of the entrance of such child into the almshouse, infirmary or hospital. A similar notice within the same time shall be sent by the overseers of the poor to the said department when the child is discharged from said almshouse, hospital or infirmary. (R. S. c. 22, § 242.)

Sec. 254. Children's homes licensed.—No person, firm, corporation or association shall conduct or maintain a boardinghouse or home for one or more children under 16 years of age, unattended by parents or guardian, excepting children related to such persons by blood or marriage, or who have been legally adopted by such persons, or engage in, or assist in conducting a business of placing out or finding homes or otherwise disposing of children under 16 years of age, without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. No such license shall be issued until the applicant has furnished the department with a written statement signed by one of the officials designated in section 19 of chapter 97 that the home and premises comply with said section 19; or a written statement signed by one of the officials designated in section 22 of chapter 97 that the home and premises comply with said section 22, or the insurance commissioner shall, if requested, direct such inspection to be made in accordance with section 21 of chapter 97. Said written statement shall be furnished annually thereafter, in those cases where the home is licensed to board more than 2 children. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. The term of such license shall be for 1 year and the department may revoke such license at any time for failure to comply with the provisions of this section or the rules and regulations pertaining thereto. It shall give written notice of such revocation by delivering the notice in hand to the licensee. If the licensee cannot be reached for personal service the notice may be left at the licensed premises. Whoever violates the provisions of this section shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 22, § 243. 1945, c. 99. 1947, c. 177. 1951, c. 122. 1953, c. 281, § 2.)

Sec. 255. "Boardinghouse for children" and "home for children" defined.—The term "boardinghouse for children" as used in the preceding section shall be held to mean a house or other place conducted or maintained by any

one who advertises himself or holds himself out as conducting a boarding place for children under 16 years of age, or who receives illegitimate children under 16 years of age, or who has in his custody or control one or more children under 16 years of age unattended by parents or guardians, for the purpose of providing such children with food or lodging, excepting children related to him by blood or marriage or who have been legally adopted by him.

The term "home for children" as used in said preceding section shall be held to mean any children's home, orphanage or other institution, association, organization or individual engaged in receiving, caring for and finding homes for orphaned, dependent and neglected children.

Whoever advertises himself or holds himself out as placing or finding homes for, or otherwise disposing of children under 16 years of age, or whoever actually places or assists in placing in homes of persons other than relatives, or causes or assists in causing the adoption or disposal otherwise of one or more children under 16 years of age shall be deemed as engaged or assisting in conducting a business of placing out or finding homes for children within the meaning of said section. (R. S. c. 22, § 244.)

Sec. 256. Parents or guardians may petition for restoration of custody.—Whenever a child is in the custody of any children's institution, or child's welfare organization, or suitable person or of the department, the parents or either of them may make application in writing to any justice of the superior court to have its custody restored to him or them, such notice on the application and the time and place of the hearing thereon as the court orders shall be given to such person, institution or organization, or to the department and to the municipal board of the town where the proceedings therein were commenced; and if, upon such hearing, it appears that the applicant is of sufficient ability and inclination suitably to provide for maintenance and education of said child, and that justice requires that its custody be restored to said applicant, the judge shall so order, and the custody and control of said child shall thereafter be given to said applicant until the further order of the court. (R. S. c. 22, § 245.)

Sec. 257. State or town may recover from parents.—The state or any town or county incurring expenses under sections 248, 249, 250, 251 and 256, through the fault of parents who are able to support and educate their children but wrongfully neglect and refuse to do so, may recover of them or either of them, in an action of debt, the amount so expended. (R. S. c. 22, § 246.)

Sec. 258. Failure to perform duties.—Whoever violates any provision of section 252, or willfully fails, neglects or refuses to perform any of the duties imposed upon him by the provisions of the 11 preceding sections shall be punished by a fine of not more than $500, or by imprisonment for not more than 6 months. (R. S. c. 22, § 247. 1949, c. 349, § 38. 1951, c. 266, § 26.)

See c. 138, §§ 1-4, re criminal proceedings for desertion of families; c. 138, §§ 5-15, re crimes against children; c. 149, §§ 29-35, re proceedings when child under age of 17 years is arrested and charged with crime.

Crippled Children.

Sec. 259. Purposes.—The department, through its bureau of health, is authorized to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it. The purpose of such included program shall be to develop, extend and improve services for locating such children and for providing for medical, surgical, corrective and other services and care, and for facilities for diagnosis, hospitalization and aftercare. Provided, however, that nothing in sections 259 to 261, inclusive, shall be construed as authorizing any public official,

agent or representative, in carrying out the provisions of said sections, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order. (R. S. c. 22, § 248.)

Sec. 260. Acceptance of provisions of federal law.—The department is authorized to:

I. Apply for federal aid under the provisions of Title V of the Federal Social Security Act (Public No. 271, 74th Congress);

II. Cooperate with the federal government in matters of mutual concern pertaining to services for crippled children, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid; (1951, c. 266, § 27)

III. Make such report in such form and containing such information as the federal government may require, and comply with such provisions as said federal government may find necessary to assure the correctness and verification of such reports. [1951, c. 266, § 27]. (R. S. c. 22, § 249. 1951, c. 266, § 27.)

Sec. 261. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of services for crippled children and administration thereof, as contemplated by Title V of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 250.)

Maternal and Child Health Services.

Sec. 262. Purposes.—The department, through its bureau of health, is authorized to administer a program to extend and improve its services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress. Provided, however, that nothing in sections 262 to 264, inclusive, shall be construed as authorizing any public official, agent or representative, in carrying out the provisions of said sections, to take charge of any child over the objections of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order. (R. S. c. 22, § 251.)

Sec. 263. Acceptance of provisions of federal law.—The department is authorized to:

I. Apply for federal aid under the provisions of Title V of the Federal Social Security Act (Public No. 271, 74th Congress);

II. Cooperate with the federal government in matters of mutual concern pertaining to maternal and child health services, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid; (1951, c. 266, § 28)

III. Make such reports in such form and containing such information as the federal government may require, and comply with such provisions as said federal government may find necessary to assure the correctness and verification of such reports. [1951, c. 266, § 28]. (R. S. c. 22, § 252. 1951, c. 266, § 28.)

Sec. 264. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of maternal and child health services and administration thereof, as contemplated by Title V of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 253.)

Licensing of Hospitals and Related Institutions.

Sec. 265. Hospitals licensed; definitions.—No person, partnership, association or corporation, nor any county or local governmental units, shall establish, conduct or maintain in the state any hospital, including any maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or other institution for the hospitalization or nursing care of human beings without first obtaining a license therefor in the manner hereinafter provided. Hospital, sanatorium, convalescent home, rest home, nursing home and other related institution, within the meaning of sections 265 to 274, inclusive, shall mean any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured or care of any aged or infirm persons requiring or receiving chronic or convalescent care. Provided, however, that nothing in sections 265 to 274, inclusive, shall apply to hotels or other similar places that furnish only board and room, or either, to their guests or to such homes for the aged or blind as may be subject to licensing under any other provision of law. (1945, c. 355, § 1.)

Sec. 266. Maternity home or hospital defined.—A maternity home or hospital shall be defined as a place admitting within a 6-months' period more than one woman not related by blood or marriage to the operator of the home or hospital for care during pregnancy, delivery or the puerperal period, admissions for the latter being restricted to those within 10 days after child birth. (1945, c. 355, § 1.)

Sec. 267. Existing hospitals to obtain licenses.—No person, partnership, association or corporation, nor any county or local governmental units may continue to operate an existing hospital, maternity home or hospital, sanatorium, convalescent home, rest home or nursing home, nor open a hospital, maternity home or hospital, sanatorium, convalescent home, rest home or nursing home after January 1, 1946 unless such operation shall have been approved and regularly licensed by the state as hereinafter provided. (1945, c. 355, § 1.)

Sec. 268. Application.—Any person, partnership, association or corporation, including county or local governmental units, desiring a license hereunder shall file with the department a verified application containing the name of the applicant desiring said license; whether such persons so applying are 21 years of age; the type of institution to be operated; the location thereof; the name of the person in charge thereof. Application on behalf of a corporation or association or governmental units shall be made by any 2 officers thereof or by its managing agents. All applicants shall submit satisfactory evidence of their ability to comply with the minimum standards of sections 265 to 274, inclusive, and all regulations adopted thereunder. (1945, c. 355, § 1.)

Sec. 269. Fees.—Each application for a license to operate a hospital, maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or related institution, within the meaning of sections 265 to 274, inclusive, shall be accompanied by a fee of $15. No such fee shall be refunded. All licenses issued hereunder shall be renewed annually upon payment of a like fee. All fees received by the department under the provisions of sections 265 to 274, inclusive, shall be paid into the state treasury to the credit of the department for the purpose of carrying out the general provisions of sections 265 to 274, inclusive. No license granted hereunder shall be assignable or transferable. (1945, c. 355, § 1.)

Sec. 270. Inspections.—Every building, institution or establishment for which a license has been issued shall be periodically inspected by duly appointed representatives of the bureau of health under the rules and regulations to be established by said department. No institution of any kind licensed pursuant to the provisions of sections 265 to 274, inclusive, shall be required to be licensed or

inspected under the laws of this state relating to hotels, restaurants, lodging houses, boardinghouses and places of refreshments. No such license shall be issued until the applicant has furnished the department with a written statement signed by the insurance commissioner or the proper municipal official designated in chapter 97 to make fire safety inspections that the home and premises comply with the provisions of said chapter 97 relating to fire safety. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. Said written statement shall be furnished annually thereafter. (1945, c. 355, § 1. 1953, c. 281, § 3.)

Sec. 271. Licenses issued. — The department is authorized to issue licenses to operate hospitals, maternity homes or hospitals, sanatoriums, convalescent homes, rest homes, nursing homes or other related institutions as herein defined, which, after inspection, are found to comply with the provisions of sections 265 to 274, inclusive, and any reasonable regulations adopted by said department. The department is authorized to suspend or revoke a license issued hereunder on any of the following grounds: violation of any of the provisions of sections 265 to 274, inclusive, or the rules or regulations issued pursuant thereto; permitting, aiding or abetting the commission of any illegal act in such institution; conduct of practices detrimental to the welfare of the patient. Provided that before any such license hereunder is suspended or revoked, 30 days' written notice shall be given the holder thereof. If a license is revoked as herein provided, a new application for license may be considered by the department if, when and after the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 265 to 274, inclusive, and rules and regulations thereunder as heretofore or hereinafter provided have been complied with and recommendation has been made therefor by the hospital inspector as an agent of the department. (1945, c. 355, § 1.)

Sec. 272. Appeal.—Any person who is aggrieved by the decision of the department under the provisions of sections 265 to 274, inclusive, shall have a right of appeal to the commissioner who shall provide the appellant with reasonable notice and opportunity for a fair hearing; or to the superior court within and for the county in which such person resides or in which any such hospital, maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or related institution is situated. (1945, c. 355, § 1.)

Sec. 273. Standards.—The department shall have the power to establish reasonable standards under the provisions of sections 265 to 274, inclusive, which it finds to be necessary and in the public interest and may rescind or modify such regulations from time to time as may be in the public interest, in so far as such action is not in conflict with any of the provisions of said sections. Provided, however, that no standards, rules or regulations of the department pursuant to sections 265 to 274, inclusive, shall be adopted or enforced which would have the effect of denying a license to any hospital or other institution required to be licensed hereunder, solely by reason of the school or system of practice employed or permitted to be employed by physicians therein; provided such school or system of practice is recognized by the laws of this state. (1945, c. 355, § 1.)

Sec. 274. Violations; penalties.—Any person, partnership, association or corporation, including county or local governmental units, establishing, conducting, managing or operating any hospital, maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or institution within the meaning of sections 265 to 274, inclusive, without first obtaining a license therefor as herein provided, or who shall violate any of the provisions of said sections or regulations thereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days. (1945, c. 355, § 1.)

Solicitation of Charitable Funds.

Sec. 275. License for solicitation of charitable funds.—No person, firm, corporation or association shall solicit funds for charitable or benevolent purposes outside of the municipality where such person resides or where such firm, corporation or association has its place of business, without having in full force a written license therefor from the department; provided that this section shall not apply to any person or organization already under the supervision of the former department of public welfare on the 3rd day of July, 1915, by virtue of the provisions of law then in force. No license shall be granted for a term exceeding 1 year. It shall state the name of the licensee, his residence or place of business, and for what purpose the funds are to be solicited. The department shall grant such license whenever it shall be shown to its satisfaction that the person or organization requesting the license is reputable and responsible and has suitable facilities for applying the funds to the purpose for which they are to be solicited, and that the records of such funds and the purpose for which they are used will be properly and accurately kept. Such license shall be furnished to the licensee without fee or charge, and may be revoked by the department whenever in its discretion it seems for the best interest of the public to do so. (R. S. c. 22, § 255.)

Old Age Assistance.

Sec. 276. Department to administer old age assistance.—The department shall administer the carrying out and enforcement of the provisions of law relating to old age assistance. It is empowered to employ, subject to the provisions of the personnel law, such assistants as may be necessary to carry out the provisions of sections 276 to 297, inclusive, and to coordinate their work with that of the other social welfare work of the department. (R. S. c. 22, § 256.)

See § 293; c. 16, § 34, re state officers making reports if they handle federal funds.

Sec. 277. Definition.—The words "old age assistance" mean money payments to, or medical care in behalf of or any type of remedial care in behalf of, needy individuals who are 65 years of age or older, but do not include any such payments to or care in behalf of any individual who is an inmate of a public institution, except as a patient in a medical institution, or any individual who is a patient in an institution for tuberculosis or mental disease, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. (1951, c. 269, § 1.)

Sec. 278. Administration.—All moneys made available under the provisions of sections 276 to 297, inclusive, shall be expended under the direction of the department, and the department is empowered to direct the expenditure therefrom of such sums as may be necessary for the purposes of administration. All assistance granted under said sections shall be paid monthly by the state. The department shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. (R. S. c. 22, § 257. 1947, c. 394, § 1. 1949, c. 335, § 1.)

Sec. 279. Acceptance of provisions of federal law.—The department is authorized subject to the approval of the governor and council to:

I. Apply for federal assistance under the provisions of Title I of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional there-

to or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of sections 276 to 297, inclusive, as may be required for such assistance.

II. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports. (R. S. c. 22, § 258.)

Sec. 280. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of old age assistance and administration thereof, as contemplated by Title I of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 259.)

Sec. 281. Old age assistance provided; application procedure.—Subject to the qualifications and restrictions contained in sections 276 to 297, inclusive, every person residing in this state shall be entitled to assistance in old age. The amount of assistance which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This assistance shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding $55 per month. Whenever the federal matching maximum is changed, the department may change the maximum grant with the approval of the governor and council.

Applications for old age assistance shall be made to the department on forms provided by the department. Said applications shall contain such information as may be required by the department.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of each adult child or spouse of said applicant residing in this state and accessible, and such statements shall include full information regarding individual income, assets and liabilities, provided that if such applicant has previously applied and there are on file with the department any of the necessary sworn statements then the applicant need only furnish such additional sworn statements as the department may require.

If the applicant is unable to obtain the sworn statement from such child or spouse as above provided, then upon proof of his inability to do so the department shall determine whether such inability to do so is real and genuine, and if it decides that it is real and genuine, then the merits of his application shall be considered. Any determination made under the provisions of this section shall be subject to the right of appeal by the applicant under the provisions of section 284. (R. S. c. 22, § 260. 1945, c. 251, § 1. 1947, c. 402, § 1. 1949, c. 1, § 1; c. 258, § 1. 1953, c. 3, § 1; c. 47, § 1.)

Sec. 282. Recipients of old age assistance not to be pauperized.—The receipt of old age assistance shall not pauperize the recipient thereof, and the receipt of general relief by such recipient shall not be considered to be pauper support. General relief expense incurred by any municipality or by the state in behalf of such recipient may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement, or the state in nonsettled cases, shall reimburse the place of residence for such general relief in the same manner as is provided by sections 24 and 28 of chapter 94. (1945, c. 251, § 2.)

Sec. 283. Requisites for assistance.—Old age assistance shall be granted only to an applicant who:

I. Is 65 years of age or more;

II. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health and such facts, together with statements including full information regarding income, assets and liabilities, shall be sworn to in the application by the applicant; (1947, c. 402, § 2)

III. Has resided in the state for 5 or more years within the 9 years immediately preceding application for assistance and has resided therein continuously for 1 year immediately preceding the application;

IV. Is not an inmate of any public institution, except as a patient in a medical institution as provided in section 277; but an inmate of such an institution may file application for assistance under the provisions of sections 276 to 297, inclusive, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution; (1951, c. 269, § 2)

V. Has no spouse residing in this state and able to support him; (1949, c. 345, § 1)

VI. Has no child or children residing in this state and able to support him; (1949, c. 345, § 2)

VII. Is a citizen of the United States. (R. S. c. 22, § 261. 1947, c. 402, § 2. 1949, c. 345, §§ 1, 2. 1951, c. 269, § 2.)

See c. 94, § 9, re pauper settlement limited.

Sec. 284. Appeal.—Any person who is denied assistance, or who is not satisfied with the amount of assistance allotted to him, or is aggrieved by a decision of the department made under any provision of sections 276 to 297, inclusive, or whose application is not acted upon with reasonable promptness, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner. (R. S. c. 22, § 262. 1951, c. 269, § 3.)

Sec. 285. Assistance may be paid to a guardian or conservator.—If an applicant for or a recipient of assistance is, on the testimony of reputable citizens, found by the department to be incapable of taking care of himself or his money, the department after due investigation may pay the same to a legally appointed guardian or conservator for his benefit. (R. S. c. 22, § 263.)

Sec. 286. Inalienability of assistance.—All rights to assistance shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor. (R. S. c. 22, § 264.)

Sec. 287. Disqualification of applicant and recipient.—Any applicant for or recipient of old age assistance, who divests himself directly or indirectly of any property after January 1, 1950 without a reasonable consideration or for the purpose of qualifying for such assistance, shall forfeit all right to receive assistance under the provisions of sections 276 to 297, inclusive.

Any recipient of old age assistance who is convicted of a felony shall be disqualified from receiving old age assistance.

Any recipient of old age assistance shall be disqualified from receiving old age assistance unless he files with the department, whenever the department may require it, the following information:

I. A sworn statement concerning income, assets and liabilities of the recipient sworn to by the recipient;

II. An individual sworn statement made on the part of each accessible adult child or spouse of said recipient and such statements shall include full information regarding individual income, assets and liabilities.

Provided, however, if the recipient is unable to obtain the sworn statement from such child or spouse as above provided, then upon proof of his inability to do so, the department shall determine whether such inability to do so is real and genuine, and if it decides that it is real and genuine, then the merits of his case shall be considered. Any determination made under the provisions of this section shall be subject to the right of appeal by the recipient under the provisions of section 284. (R. S. c. 22, § 265. 1947, c. 402, § 3. 1949, c. 258, § 2. 1953, c. 279, § 1.)

Sec. 288. Change of status of recipients; notification.—If the recipient of old age assistance or his spouse becomes possessed of any property or any income in addition to the amount stated in his application, it shall be his duty immediately to notify the department of such fact. (R. S. c. 22, § 266.)

Sec. 289. Report of increase in income.—Every recipient of old age assistance shall forthwith notify the department upon the receipt and possession of any property or income in excess of the amount allowed by the provisions of sections 276 to 297, inclusive. (R. S. c. 22, § 267.)

Sec. 290. Illegal payments recovered.—The department may recover from any child, children or spouse of any beneficiary under the provisions of sections 276 to 297, inclusive, who is able to support the said beneficiary but who fails to provide such support, in an action on the case for the amount expended by the department for the said support. The department may also recover the amount expended for aid in an action on the case from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the attorney general in the name of the state and the amount recovered shall be credited to the old age assistance fund. (R. S. c. 22, § 268. 1951, c. 269, § 4.)

Sec. 291. Funeral expenses.—On the death of a recipient, reasonable funeral expenses not exceeding $125 shall be paid by the state if the estate of the deceased is insufficient to pay the same. (R. S. c. 22, § 269. 1953, c. 381, § 1.)

Sec. 292. Payment of certain obligations of deceased recipients.—When for any reason whatsoever a recipient of old age assistance is unable to properly indorse the check for the last payment approved for him prior to his death or commitment to an institution, the department may approve payment by the state of obligations incurred by the recipient for board or medical or nursing services in anticipation of the receipt of such check but not in excess of the amount of the check; provided that any claim which may be paid under the foregoing must be presented to the department in writing within 60 days of the date of the death or commitment of the recipient. (1945, c. 122, § 1. 1951, c. 269, § 5.)

Sec. 293. Assistance suspended.—If at any time the grant available to the state of Maine under the provisions of the Social Security Act of the United States relating to old age assistance shall cease to be available to match funds provided by law and to be distributed under the provisions of sections 276 to 297, inclusive, the governor shall forthwith publicly so proclaim and upon the date of such proclamation the provisions of said sections shall be suspended. (R. S. c. 22, § 270.)

Sec. 294. Liability of relatives to support.—The husband, wife, father, mother, grandparent, child or grandchild of a recipient of, or an applicant for, public assistance of any nature from the state shall, if of sufficient ability, be re-

sponsible for the support of such persons. In determining the ability of such relative, his assets as well as his income shall be considered.

The commissioner is authorized and empowered to bring proceedings in the name of the state of Maine in any court of competent jurisdiction to compel any person liable under the provisions of this section for support to contribute to the support of any person who is receiving, or who has applied and is otherwise eligible for, public assistance. The court shall have power to determine what shall be a fair and reasonable amount for such support and maintenance to be paid by the party adjudged liable, and to determine what amount shall be paid by such party to the department as reimbursement for moneys already furnished to a recipient. If such person is receiving public assistance the court may order that such amount for such support and maintenance be paid to the commissioner for the use of such recipient. The action may be brought in the same manner and form as that provided by section 20 of chapter 94, except that such action may be commenced and acted upon by the court in vacation upon not less than 10 days' notice. (R. S. c. 22, § 271. 1947, c. 394, § 2.)

Sec. 295. Claims against estate.—Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 276 to 297, inclusive. Such claim shall have priority over all unsecured claims against such estate, except:

I. Administrative expenses, including probate fees and taxes;

II. Expenses of the last sickness and burial expenses.

The attorney general shall collect any claim which the state may have hereunder against such estate. Provided that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary and said spouse does not marry again. If the state participates in federal funds for the purposes of sections 276 to 297, inclusive, a sum equal to the pro rata share to which the United States is equitably entitled of the net amount collected from the estate of the beneficiary, with respect to old age assistance furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States. (R. S. c. 22, § 272. 1947, c. 336.)

Sec. 296. Fraudulent representations.—Any person who by means of a willfully false statement or representation, or by impersonation or other fraudulent devices, obtains or attempts to obtain, or aids or abets any person to obtain:

I. Assistance to which he is not entitled:

II. A larger assistance than that to which he is entitled;

III. Payment of any forfeited installment of assistance;

and any person who knowingly buys or aids or abets in buying or in any way disposing of the property of a recipient in such a way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 22, § 273.)

Sec. 297. General penalty.—Any person who violates any of the provisions of sections 276 to 297, inclusive, for which no penalty is specifically provided shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. If a recipient of assistance is convicted of an offense under the provisions of this section, the department may cancel the assistance. (R. S. c. 22, § 274.)

Aid to the Blind.

Sec. 298. Definitions.—

I. The words "aid to the blind" mean money payments to, or medical care in behalf of or any type of remedial care in behalf of, blind individuals who are needy, but do not include any such payments to or care in behalf of any individual who is an inmate of a public institution, except as a patient in a medical institution, or any individual who is a patient in an institution for tuberculosis or mental diseases, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. (1951, c. 44, § 1)

II. The words "supplementary services" mean services other than money payments to blind persons in need, including payments toward the funeral expenses of such persons as provided in sections 298 to 318, inclusive. (R. S. c. 22, § 275. 1951, c. 44, § 1.)

Sec. 299. Requisites for aid.—Aid to the blind shall be granted to an applicant who:

I. Has no vision or whose vision, with correcting glasses, is so defective as to prevent the performance of ordinary activities for which eyesight is essential;

II. Is over 16 years of age;

III. Has resided in the state for 5 or more years within the 9 years immediately preceding application for aid and has resided therein continuously for 1 year immediately preceding the application;

IV. Is not an inmate of any public institution, except as a patient in a medical institution as provided in section 298; but an inmate of such an institution may file application for aid under the provisions of sections 298 to 318, inclusive, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution; (1951, c. 44, § 2)

V. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. The first $50 per month of earned income shall be disregarded; (1949, c. 348. 1951, c. 44, § 2. 1953, c. 308, § 25)

VI. Is not receiving old age assistance, aid to the disabled or aid to dependent children; (1951, c. 44, § 2)

VII. Has no spouse, parents, adult child or children residing in this state and able to support him. [1951, c. 44, § 3]. (R. S. c. 22, § 276. 1949, c. 348. 1951, c. 44, §§ 2, 3. 1953, c. 308, § 25.)

Sec. 300. Services for the blind.—The department shall provide or cooperate with other public agencies in providing a program of services for the blind, including the prevention of blindness, the locating of blind persons, medical service for eye conditions, vocational guidance and training of the blind, the placement of blind persons in employment, assistance to the blind in marketing the products of their home industries, the instruction of the adult blind in their homes and other social services to the blind.

The commissioner is authorized to establish within the department a division, to be known as the division of services for the blind, charged with the responsibility for carrying out the provisions of this section. (R. S. c. 22, § 277.)

Sec. 301. Administration.—The department shall administer all funds appropriated for the purposes of sections 298 to 318, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable. (R. S. c. 22, § 278.)

Sec. 302. Amount of aid.—The amount of aid which any person may receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This aid shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding $55 per month, except that the first $50 per month of earned income shall be disregarded in making a budget. All aid granted under the provisions of sections 298 to 318, inclusive, shall be paid monthly by the state. Whenever the federal matching maximum is changed, the department may change the maximum grant with the approval of the governor and council. (R. S. c. 22, § 285. 1945, c. 251, § 3. 1949, c. 1, § 2. 1951, c. 44, § 4. 1953, c. 3, § 2; c. 47, § 2.)

Sec. 303. Application procedure.—Applications for aid to the blind shall be made to the department on forms provided by the department. The application shall be sworn to by the applicant and shall give full information revealing the income, assets and liabilities of the applicant, together with such other information as the department may require.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of the spouse, parents and each adult child of said applicant residing in this state, and such statements shall include full information revealing individual income, assets and liabilities, provided that if such applicant has previously applied and there are on file with the department any of the necessary sworn statements then the applicant need only furnish such additional sworn statements as the department may require.

If the applicant is unable to obtain the sworn statement from such spouse, parents or child as above provided, then upon proof of his inability to do so the department shall determine whether such inability to do so is reasonable, and if it decides that it is reasonable, then the merits of his application may be considered. Any determination made under the provisions of this section shall be subject to the right of appeal by the applicant under the provisions of section 307. (R. S. c. 22, § 279. 1951, c. 44, § 5.)

Sec. 304. Disqualification of applicant and recipient.—Any recipient of aid to the blind shall be disqualified from receiving aid to the blind unless he files with the department whenever the department may require it the following information:

I. A sworn statement concerning income, assets and liabilities of the recipient sworn to by the recipient;

II. An individual sworn statement made on the part of the spouse, parents and each adult child of said recipient residing in this state, and such statements shall include full information regarding individual income, assets and liabilities.

Provided, however, if the recipient is unable to obtain the sworn statement from such spouse, parents or child as above provided, then upon proof of his inability to do so, the department shall determine whether such inability to do so is reasonable and if it decides that it is reasonable then the merits of his case may be considered. Any determination made under the provisions of this section shall be subject to the right of appeal by the recipient under the provisions of section 307. (R. S. c. 22, § 280. 1951, c. 44, § 6.)

Sec. 305. Examination.—Applicants for aid under the provisions of sections 298 to 318, inclusive, shall be examined by an ophthalmologist, a physician skilled in diseases of the eye, or an optometrist approved or designated by the department. The expense of the examination may be paid by the state. The department is authorized to promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may

have and still be eligible for aid under the provisions of said sections. (R. S. c. 22, § 281. 1951, c. 44, § 7. 1953, c. 308, § 26.)

Sec. 306. Expenses for treatment.—On the basis of the findings of the examination as provided in the preceding section, supplementary services may be provided by the department to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined in section 299. Such supplementary services may be provided under the provisions of sections 298 to 318, inclusive, for the prevention of blindness for children under the age of 16 years. The supplementary services may include necessary traveling and other expenses to receive medical, surgical, clinical or hospital treatment as may be approved by the department, or to pay for such treatment. (R. S. c. 22, § 282.)

Sec. 307. Appeal.—Any blind person who is denied aid or who is not satisfied with the amount of aid allotted to him, or is aggrieved by a decision of the department made under any provision of sections 298 to 318, inclusive, or whose application for aid to the blind is not acted upon with reasonable promptness, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner. (R. S. c. 22, § 283. 1951, c. 44, § 8.)

Sec. 308. Illegal payments recovered.—The department may recover from any adult child or children, spouse or parents of any beneficiary under the provisions of sections 298 to 318, inclusive, who is able to support the said beneficiary, but who fails to provide such support, in an action on the case for the amount expended by the department for the said support. The department may also recover the amount expended for aid in an action on the case from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the attorney general in the name of the state and the amount recovered shall be credited to the aid to the blind fund. (R. S. c. 22, § 284. 1947, c. 353. 1949, c. 335, § 2. 1951, c. 44, § 9.)

Sec. 309. Recipients of aid to the blind not to be pauperized.—The receipt of aid to the blind shall not pauperize the recipient thereof and the receipt of general relief by such recipient shall not be considered to be pauper support. General relief expense incurred by any municipality or by the state in behalf of such recipient may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement, or the state in nonsettled cases, shall reimburse the place of residence for such general relief in the same manner as is provided by sections 24 and 28 of chapter 94. (1945, c. 251, § 4.)

Sec. 310. Aid may be paid to a guardian or conservator.—When a person to whom aid is granted under the provisions of sections 298 to 318, inclusive, is a minor or is found to be incapable of taking care of himself or his money, the aid may be paid to a guardian or conservator for the benefit of the applicant. (R. S. c. 22, § 286.)

Sec. 311. Inalienability of aid.—All rights to aid shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor. (R. S. c. 22, § 287.)

Sec. 312. Disqualification of applicant.—Any applicant for aid to the blind who divests himself directly or indirectly of any property after January 1, 1950 without reasonable consideration or for the purpose of qualifying for such aid shall forfeit all right to receive aid to the blind under the provisions of sections 298 to 318, inclusive. (R. S. c. 22, § 288. 1951, c. 44, § 11. 1953, c. 279, § 2.)

Sec. 313. Claims against estate.—Upon the death of a beneficiary, occurring after August 20, 1951, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 298 to 318, inclusive. Such claims shall have priority over all unsecured claims against such estate, except:

I. Administrative expenses, including probate fees and taxes;

II. Expenses of the last sickness and burial expenses.

The attorney general shall collect any claim which the state may have hereunder against such estate. Provided that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary and said spouse does not marry again. If the state participates in federal funds for the purposes of sections 298 to 318, inclusive, a sum equal to the pro rata share to which the United States is equitably entitled of the net amount collected from the estate of the beneficiary, with respect to aid to the blind furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States. (R. S. c. 22, § 289. 1951, c. 44, § 12. 1953, c. 308, § 27.)

Sec. 314. Change of circumstances.—If at any time during the continuance of aid the recipient thereof becomes possessed of any property or income in excess of the amount last disclosed to the department, it shall be the duty of the recipient immediately to notify the department of the receipt or possession of such property or income and the department may, after investigation, either cancel the aid or change the amount thereof in accordance with the circumstances. (R. S. c. 22, § 290. 1951, c. 44, § 13.)

Sec. 315. Funeral expenses.—On the death of a recipient, reasonable funeral expenses not exceeding $125 shall be paid by the state if the estate of the deceased is insufficient to pay the same. (R. S. c. 22, § 291. 1953, c. 381, § 2.)

Sec. 316. Payment of certain obligations of deceased recipients.—When for any reason whatsoever a recipient of aid to the blind is unable to properly indorse the check for the last payment approved for him prior to his death or commitment to an institution, the department may approve payment by the state of obligations incurred by the recipient for board or medical or nursing services in anticipation of the receipt of such check but not in excess of the amount of the check; provided that any claim which may be paid under the foregoing must be presented to the department in writing within 60 days of the date of the death or commitment of the recipient. (1945, c. 122, § 2. 1951, c. 44, § 14.)

Sec. 317. Acceptance of provisions of federal law.—The department is authorized to:

I. Apply for federal aid under the provisions of Title X of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of sections 298 to 318, inclusive, as may be required for such aid;

II. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports. (R. S. c. 22, § 292.)

Sec. 318. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to the blind and administration thereof, as contemplated by Title X of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 293.)

Sec. 319. Blind children to Perkins Institution or other qualified school; no distinction of wealth or poverty; expenses.—Upon the request of the parents or guardians, the department may send such blind children as it may deem fit subjects for education, for a term not exceeding 10 years, and thereafter in the discretion of the department, in the case of any pupil, to the Perkins Institution and Massachusetts School for the Blind at Watertown, Massachusetts or other school considered by the department to be qualified to provide suitable education for the blind child. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution, shall be paid by the state; provided, however, that nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils. (R. S. c. 22, § 294. 1945, c. 88.)

Special Legislative Pensions.

Sec. 320. Special legislative pensions.—All special legislative pensions granted prior to January 1, 1941, and charged to the appropriation for support of dependent soldiers and sailors shall be paid from the appropriation for special legislative pensions. Provided, however, that if investigation by the department reveals that the need for a special pension no longer exists the department may suspend the same for part or all of the period until the next regular session of the legislature, and shall promptly notify the person to that effect. (R. S. c. 22, § 298. 1945, c. 271. 1947, c. 386, § 5.)

Indian Tribes.

Sec. 321. Indian defined.—An Indian is defined for all purposes as being a person who is in whole or to the extent of at least ¼ part of Indian blood. (R. S. c. 22, § 307.)

Sec. 322. General supervision; records; controller to file and audit accounts.—The department shall have general supervision over the Indian tribes and shall keep in its office all records pertaining to the tribes except such matters as pertain to the filing and auditing of accounts, which shall be kept in the office of the state controller. The commissioner is authorized to create within the department a division of Indian affairs and to appoint, subject to the personnel laws, a director thereof. All duties and powers hereinafter given the commissioner relating to Indians may be delegated to the director. (R. S. c. 22, § 308. 1953, c. 378, § 1.)

Sec. 323. Record of proceedings; account of receipts and expenditures.—The commissioner shall keep a true record of his proceedings and correct accounts of all receipts and expenditures of every kind; and shall carry into effect all treaties with said tribes. (R. S. c. 22, § 311. 1953, c. 378, § 3.)

Sec. 324. Health officers.—A tribal physician or nurse for each of the reservations of the Penobscot and Passamaquoddy tribes of Indians shall be appointed by the director of the bureau of health, subject to the approval of the

commissioner. Such tribal physician or nurse shall be a physician or other person approved because of training and experience in public health work and shall serve for a term of 3 years and until his successor is appointed and approved; compensation to be determined by the commissioner. (1945, c. 264, § 1.)

Sec. 325. Overseers of the poor and other special officers. — An overseer of the poor, a road commissioner, a local health officer and a tribal hall keeper may be appointed by the tribal governor of each of the Indian tribes subject to the approval of the tribal council, if any, of each such tribe. Such officers shall advise with the commissioner and receive compensation for duties performed upon his authorization. (1945, c. 264, § 1. 1953, c. 378, § 3.)

Sec. 326. Clerks of Indian tribes.—A clerk of the reservation of each Indian tribe shall be appointed by the tribal governor subject to the approval of the tribal council, if any. The clerks shall keep a record of the births and deaths of persons living on such reservation and perform all other duties with respect to the same as are required of the clerks of towns under the provisions of sections 394 and 396. He shall receive a fee of 25¢ for each certificate returned to the bureau of vital statistics. (1945, c. 264, § 1.)

See § 401, re penalty.

Sec. 327. Contracts of Indians for timber and grass.—Contracts relating to the sale or disposal of trees, timber or grass on the Indian lands made with any Indian belonging to either of said tribes, unless examined and allowed by the commissioner, are void. (R. S. c. 22, § 312. 1953, c. 378, § 3.)

Stated in Murch v. Tomer, 21 Me. 535.

Sec. 328. Limitations of leases and contracts made by commissioner.—No lease of land or contract for trees, timber or grass made by the commissioner has effect for more than 1 year; nor shall the commissioner, in any 1 year, sell or dispose of trees or timber of said Indians to an amount exceeding $500, except as provided in sections 354 to 367. (R. S. c. 22, § 313. 1953, c. 378, § 3.)

Sec. 329. Commissioner may sue in his name. — The commissioner may, in his own name and capacity, maintain actions for money due to any Indians, and for injuries done to them or their property; and all sums or damages so recovered shall be distributed to the Indians of the tribe, according to their usages, or be invested in useful articles. (R. S. c. 22, § 314. 1953, c. 378, § 3.)

Section does not deprive Indian of right to sue nor interfere with his contract liability.—This section authorizes the commissioner to sue for a debt due to an Indian; but it has not, in term, or by implication, taken away the right of the Indian to sue without the interference of the commissioner. And the section has made no provision for any interference of the commissioner when a contract is sought to be enforced against an Indian; nor has it, in any way undertaken to shield him from his obligation to perform his promise, whether express or implied, to pay for goods or articles by him received. Murch v. Tomer, 21 Me. 535.

Indians: General Provisions.

Cross Reference.—See c. 3, § 2, re Indians cannot vote.

Sec. 330. Warrants.—The governor and council may draw warrants on the treasurer for such sums as are payable to the Indians for the bounties on agricultural products as hereinafter provided. (R. S. c. 22, § 315. 1953, c. 378, § 3.)

Sec. 331. Bounties on produce; proof made to commissioner. — Bounties shall be paid to every Indian of either of said tribes for produce raised by him either on his own land or on land belonging to the tribe, as follows:

I. For every bushel of wheat, 20¢.

II. For every bushel of rye, oats, barley, buckwheat, peas or beans, 10¢.

III. For every bushel of potatoes, turnips, parsnips, beets or carrots, 5¢.

Before any bounty is paid to such Indian, he shall prove to the satisfaction of the commissioner the number of bushels of each article before named, raised by him on such land. (R. S. c. 22, § 316. 1953, c. 378, § 3.)

Sec. 332. Account of appropriations.—The commissioner shall keep an account of appropriations so paid out. (R. S. c. 22, § 318. 1953, c. 378, § 3.)

Sec. 333. Relief of Indians not members of tribes; statements transmitted by overseers of poor.—Whenever any Indian, not a member of the Penobscot or Passamaquoddy tribe of Indians or any member of the family of such Indian, is found destitute and in distress, and is relieved by the overseers of the poor of the town required by law to provide relief for such person, the overseers of the poor shall transmit to the department a statement specifying the nature, dates and amounts of the supplies furnished, together with a statement of fact relating to the condition, tribe, length of time in the state so far as may be ascertained and such other data as may be required concerning such Indian, whereupon the state shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been expended necessarily therefor. (R. S. c. 22, § 319.)

Sec. 334. Expenditure of funds of Indian tribes. — The department, subject to the approval of the governor and council, may expend for the benefit of either Indian tribe, any portion of the funds of that tribe; provided, however, that the expenditure will not decrease the principal of the fund to such an extent as to prevent compliance with any existing provisions of statute, and provided further, that the tribe whose funds are used shall consent to the expenditure at a meeting duly called for the purpose. (R. S. c. 22, § 320.)

See §§ 336 and 337, re constables and police officers of Indian Tribes.

Sec. 335. Posing as Indian in vending.—Whoever, not a member Indian of either of said tribes, represents himself to be such Indian in the vending of goods and wares, shall be punished by a fine of not more than $250. (R. S. c. 22, § 321. 1947, c. 174.)

Sec. 336. Constables.—The governor, with the advice and consent of the council, is authorized to appoint one or more reliable and well commended Indians, in each of the Indian tribes in this state, as special constables with like powers and duties of constables and police officers, within towns and cities, in the enforcement of the laws of the state, within the limits of the reservation of his tribe, with authority to take any offender before any court of competent jurisdiction within his county. Such constables shall act as school attendance officers for their respective tribes. They shall receive such compensation as may be determined by the department. (1945, c. 124, § 1.)

Sec. 337. Term of office.—Said constables shall be appointed for a term of 2 years from the date of his appointment or until his successor has been duly appointed and qualified. Any constable may be removed by the governor upon recommendation of the department. (1945, c. 124, § 1.)

Penobscot Tribe.

Sec. 338. Tribal committee chosen annually; membership.—A tribal committee of the Penobscot tribe of Indians shall be chosen annually, in the month of November, to consist of 12 members of said tribe. No member of said committee shall be less than 21 years of age. The said members shall be chosen at a meeting held as hereinafter provided. (R. S. c. 22, § 322.)

Sec. 339. Meetings for election of committee; certificates of election; vacancies. — A meeting for the election of members of said committee shall be called by the commissioner, who shall give notice thereof in the same manner as notice of the meeting for the election of governor of said tribe is required to be given; and at such meeting said commissioner or some person appointed in writing by him shall preside, who shall receive, sort, count and declare in open meeting the vote given in for members of said committee. The said commissioner shall issue certificates of election to the persons thus elected, who shall hold office as such members until a new election is had, unless their term of office is sooner terminated by resignation or by ceasing to be members of said tribe. Whenever any vacancy occurs in said committee, the commissioner shall call a meeting of the tribe to fill such vacancy. (R. S. c. 22, § 323. 1953, c. 378, § 3.)

Sec. 340. Membership.—Membership in the Penobscot tribe of Indians may, after March 22, 1901, be acquired only as follows:

I. By birth.

II. By adoption into the tribe as determined by its tribal committee, in accordance with the provisions of the 2 following sections.

III. By marriage to a male member of said tribe; but membership by marriage can be acquired only by such persons as are in whole or to the extent of at least ¼ part of Indian blood, and it shall not include the previous issue of the person acquiring it.

A certificate of marriage signed by the person solemnizing the same, or an attested copy of the record thereof, shall be sufficient evidence of such marriage. (R. S. c. 22, § 324.)

Sec. 341. Committee may adopt person into tribe.—The tribal committee at any regularly held meeting may, by ¾ vote of its total membership, adopt into said tribe any person who is in whole or to the extent of at least ¼ part Indian blood, and who is the husband, wife or child of a member of said tribe, and who has his or her residence for at least 1 year next preceding such adoption upon any reservation of said tribe; but the decision of said committee upon such residence and Indian descent and such adoption shall not be effective until the same has been ratified and approved in writing by the commissioner. The adoption of a child by any member of the tribe under ordinary legal process shall not of itself constitute such child a member of said tribe; but the power of adoption into the tribe shall in all cases rest with the aforesaid tribal committee subject to approval by the commissioner as aforesaid. (R. S. c. 22, § 325. 1953, c. 378, § 3.)

Sec. 342. Certificate of adoption to be filed with commissioner; such person not to hold certain offices.—Whenever said tribal committee shall vote to adopt any person into said tribe, a certificate of such vote of adoption shall be signed by the person presiding at the meeting, and said certificate shall be filed with the commissioner; and if ratified and approved by the commissioner said adopted person shall thereafter be deemed and accepted to be a member of said tribe for all intents and purposes, and shall be enrolled as such

upon the list of its members. No person hereafter adopted into the tribe shall be eligible to hold the office of governor, lieutenant governor or representative of said tribe. (R. S. c. 22, § 326. 1953, c. 378, § 3.)

Sec. 343. Persons adopted, required to make oath.—Every male person adopted as provided in section 341 shall, within 1 month after such adoption, or if a minor within 1 month after becoming 21 years of age, make oath before the commissioner that he will demean himself as a discreet, industrious and good member of said tribe, and will faithfully fulfill the duties incumbent upon him as such member. (R. S. c. 22, § 327. 1953, c. 378, § 3.)

Sec. 344. Membership deemed lost when tribe is abandoned. — If any member of said tribe shall abandon it and join another tribe of Indians, he shall be deemed to have lost his membership in the Penobscot tribe, and shall not be entitled to any share of dividends, rentals or other money thereafter apportioned among the members of said tribe, nor to any other subsequent rights of membership. (R. S. c. 22, § 328. 1947, c. 229.)

Sec. 345. Loss of membership does not affect membership of other members of the family.—When any member loses his membership under the provisions of section 344, or his right to share in dividends, rentals or other moneys under the provisions of section 347, no member of his family to whom the provisions of said sections do not personally apply shall be deemed to have lost such membership or right. (R. S. c. 22, § 329.)

Sec. 346. Restoration to membership.—Any person a member of said tribe on March 22nd, 1901, as shown by the tribal census taken under the laws of the state, who shall have forfeited any rights of membership may regain said rights by petition, under oath, to the commissioner, alleging 30 days' continuous residence within the state. If at the end of 60 days said commissioner shall have refused or neglected to restore said person to membership he shall have the right of appeal to the tribal committee which shall thereupon forthwith hear the facts and enter such judgment as to restoration to membership as is just and right. Such renewal of rights shall not entitle such person to any share of the dividends, rentals or moneys which previously thereto have come into the hands of the commissioner, nor have any other retrospective effect. (R. S. c. 22, § 330. 1947, c. 228. 1953, c. 378, § 3.)

Sec. 347. Dividends payable if member resides within state and reports to commissioner once a year.—If any member of the tribe shall reside outside the tribal reservation, but within the state, he shall report to the commissioner at least once in each year in order to be entitled to his share of dividends, rentals or other money apportioned to members of the tribe. During such time as he shall reside without the state he shall not be entitled to any part of the dividends, rentals or other money apportioned to members of the tribe. (R. S. c. 22, § 331. 1953, c. 378, § 3.)

Sec. 348. Money forfeited may be used for benefit of family.—If any member of said tribe shall desert his family or fail to provide properly for said family's support, the commissioner may in his discretion use for the benefit of such family any part or all of said member's dividends or share of rentals or any money assigned to him from state funds or coming to him in any way by apportionment or distribution through the hands of said commissioner. (R. S. c. 22, § 332. 1953, c. 378, § 3.)

Sec. 349. Persons not belonging to tribe to remove from reservation. — Any person residing or commorant upon the tribal reservation of the Penobscot tribe of Indians, not being a member nor the husband, wife or legally

adopted child of a member of said tribe, may be required to remove therefrom by a written notice given to him in hand under the signature of the governor or, in his absence, the lieutenant governor, and the commissioner. A copy of such notice attested by said commissioner, with a return of service thereon by any officer qualified to serve criminal precepts, or an affidavit of service by any other person, shall be filed with said commissioner and be sufficient evidence of such service. If the person so notified shall not remove from said reservation within 2 days after service of said notice upon him, the commissioner or any member of the tribe may make complaint to the judge of the Old Town municipal court, who shall cause a certified copy of said complaint with a notice of the time and place of hearing thereon to be given in hand to said person or left at his place of last and usual abode at least 2 days before the time fixed for said hearing, or may cause said person to be at once apprehended and brought before said court. After due hearing, said judge may, if he is satisfied that such removal is approved by the majority of the adult members of said tribe or is for any cause proper to be enforced, order the respondent to remove within a specified time beyond the tribal reservation limits. If the respondent fails to obey said order, or if within 1 year after the service of said notice he shall again become resident or commorant upon any reservation of said tribe without the consent of said commissioner and said governor or lieutenant governor, said judge may cause such person to be apprehended and brought before said court and may punish him by fine of not more than $20, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The costs of all such court proceedings under the provisions of this section may be included in the order or sentence of said judge; and if the respondent fails to pay the same, he may be committed to jail for not more than 30 days additional to any imprisonment otherwise imposed upon him; and in such case, or if the judge does not include said costs in his order or sentence, such costs shall be paid by said commissioner from the tribal fund. Costs shall be taxed as in ordinary proceedings upon complaint. (R. S. c. 22, § 333. 1953, c. 378, § 3.)

See § 372, re provisions of § 349 applicable to Passamaquoddy reservation.

Sec. 350. Relief of persons found destitute on reservation, not members of tribe.—For all relief to any person not a member of the Penobscot tribe of Indians, nor having a pauper settlement in this state, found destitute and in distress upon any tribal reservation of said tribe, which has been furnished by the commissioner or by the overseers of the poor of the town within whose territorial limits such person is so found, the state shall reimburse said commissioner or said town to such extent as the department adjudges to have been necessarily expended therefor. The reasonable expenses and services of said overseers relative to said pauper shall be included in the amount to be so reimbursed. (R. S. c. 22, § 334. 1953, c. 378, § 3.)

Sec. 351. Relief of members of tribe found destitute beyond tribal reservations.—When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this state where he is so found, the overseers of the poor of said town may send to the commissioner a statement specifying the nature, dates and amounts of the supplies furnished, which shall be transmitted to the department with such additional statements of fact as said commissioner may think proper; and the state shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been necessarily expended therefor. Any member of said tribe found destitute and in distress beyond the tribal reservation may be removed by the commissioner from any place in which he may be residing, or be found, to

said tribal reservation, whenever in the judgment of the commissioner such removal should be made. (R. S. c. 22, § 335. 1953, c. 378, § 3.)

Sec. 352. Payments.—The commissioner shall provide, furnish, pay and deliver to the Penobscot tribe, on account of the state, such articles, goods, provisions and moneys as from time to time become due under any treaty or law. (R. S. c. 22, § 336. 1953, c. 378, § 3.)

Sec. 353. School moneys of tribe; schools; free tuition in high school.—All moneys appropriated for schools for the Penobscot tribe of Indians shall be expended under the supervision of the commissioner, subject to the approval of the department; said commissioner and the superintendent of the Old Town schools shall jointly employ the teachers and fix their salaries, limited by such appropriation. Said teachers shall meet all minimum qualifications as required for certification in the public schools of the state. The schools upon island number 1, commonly called Indian Old Town Island, shall be under the care and supervision of the superintendent of schools of the city of Old Town; and those within the territorial limits of any other town under the care and supervision of the superintending school committee of such town. Said superintendent or school committee shall visit such schools at least 3 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel; and make reports to the commissioner and to the commissioner of education once each year, noting therein such facts and information as may seem of importance in the interest of education among said tribe or as may be required by the said department. The superintendent of schools of Old Town shall have such authority over the schools on Indian Island as superintendents in any town may have, except as limited by this section. Said superintendent shall be paid from the state appropriation for school superintendents a sum not exceeding $100 per year for his services. The children of Indian Island may have the option of attending the Old Town schools whenever their parents may express a desire for them to so attend and the superintendent of schools shall transfer them to the building appropriate and suitable for their grades. The said children of said island shall be subject to all compulsory attendance laws as provided in sections 89 to 97, inclusive, of chapter 41 except that the superintendent of the Old Town schools and the commissioner shall jointly have full authority to enforce the full provisions of said attendance laws, and for purposes of such enforcement the attendance officer for the city of Old Town shall act as attendance officer for Indian Island. All laws relating to the public schools shall be applicable to the schools on Indian Island, and the superintendent of the Old Town schools and the commissioner shall be jointly responsible for the enforcement of the provisions of said laws. Whenever it shall be shown that any of the children of the Penobscot tribe of Indians shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in this state, to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 107 of chapter 41, except that such tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average cost per pupil for the year preceding that for which the tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. Tuition likewise for the children of the Penobscot tribe of Indians who attend the elementary schools of any city or town in this state shall be paid to said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid and the tuition rates shall be determined by the formula

prescribed in section 108 of chapter 41 for secondary schools. (R. S. c. 22, § 337. 1949, c. 349, § 40. 1953, c. 378, § 3.)

See c. 41, § 109, re tuition for state wards.

Sec. 354. Islands of Penobscot tribe may be leased; assent.—The islands belonging to said tribe may be leased by the commissioner for the benefit of such tribe for a term not exceeding 12 years, if such lease and the terms and conditions thereof are assented to by the governor and lieutenant governor of the tribe and approved by the department; if such lease is on credit, it shall be at the risk of the commissioner, and accounted for as money; and the avails thereof shall be placed by him in the state treasury, subject to the order of the department according to law. (R. S. c. 22, § 338. 1953, c. 378, § 3.)

Sec. 355. Members of tribe not to sell standing wood or timber on reservation except to members of tribe.—No member of the Penobscot tribe of Indians shall hereafter be permitted to sell any standing wood or timber growing on any islands or lands in the Penobscot river within the limits of the Indian reservation except to members of the tribe for firewood only; nor shall any member of said tribe lease any portion of his lands or islands within the limits of said reservation for the purpose of permitting any standing wood or timber to be cut and removed therefrom, except with the consent and approval of the commissioner. (R. S. c. 22, § 339. 1953, c. 378, § 3.)

Sec. 356. Indian holding land under certificate, may convey same to another Indian of same tribe.—Any Indian holding lands under a certificate issued under authority of chapter 137 of the public laws of 1883, or by virtue of any assignment under the laws for the apportionment of the lands of said Penobscot tribe, may sell and convey the same to any member of the same tribe with the approval of the commissioner; provided that no Indian shall purchase lands upon the reservation of said tribe beyond his fair proportion of such reservation. (R. S. c. 22, § 340. 1953, c. 378, § 3.)

Sec. 357. Lots not to be sold or leased.—No such Indian shall sell or lease his lot except as provided by law; and if he carries off the growth faster than is necessary for cultivation, except by permission of the commissioner, or commits strip or waste, he shall be dealt with as a trespasser. (R. S. c. 22, § 341. 1953, c. 378, § 3.)

For a case concerning the right of an Indian to sell his land prior to the enactment of § 356, see John v. Sebattis, 69 Me. 473.

Sec. 358. Surveys and plans of islands deemed authentic; water privileges and wood and timberlands reserved for public use of tribe.—Surveys of the islands in Penobscot river from Old Town Falls to Mattawamkeag Point and field notes thereof, as made under the provisions of chapter 158 of the public laws of 1835 and chapter 396 of the public laws of 1839, plans of which were returned to the land office and to the Indian agent, shall be deemed authentic in all matters to which they relate; and the water privileges belonging to said islands, valuable for mills, booms, fisheries, tracts of wood and timberland and other lots indicated on said plans as reserved for public use, except the public farm which is subject to allotment by chapter 22 of the private and special laws of 1878, are not subject to assignment or distribution to members of said tribe, but shall remain for the benefit of the whole tribe. (R. S. c. 22, § 342.)

Sec. 359. Assignments of unassigned lands.—The commissioner, on application of any Indian thereof, male or female, 21 years of age or more, to whom his proportion of the tribe's lands has never been assigned, or has never

come by inheritance or who does not already hold by assignment, purchase or otherwise his fair share of said lands, may cause a lot suitable for cultivation to be surveyed to such applicant from the unassigned lands of the tribe, if any, and may assign the same to him and designate the same upon the plan aforesaid. All lots so designated shall be limited by said plan and occupied accordingly and any lot, when so assigned, shall be the property of the person to whom it is assigned during the pleasure of the legislature. (R. S. c. 22, § 343. 1953, c. 378, § 3.)

Sec. 360. Assignments accompanied by certificate of commissioner; form of certificate. — The assignments mentioned in the preceding section shall be accompanied by a certificate from the commissioner to be recorded as in section 363, in form substantially as follows:

"Know all men by these presents, that I, ..., commissioner of health and welfare, have caused to be surveyed and set off to ...., a portion of the lands belonging to said tribe on the islands in Penobscot river, as contemplated by acts of the legislature, bounded and described as follows, viz:

* * * * * * * *

To have and to hold to him, his heirs and assigns, as contemplated by said acts, during the will of the legislature.

In witness whereof I have hereunto set my hand and seal as commissioner of health and welfare, this ..... day of ...., nineteen hundred and ....." (R. S. c. 22, § 344. 1953, c. 378, § 3.)

Sec. 361. Abandonment of tribe forfeits lands.— Any member of said tribe who abandons it and joins any other tribe forfeits all lands assigned to him, and the same may be assigned anew as provided in section 359. (R. S. c. 22, § 345.)

Sec. 362. Death of owner and description of lots to be recorded.— The commissioner shall enter upon his record a memorandum of the death of any Indian owning lands, the date thereof, a description of the lots owned by the deceased and the names of those persons, so far as ascertainable, who are entitled to such lands by inheritance. (R. S. c. 22, § 346. 1953, c. 378, § 3.)

Sec. 363. Conveyances by release deed; record; lots on Old Town Island. — Conveyances made by virtue of section 356 shall be by release deed, executed and acknowledged, and the approval of the commissioner shall be written thereon; said deed and approval shall be recorded by the commissioner, without fee, in a suitable book kept by him; also by the register of deeds of Penobscot county in a like book kept in the registry of deeds in said county, upon payment of 25¢ for each deed so recorded; and until recorded as herein provided, no deed made as aforesaid shall pass any title. Sections 321 to 377, inclusive, apply to house lots on the point of Old Town Island, as well as to land allotted for agricultural purposes. (R. S. c. 22, § 347. 1949, c. 349, § 41. 1953, c. 378, § 3.)

Sec. 364. Deeds made and deposited with commissioner may be delivered after death of grantor. — Deeds made by any Indian of the Penobscot tribe as provided in the preceding section may be deposited with said commissioner to be delivered by him to the grantee named therein, after the death of the grantor, if the fact that such deed is so deposited to be so delivered appears by the deed itself; and when delivered by said commissioner, it shall pass all the title of the grantor in the premises at the time of his death. (R. S. c. 22, § 348. 1953, c. 378, § 3.)

Sec. 365. Copies of deeds are evidence.—Copies of deeds or certificates recorded as provided in sections 321 to 377, inclusive, duly attested by the register of deeds or by the commissioner, shall be evidence in all actions or controversies relating to title to lands between members of said tribe. (R. S. c. 22, § 349. 1949, c. 349, § 42. 1953, c. 378, § 3.)

Sec. 366. Lease of island shores; rents of shores.—The shores of the islands in the Penobscot river belonging to said tribe shall be leased for booming or hitching logs under the orders of the department. Such leases shall not run longer than 5 years. All sums received from rent of said shores shall be paid to the state, to be held in trust, and paid to said tribe as provided in section 1 of chapter 267 of the special laws of 1873. (R. S. c. 22, § 350.)

Sec. 367. Commissioner may lease privileges for mills, booms and fisheries.—The commissioner may lease any reserved privileges for mills, booms and fisheries for a term sufficiently long to induce persons to take leases of them; and all rents shall be paid into the treasury, to be expended for the benefit of the tribe, under the direction of the department. (R. S. c. 22, § 351. 1953, c. 378, § 3.)

Sec. 368. Warrants for interest on 4 townships purchased; rents.—The governor and council may draw warrants on the treasury for any sum not exceeding the interest on the price of the 4 townships purchased by the state of the Penobscot tribe in June, 1833, and of any other money paid into the treasury; and for the full amount of rents paid in as aforesaid; and when the whole amount of such sums, in the opinion of the department, is more than is necessary for said tribe, the excess may be invested for their benefit. (R. S. c. 22, § 352.)

Sec. 369. Census of Penobscot Indians; annual meeting; notices; persons entitled to membership to be reported; correction of lists; compensation of committee.—An accurate census of the Penobscot tribe shall be taken early each January by the tribal committee upon the best information which they can obtain, as hereinafter provided, stating, as nearly as may be, the name, sex and age of each Indian as it existed on the 1st day of such January, each family by itself. On or before the 10th day of January, annually, the original, certified under oath, shall be delivered to the commissioner, and a copy thereof to the governor of said tribe for their use. On the 1st Wednesday of January, annually, the said committee shall hold a meeting with said tribe on Old Town Indian Island, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons and the correctness of names; due notice in writing of the time and place of which meeting shall be given by said committee. At said meeting 5 of said tribal committee shall constitute a quorum thereof; and on said 1st Wednesday of January annually, the names of all persons entitled to membership under the provisions of section 340 shall be reported by the tribal committee to the person authorized by law to take the census of said tribe, and shall thereupon be placed on the census roll.

Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the commissioner and he shall correct his list accordingly. This list, so corrected, shall, with his account, be returned to the department. A reasonable compensation shall be paid to the tribal committee by the commissioner and charged in his account, and allowed and paid to him out of the state treasury. (R. S. c. 22, § 353. 1953, c. 378, § 3.)

Sec. 370. Biennial election of tribe.—Biennially on the even-numbered years, on the 1st Tuesday of September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative at the legislature of this state. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on Old Town Island. Said commissioner shall receive, sort and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected certificates thereof. (R. S. c. 22, § 354. 1953, c. 378, § 3.)

See c. 10, § 2, re compensation of representative to the legislature.

Passamaquoddy Tribe.

Sec. 371. Biennial election.—Biennially on the even-numbered years, on the 1st Tuesday of October, the Passamoquoddy tribe of Indians shall hold their election for the choice of governors and lieutenant governors of said tribe, and a representative at the legislature of this state. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on the reservations at Pleasant Point and Peter Dana's Point. Said commissioner shall receive, sort and count the votes given in said election, in the presence of members of the tribe, and those elected shall be given certificates therefor. (R. S. c. 22, § 356. 1953, c. 378, § 3.)

See c. 10, § 2, re compensation of representative to the legislature.

Sec. 372. Provisions of § 349 made applicable to Passamaquoddy tribe.—All the provisions of section 349 shall apply to the Passamaquoddy tribe of Indians as well as to the Penobscot tribe, except that complaints under said section relating to the Passamaquoddy tribe shall be made to the judge of the Calais or Eastport municipal court instead of the Old Town municipal court as provided in said section. (R. S. c. 22, § 357.)

Sec. 373. Forest commissioner may sell timber on Indian Township; improvement fund.—The forest commissioner may sell to the best advantage, at public or private sale, to a citizen of the state, the timber and grass from township numbered 2 on the St. Croix river, called the Indian Township, expressly retaining in the written contract of sale a lien on the timber and grass cut, until the amount due for stumpage thereon is paid. Every surveyor appointed by said forest commissioner to scale or survey the lumber so sold, before entering on his duties, shall be sworn to the faithful performance of his trust, and shall file a certificate of his oath with the commissioner. The net proceeds from such sales shall be set up in the state treasury as an improvement fund for the reservations of the Passamaquoddy tribe of Indians to be expended with the approval and under the direction of the department; provided that in the event the balance in said improvement fund shall at the end of any fiscal year exceed the sum of $10,000, the excess over $10,000 shall be added to the permanent trust funds of said tribe. From said improvement fund the department in charge shall make payment to the treasurer of state to be allotted the Maine forestry district in lieu of taxes on the basis of 3c per acre per year for all lands within Indian Township not already paying a Maine forestry district tax for the prevention, control and extinguishment of forest fires. (R. S. c. 22, § 359. 1947, c. 147. 1949, c. 83. 1953, c. 378, § 3.)

Sec. 374. No sale or permit to a foreigner.—No citizen or subject of a foreign government shall purchase, cut or carry off trees, timber or grass from the township reserved for the benefit of the Passamaquoddy tribe; and if the commissioner gives to such citizen or subject a permit for such unlawful purpose, he forfeits not more than $500, nor less than $100, to be recovered by an action of debt, ½ to the state and ½ to the prosecutor. (R. S. c. 22, § 360. 1953, c. 378, § 3.)

If a contract of sale of logs is illegal, as contravening the provisions of this section, but a full consideration is paid and the logs are delivered, the seller can neither reclaim the logs, nor recover their value, by an action therefor. Marks v. Hapgood, 24 Me. 407.

Stated in Boies v. Blake, 13 Me. 381.

Sec. 375. Amounts due Indians to be certified to controller; controller to prepare warrants for payment.—Out of the interest accruing upon the funds belonging to said tribe, the commissioner shall certify to the state controller the amounts due to said Indians in conformity to resolves of the legis-

lature and for any further amounts that the legislature may appropriate, and the state controller shall prepare warrants for the same, making all payments so far as possible direct to the person to whom such payment is due. (R. S. c. 22, § 362. 1953, c. 378, § 3.)

Sec. 376. Commissioner may remove distressed poor to reservation; towns to be reimbursed for relief furnished.—Any member of the Passamaquoddy tribe requiring assistance may be removed by the commissioner from any place in which he may be residing or be found, to either of the Indian reservations provided for said tribe, or may be removed from one of such reservations to another such reservation, whenever in the judgment of the commissioner such removal should be made. When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this state where he is so found, the overseers of the poor of said town may send to the commissioner a statement specifying the nature, dates and amounts of the supplies furnished, which shall be transmitted to the department with such additional statements of fact as said commissioner may think proper; and the state shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been necessarily expended therefor. (R. S. c. 22, § 363. 1953, c. 378, § 3.)

Sec. 377. Supervision of schools at Pleasant Point and at Peter Dana's Point; reports and compensation of superintendent; teaching in English and use of textbooks; tuition rates.—The school at the Pleasant Point reservation shall be under the care and supervision of the superintendent of schools of the town of Perry or of the school union of which Perry may be a member. The school at Peter Dana's Point shall be under the care and supervision of the superintendent of schools of the town of Princeton, or of the school union of which Princeton may be a member. All subjects shall be taught in the English language, and the textbooks used shall be the same as those used in the town in which said schools are located. Said superintendents shall visit said schools at least 4 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel or discipline; and make report once each year to the commissioner, noting therein such facts and information as may seem of importance in the interest of education among the Indians of said reservation, or as may be required by the department. The state shall pay said superintendents reasonable compensation for said services; but the compensation shall not be less than $100 in each case, and shall be paid out of the state fund for the superintendence of school unions. Whenever it shall be shown that any of the children of the Passamaquoddy tribe living on the reservations shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in the state to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 107 of chapter 41, except that tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average instructional cost per pupil for the year preceding that for which the tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. Tuition likewise for the children of the Passamaquoddy tribe of Indians who attend the elementary schools of any city or town in this state shall be paid to said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. (R. S. c. 22, § 364. 1949, c. 349, § 43. 1953, c. 378, § 3.)

See c. 41, § 109, re tuition for state wards.

Registration of Vital Statistics.

Sec. 378. Registrar of vital statistics; blanks for registration of births, marriages, deaths and divorces.—The commissioner or such director as he may designate shall be the registrar of vital statistics for the state, and shall furnish to clergymen and others authorized to marry, to sextons, to physicians, town clerks, clerks of the society of Friends and clerks of courts, a copy of the provisions of the laws of this state relating to the registration of vital statistics, and suitable blanks for recording births, marriages, deaths and divorces, so printed, with appropriate headings, as readily to show the following facts and such others as may be deemed necessary to secure an accurate registration:

I. The record of birth shall state its date and place of occurrence, full Christian and surname, if named, color and sex of child, whether living or stillborn, and the full Christian and surnames, color, occupation, residence and birthplace of parents.

In the case of a birth of an illegitimate child, the name of the putative father shall not be entered on the certificate of birth except by his consent. In the case of a birth to an unmarried mother, the child's surname shall be recorded as that of the mother. No official in this state shall issue a record of birth disclosing illegitimacy; provided, however, that a record may be issued disclosing such information in response to court process or in response to the request of the illegitimate, his or her legal guardian or legal counsel. (1945, c. 320, § 1)

II. The record of marriage shall state its date and place of occurrence, the name, residence and official character of the person by whom solemnized, the full Christian and surnames of the parties, the age, color, birthplace, occupation and residence of each, the condition, whether single or widowed, whether 1st, 2nd or other marriage; and the full Christian and surnames, residence, color, occupation and birthplace of their parents.

III. The record of death shall state its date, the full Christian and surname of the deceased, the sex, color, condition, whether single or married, age, occupation, place of birth, place of death, the full Christian and surnames and birthplaces of parents and the disease or other cause of death, so far as known. It shall state whether or not the deceased was a war veteran, and if a veteran, of what war. (1945, c. 320, § 2)

IV. All certificates and all records pertaining to birth, marriage and death in the custody of the state registrar of vital statistics and the clerks of the several municipalities of the state are open to inspection subject to the provisions of this chapter, and it shall be unlawful for the state registrar or any employee of the state or any clerk or employee of a municipality to disclose data contained in such vital records except as authorized by this chapter. (1945, c. 320, § 3)

V. The state registrar may permit the use of data contained in records pertaining to birth, marriage and death for research purposes, but no record shall be given or shown identifying the persons to whom the records relate, except in records of death. [1945, c. 320, § 3]. (R. S. c. 22, § 366. 1945, c. 320, §§ 1, 2, 3.)

Sec. 379. Report of birth.—The attending physician, accoucheur, midwife or other person in charge, who shall attend at the birth of any child, living or stillborn, within the limits of any town or city in this state, shall report to the clerk of such town or city within 6 days thereafter, all the facts regarding such birth, as required in section 378. (R. S. c. 22, § 367.)

See § 401, re penalty; § 402, re duties of clerks.

Sec. 380. Copy of record of marriages.—Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by him in conformity with the requisitions prescribed for blank records of marriages in section 378. That person shall forthwith, following each marriage solemnized by him, return each original certificate or certificates to the clerk who issued the same; and if the marriage was solemnized in a town other than the place or places where the parties to the marriage reside, return a copy of the certificate or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the names of the parties united in marriage, place and date of the marriage, the signature of the person by whom the same was solemnized and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which marriage was solemnized, his residence and the date of his commission. All certificates or copies so returned shall be recorded by the clerk receiving them. (R. S. c. 22, § 368.)

See § 401, re penalty; § 402, re duties of clerks.

Sec. 381. Issuance of marriage certificates.—Before issuing a marriage certificate to a person who resides and intends to continue to reside in another state, the town or city clerk shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited to marry by the laws of the state where he or she resides.

Persons filing notice of intention to marry, one or both of whom have previously been married and divorced, shall submit therewith a certificate of divorce or certified copy of the divorced decree from the clerk of the court by which the divorce was granted. The clerk shall make a notation on the reverse side of the marriage intention form showing the title and location of the court, the names of the parties to the proceeding for divorce and the date when the decree became absolute. If there has been more than one divorce, the said certificate or certified copy as to every such divorce shall be submitted with and noted on each notice of intention.

Upon the receipt of a return of marriage of a nonresident of the state, the state registrar of vital statistics shall transmit an abstract of such record to the registrar of the state of residence of such nonresident. The abstract shall be in such detail as is available and desired by the several state registrars.

The certificate shall contain the information called for in the following form, so far as same is known to each person, one of whom shall subscribe to the truth of same in the presence of the clerk or one of his assistants of that town or city in which he or she resides.

State of Maine

MARRIAGE CERTIFICATE

The laws of Maine provide for a fine not exceeding one thousand dollars or imprisonment not exceeding five years to be the punishment of any clergyman, or other person, who shall solemnize a marriage within this state unless authorized to solemnize therein.

No.....

1. Full Name of Groom .....
2. Place of Residence .....
3. Age ..... 4. Color ..... 5. Occupation .....
6. Birthplace ..... 7. Number of Marriage ..... 8. Single, Widowed or Divorced .....
9. Father's Name ..... 10. Color .....
11. Last Residence .....
12. Birthplace ..... 13. Occupation .....
14. Mother's Maiden Name ..... 15. Color.....

16. Last Residence .....
17. Birthplace ..... 18. Occupation.....
19. Full Name of Bride .....
20. Place of Residence .....
21. Age .... 22. Color .... 23. Occupation .....
24. Birthplace ..... 25. Number of Marriage ..... 26. Single, Widowed or Divorced .....
27. Father's Name ..... 28. Color .....
29. Last Residence .....
30. Birthplace ..... 31. Occupation .....
32. Mother's Maiden Name ..... 33. Color .....
34. Last Residence .....
35. Birthplace .....36. Occupation .....

I do solemnly swear that the statements herein made are true.

Signature .....

Sworn to before me this ..... day of ..... 19....

..... City Clerk.
Town

City Clerk's Office, City of ..... 19....

The intentions of marriage between the parties above named were duly entered in this office, on the ..... day of ..... A. D. 19.... and by me recorded according to law.

Certificate issued ..... City Clerk.
Town

MARRIAGE CERTIFICATE

I hereby certify that Mr. ..... and M ..... the above named parties, were joined in marriage by me at ..... this ..... day of ..... A. D. 19.....

..... Clergyman or Justice of the Peace.

Date of my Commission ..... Residence .....

Witnesses .....

.....

This certificate is good only in .....

This certificate is invalid after one year from the date issued. (R. S. c. 22, § 369. 1949, c. 58, §§ 1, 2.)

See § 402, re duties of clerks; c. 166, § 5, re void marriages.

Sec. 382. Physicians in attendance to furnish certificate of name, age, disease and date of death of deceased.—A physician who has attended a person during his last illness shall within 24 hours after the death of said person make a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died and the date of his death and shall either deliver it to the person superintending the burial or leave it with the family of the deceased or at the said physician's office where it may be obtained when called for; and whenever any deceased person did not have the attendance of a physician in his or her last sickness, the person in whose house the said death occurred, or the nearest relative of the deceased shall upon finding the body immediately call a physician to view the body and give to him all the information concerning said death. Upon receiving this information aforesaid the physician called shall make a certificate setting forth the data he has obtained from said persons, and to the best of his knowledge and belief the cause of death. After having made the certificate as aforesaid he shall then deliver same to the funeral director in charge of the burial, or leave it with the family of the deceased where it may be obtained when called for; provided, however, that if the phy-

sician called in such case is not a medical examiner, and the information obtained concerning said death indicates that said person died under suspicious or unusual circumstances, he shall thereupon call a medical examiner before making and filing said certificate as to the cause of death. Any person who willfully makes a false return or willfully gives false information to be used in preparing a record of death shall be punished as provided in section 401. (R. S. c. 22, § 370. 1949, c. 59, § 1. 1951, c. 319, § 1.)

See § 401, re penalty; § 402, re duties of clerks.

Sec. 383. Town clerk furnished with record of any death in town; permit for burial.—Whenever any person shall die or any stillborn child be brought forth in this state, the undertaker, town clerk or other person superintending the burial of said deceased person shall obtain from the physician attending such bringing forth or last sickness a certificate, duly signed, setting forth as far as may be the facts required by the preceding section; and the undertaker or other person having charge of the burial of said deceased person shall add to said certificate the other facts required by section 378; and having duly signed the same shall forward it to the clerk of the town or city where said person died and obtain a permit for burial; and in case of any contagious or infectious disease, said certificate shall be made and forwarded immediately. (R. S. c. 22, § 371.)

Cross references.—See § 401, re penalty; § 402, re duties of clerks.

Cited in Marcotte v. Allen, 91 Me. 74, 39 A. 346.

Sec. 384. Notice of death from tuberculosis.—When a town or city clerk receives a certificate of the death of any person who has died of tuberculosis in his town, he shall forthwith send a copy of said certificate to the health officer of his town or city, or where there is no health officer, to the commissioner. (R. S. c. 22, § 372.)

See § 401, re penalty.

Sec. 385. Removal of bodies of persons dying of cholera or other pestilential disease; certificate of cause of death; heart failure not deemed sufficient cause for burial permit.—No body of a deceased person whose death was caused by cholera, yellow fever, diphtheria, scarlet fever, typhus fever, typhoid fever, smallpox or other pestilential disease shall be removed from place to place in this state by any railroad, steamboat or other common carrier unless there shall be attached to the outer case in which said body is enclosed a certificate from the local health officer where such person died, stating the disease causing such death, and that necessary precautions against infection satisfactory to said local health officer have been observed. A certificate of death giving heart failure as the only cause of death shall not be deemed sufficient upon which to issue a burial permit, and such certificate must be returned to the physician who made it for the proper correction and definition. If the body of a deceased person is brought into this state from without for burial, and if it is accompanied by a permit issued by the legally constituted authorities of the state from which it was brought, such permit shall be received as sufficient authority upon which the clerk of the town in which said body is to be buried shall issue a permit for burial; but if it is not accompanied by such permit, then the person or persons in charge of it shall apply for a burial permit to the clerk of the town in which it is to be buried, and the clerk of the town shall issue such permit when furnished with satisfactory information. (R. S. c. 22, § 374.)

See § 401, re penalty.

Sec. 386. No interment or disinterment to be made without permit.—No interment, disinterment or placing in a tomb or vault of a dead human body shall be made without a permit, as aforesaid, from the clerk of the town or city where said person died or is buried; and no disposition of a dead human

body from any tomb or vault shall be made without a permit, as aforesaid, from the clerk of the town or city where said body has been entombed or placed in such vault. No undertaker or other person shall assist in, assent to or allow any such interment or disinterment to be made until such permit has been given as aforesaid; and every undertaker or other person having charge of any burial place as aforesaid, who shall receive such permit, shall preserve and forward the same to the clerk of the town in which burial takes place, within 6 days after the day of burial. (R. S. c. 22, § 375. 1953, c. 308, § 28.)

See § 401, re penalty; § 402, re duties of clerks; c. 134, § 30, re desecration of dead bodies.

Sec. 387. Cremation.—Any person, firm or corporation within the state, with the approval of the department, may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to such regulations as said department may from time to time make, may cremate such bodies and dispose of the ashes of the same, but if the ashes are interred in a cemetery a permit for burial shall be required.

The body of a deceased person shall not be cremated within 48 hours after his decease unless he died of a contagious or infectious disease and in no event shall the body of a deceased person be cremated until the person, firm or corporation in charge of the cremation has received a certificate from a duly appointed medical examiner that he has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry concerning the same is necessary. Such certificate shall be retained by the person, firm or corporation in charge of the cremation for a period of 3 years. For said certificate the medical examiner shall receive a fee of $5 payable by the person requesting same.

No dead human body shall be removed, transported or shipped to any crematory unless encased in a casket or other suitable container. (R. S. c. 22, § 376. 1949, c. 59, § 2. 1953, cc. 162, 293.)

Sec. 388. Subregistrars.—The town or city clerk may appoint two or more suitable and proper persons in each town or city as subregistrars, who shall be authorized to issue burial permits and permits for transportation of dead human bodies based upon a death certificate, as hereinbefore provided, in the same manner as is required of the town or city clerk; and the said death certificate upon which the permit is issued shall be forwarded to the town clerk within 6 days after receiving the same, and all permits by whomsoever issued shall be returned to the town clerk as required by section 386. The appointment of subregistrars shall be made with reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk; the subregistrars in any town shall hold office at the pleasure of the town clerk. (R. S. c. 22, § 377.)

See § 401, re penalty.

Sec. 389. Clerks and subregistrars may issue burial permits in contiguous towns.—Town clerks and subregistrars may issue burial permits to persons in contiguous towns, when by so doing it would be more convenient for those seeking a permit, but in all cases the permit shall be made returnable to the town clerk of the town in which the death occurred. (R. S. c. 22, § 378.)

See § 401, re penalty.

Sec. 390. Reports of births and deaths.—Within 6 days following such events, parents shall report to the clerk of their city or town the births or deaths of their children; any person in charge of a hospital or other related institutions, or any person in charge of any ship in this state shall report every birth or death happening among the persons under their charge; and the parents and other

persons enumerated in this section shall not be absolved from the duty of reporting births until the names of the children have been given to the clerk of the city or town in which the births occur; and a physician or midwife who has attended at the birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall forthwith furnish for registration a certificate stating to the best of his or her knowledge and belief the fact that such child died after birth or was born dead. Any person who willfully makes a false return or willfully gives false information to be used in preparing a record of birth or death shall be punished as provided in section 401. (R. S. c. 22, § 379. 1951, c. 319, § 3.)

See § 402, re duties of clerks.

Sec. 391. Birth certificates of foundlings; report. — Whoever assumes the custody of a child of unknown parentage shall immediately report to the local town or city clerk in writing:

I. The date and place of finding or assumption of custody;

II. Sex; color or race; and approximate age of child;

III. Name and address of the person or institution with whom the child has been placed for care;

IV. Name given to the child by the finder or custodian.

The place where the child was found or custody assumed shall be known as the place of birth and the date of birth shall be determined by approximation. The report shall constitute the certificate of birth. If the child is thereafter identified, the record of birth made in compliance herewith and any certificate issued thereon shall be null and void and so recorded. (R. S. c. 22, § 380.)

Sec. 392. Record of birth of children legitimated.—If a person shall have acquired the status of a legitimate child by the marriage of his parents and the acknowledgment of his father, the record of his birth shall be amended or supplemented as hereinafter provided so as to read, in all respects, as if such person had been reported for record as born to such parents in lawful wedlock. For such purpose, the town clerk shall, if satisfied as to the identity of the persons, receive an affidavit executed by the parents setting forth the material facts. Unless such marriage is recorded in the records in the custody of such clerk, such affidavit shall be accompanied by a certified copy of the record thereof.

If any person acquires a new name by judicial decree, the town clerk of the town in which said person was born or in which the birth was recorded shall receive a certified copy of such decree.

The town clerk shall file any affidavit, certified copy of such decree, or copy of record submitted under the provisions of this section and record it in a separate book kept therefor, with the name and residence of the deponent or the facts of such decree and the date of the original record, and shall thereupon draw a line through any statement or statements sought to be corrected or amended in the original record, without erasing them, shall enter upon the original record the facts required to correct, amend or supplement the same in accordance with such affidavit or decree, and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the state registrar a certified copy of the corrected, amended or supplemented record upon blanks to be provided by him, and the state registrar shall thereupon correct, amend or supplement the record in his office. Reference to the record of the affidavit or such decree shall be made by the clerk on the margin of the original record.

Any birth certificate issued under the provisions of this section shall be issued in accordance with the facts contained in the corrected record. (R. S. c. 22, § 381.)

Sec. 393. Birth, marriage or death in unincorporated place.—When

a birth, marriage or death occurs in an unincorporated place, it shall be reported to the town clerk in the town which is nearest to the place at which the birth, marriage or death took place, and shall be recorded by the town clerk to whom the report is made; and all such reports and records shall be made and recorded and returned to the state registrar as is provided herein. (R. S. c. 22, § 382.)

See § 401, re penalty.

Sec. 394. Certified copy of record.—The clerk of each town shall, on the 1st Monday of each month, make a certified copy of the record of all deaths and births recorded in the books of said town during the previous month, whenever the deceased person or the parents of the child born were resident in any other town in this state at the time of said death or birth, or whenever they were recently resident in any other town, or whenever the remains of any deceased person have been carried to any other town for burial, or whenever the deceased person was born in any other town of this state, and shall transmit said certified copies to the clerk of the town in which said deceased person or parents were resident at or near the time of said birth or death, or to which the remains of such deceased person have been carried for burial, or in which said deceased person was born as aforesaid, stating in addition the name of the street and the number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the registrar of vital statistics. (R. S. c. 22, § 383.)

See § 326, re duties of clerks of Indian tribes; § 401, re penalty.

Sec. 395. Return of all births.—The assessors shall, when taking the annual inventory, collect and return to the town clerk, before the 1st day of June, the births which have occurred within their respective jurisdictions during the year ending December 31st next preceding, together with the names of such children. When it is found that any birth is not recorded as required, the clerk shall require the person or persons whose duty it was to report such birth to make a return forthwith. (R. S. c. 22, § 384. 1949, c. 59, § 3.)

See § 401, re penalty; § 402, re duties of clerks.

Sec. 396. Returns to state registrar monthly; copies.—The clerk of every town shall keep a chronological record of all births, marriages and deaths reported to him or known to him, and shall, between the 10th and the 15th of every month, transmit to the state registrar a copy of the record of all births, marriages and deaths for which he has received an original certificate during the month next preceding, together with the names, residences and official stations of all persons who have neglected to make returns to him in relation to the subject matters of such records which the law required them to make, all to be made upon blanks to be prepared and furnished by the state registrar; and if no births, marriages or deaths have occurred in the aforementioned period of time or month for which returns are to be made, the town clerk shall send the state registrar a statement to that effect. Whenever the report of a birth, marriage or death, required by law to be returned to such clerk, is reported to him or he learns of it too late for inclusion in his returns as provided hereunder to the state registrar, he shall, after it is reported to him or after he has knowledge of it, make due returns thereof to the state registrar forthwith. The registrar of vital statistics shall require all copies which are transmitted under the provisions of this section to be typewritten or written with black durable ink in a fair or legible hand.

Any city or town clerk who neglects or refuses to make or cause to be made

the returns as required by this section shall forfeit not less than $20, nor more than $100, to the use of the state. (R. S. c. 22, § 385. 1949, c. 58, § 3.)

See § 326, re duties of clerks of Indian tribes; § 401, re penalty; c. 3, § 25, re clerks of cities shall transmit to the board of registration list of persons over 21 years of age deceased since the preceding election.

Sec. 397. Return of divorces.—The clerks of courts for the several counties shall, at the end of each term of court, make returns to the registrar of vital statistics relating to divorces granted in their respective counties since the next preceding term. Such returns shall specify the following details; the number of divorces granted, the names of the parties including the maiden name and any other former name of female, if any, when ascertainable from the record and the number of minor children and to whom custody was given in each divorce. (R. S. c. 22, § 386. 1951, c. 14.)

See § 401, re penalty.

Sec. 398. Duty of state registrar.—The state registrar shall cause the returns made to him in pursuance of the 2 preceding sections to be arranged alphabetically for convenient reference, and carefully preserved in his office. He shall annually make and publish a general abstract and report of the returns of the preceding year in such form as will render them of practical utility, not more than 2,000 copies of which shall be printed and bound, 1 copy shall be forwarded to every town clerk, 1 copy to each state in the union and the remainder to such departments, libraries and persons as the state registrar shall direct. (R. S. c. 22, § 387. 1951, c. 34.)

See § 401, re penalty.

Sec. 399. Clerk's record or certified copy, prima facie evidence.—The state registrar and the clerk of a municipality shall not permit inspection of the records of birth, marriage and death, marriage intentions excepted, or issue a certified copy of a certificate relating thereto, or to parts thereof, unless he is satisfied that the applicant therefor has a direct and tangible interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject, however, to review by the superior court or any justice thereof in vacation, under the limitations of this chapter. The city and town clerks shall, upon request, supply to any such qualified applicant a certified copy of the record of any birth, marriage or death registered under the provisions of this chapter, upon the payment of a fee of 50¢, to be paid by the applicant in advance. For any search of the files and records, where no certified copy is made, the fee shall be 50¢ for each hour or fractional part of the hour for time of search, said fee to be paid by the applicant in advance. The city or town clerk's record of any birth, marriage or death, or a duly certified copy thereof, shall be prima facie evidence of such birth, marriage or death, in any judicial proceeding. (R. S. c. 22, § 388. 1945, c. 320, § 4.)

Cross reference.—See § 401, re penalty.

Record may be identified by witness other than town officer.—As regards the admissibility of the town clerk's records, the important fact is the record itself, which is made evidence by this section. The person who produces it in court is important only as proving that the book produced is the identical record. That identity may be established by witnesses other than the officers of the town. Audibert v. Michaud, 119 Me. 295, 111 A. 305.

Section not applicable records in another state.—The provision of this section that "the town clerk's record of any birth, marriage or death or a duly certified copy thereof, shall be prima facie evidence of such birth, marriage or death, in any judicial proceeding," applies only to records of town clerks within this state. It has no extraterritorial force. It does not apply to records in another state. Reed v. Stevens, 120 Me. 290, 113 A. 712. See notes to c. 166, § 7, re certificate of foreign marriage as prima facie evidence.

Sec. 400. Defective and erroneous records.—If the record relating to

a birth, marriage or death does not contain all the required facts, or if it is alleged that the facts are not correctly stated therein, the town clerk shall receive an affidavit containing the facts required for record, if made by a person who was required by law to furnish information for the original record, or, at the discretion of the town clerk, by one or more credible persons having knowledge of the case. The town clerk shall file such affidavit and record it in a separate book to be kept for that purpose, with the name and residence of any deponent and the date of such record, and shall thereupon draw a line through the incorrect statements in the original record without erasing them, and shall then enter the facts required to amend the record; and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the registrar a certified copy of the corrected record upon blanks to be provided by said registrar; and the registrar shall thereupon amend the record in his office and state in the margin thereof his authority therefor. Reference to the record of the affidavit shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such record, he shall certify to the facts contained therein as amended, and shall state in addition that the certificate is issued under the provisions of this section, a copy of which shall be printed on every such certificate. Such affidavit, or a certified copy of the record of any other city or town or of a written statement made at the time by any person since deceased who was required by law to furnish evidence thereof, may, at the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of a record may also be made the basis for completing the record of a birth, marriage or death which does not contain all the required facts. Any oath which is required by the provisions of this section may be administered by the clerk or deputy clerk of a city or town; they shall receive no fee therefor. (R. S. c. 22, § 389.)

See § 401, re penalty.

Sec. 401. Penalty.—If any person willfully neglects or refuses to perform any duty imposed upon him by the provisions of sections 378 to 380, inclusive, 382 to 386, inclusive, 388 to 390, inclusive, and 393 to 400, inclusive, he shall be punished by a fine of not more than $100 for each offense, for the use of the town in which the offense occurred, and the state registrar shall enforce the provisions of this section as far as comes within his power. (R. S. c. 22, § 390.)

Sec. 402. Duties of clerks.—The clerk of each city or town shall enforce, so far as comes within his power, the provisions of sections 379, 380, 381, 382, 383, 386, 390 and 395 of this chapter, and section 10 of chapter 166, and when he knows of any birth, marriage or death, which is not reported to his office in accordance with the provisions of the law relating to vital statistics, he shall collect, so far as he is able to do so, the facts called for in the blank certificates of birth, of marriage or of death, as furnished by the state registrar and shall record them as is herein prescribed; for each birth or death or marriage duly reported to the town clerk, physicians or persons solemnizing marriages shall receive 25¢ from the town in which the birth, death or marriage has occurred. (R. S. c. 22, § 391.)

Sec. 403. Duty of state registrar when law violated. — When the state registrar of vital statistics believes that, in any place in this state, the records of births, marriages or deaths are not made as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the said registrar may visit such places and make such investigations as he may deem necessary, and all records, blanks and papers of town clerks relating to births, marriages or deaths shall be open to his examination. Any person who refuses to permit or hinders the examination or investigation herein provided for shall be punished by a fine of not less than $5,

nor more than $20. All actual traveling and other necessary expenses thus incurred by the state registrar, or incurred in attending the prosecution of cases brought by county attorneys, hereunder, shall be paid by the state, but not more than $200 shall thus be paid to the state registrar for such expenses in 1 year.

When the state registrar knows, or has good reason to believe, that any penalty or forfeiture under the law relating to vital statistics has been incurred, he shall forthwith give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons. (R. S. c. 22. § 392.)