

MAINE STATE LEGISLATURE

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DOCUMENTS

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OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1841.

Augusta:
SEVERANCE AND DORR, PRINTERS TO THE STATE.

1841.

TWENTY-FIRST LEGISLATURE.

NO. 22.

SENATE.

AN ACT

TO AMEND THE

REVISED STATUTES.

SEVERANCE & DORR,.....Printers to the State.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT
HUNDRED AND FORTY-ONE.

AN ACT to amend the Revised Statutes.

*Be it enacted by the Senate and House of Rep-
2 resentatives in Legislature assembled, That the
3 Act passed on the twenty-second day of October
4 last, entitled "An Act for revising, arranging, and
5 amending the public laws of the State," be amend-
6 ed, as follows:*

SECTION 1. The first chapter shall be amended
2 in the third section, by striking out from the twelfth
3 clause the words "in all cases, where an affirma-
4 tion may be substituted for an oath," and inserting
5 the following: "and in all cases, where a person,
6 required to be sworn, is conscientiously scrupulous
7 of taking an oath, he may affirm"; so that the
8 clause, as amended, will be as follows:

9 "XII. The word 'oath' shall be construed to
10 include 'affirmation'; and in all cases, where a
11 person, required to be sworn, is conscientiously
12 scrupulous of taking an oath, he may affirm."

13 The same chapter shall be further amended, in
14 the fourth section, by striking out the words “first
15 day of April,” and inserting the words “from and
16 after the thirty-first day of July next”; and by
17 adding at the close of the section the words “and
18 also excepting chapter sixteen, entitled ‘Of the
19 Militia,’ which shall take effect from and after the
20 first day of January, in the year one thousand eight
21 hundred and forty-two”; so that the fourth section,
22 as amended, shall be as follows :

23 “SECT. 4. All the chapters of these revised
24 statutes shall take effect from and after the thirty-
25 first day of July next, except where other provision
26 is expressly made, and also excepting chapter six-
27 teen, entitled ‘Of the Militia,’ which shall take
28 effect from and after the first day of January, in
29 the year one thousand eight hundred and forty-
30 two.”

SECT. 2. The fourteenth chapter shall be
2 amended in the tenth section, by striking out the
3 words “January first, in the year of our Lord one
4 thousand eight hundred and forty-one,” and insert-
5 ing the words “the time when the revised statutes
6 shall take effect”; so that the section, as amend-
7 ed, shall be as follows :

8 “SECT. 10. All laws, now in force, relating to
9 the collection of taxes, shall be and remain in full
10 force, for all the purposes of collecting any taxes,

11 which may have been assessed prior to the time
12 when the revised statutes shall take effect.”

13 The same chapter shall be amended, in the
14 thirty-second section, by striking out the words
15 “treasurer of the county,” and inserting the words
16 “commissioners of the county”; so that the sec-
17 tion, as amended, shall be as follows :

18 “SECT. 32. All assessors, chosen or appointed
19 as above provided, shall duly observe all such
20 warrants, as they shall receive, while in office,
21 from the State treasurer, or the commissioners of
22 the county in which they reside, pursuant to any
23 act of the Legislature, imposing it for the use of
24 the State, or granting it for the use of the county.”

25 The same chapter shall be amended, in the
26 thirty-fourth section, by striking out the words
27 “county treasurer’s warrant to them to assess,”
28 and inserting the words “warrant of the county
29 commissioners by them to be assessed”; so that
30 the section, as amended, shall be, as follows :

31 “SECT. 34. If such assessors shall neglect to
32 assess the amount of the county tax, required in
33 the warrant of the county commissioners, by them
34 to be assessed, they shall forfeit that sum to the
35 use of said county, and the same shall be levied
36 by the sale of the estate, real and personal, of
37 such assessors, by virtue of a warrant issued by,
38 the county treasurer to the sheriff of the county,
39 for that purpose.”

40 The same chapter shall be further amended, in
41 the thirty-sixth section, by striking out the words
42 “from the respective treasurers,” and inserting the
43 following, “mentioned in the thirty-second sec-
44 tion”; so that the section, as amended, shall be,
45 as follows:

46 “SECT. 36. The county commissioners of the
47 county, in which such assessors dwell, shall forth-
48 with appoint other proper persons to be assessors
49 of such State and county taxes, according to the
50 directions of the warrants mentioned in the thirty-
51 second section; and such newly appointed asses-
52 sors shall be sworn to perform the same duties,
53 and be liable to similar penalties, as the former
54 assessors.”

55 The same chapter shall be amended in the forty-
56 fifth section, at the close, by striking out the words
57 “who issued the warrant,” and inserting the words
58 “of the State, or of the county, as the case may
59 be, for the use of the same”; so that the section,
60 as amended, will be, as follows:

61 “SECT. 45. The person, to whom such war-
62 rant shall be directed, shall obey the command
63 therein, on penalty of forfeiting and paying the
64 whole sum named and ordered in said warrant, to
65 be levied on such plantation, to be recovered by
66 the treasurer of the State, or of the county, as the
67 case may be, for the use of the same.”

68 The same chapter shall be further amended, in
69 the fifty-first section, by striking out the words
70 “including turnpike road.”

71 The same chapter shall be further amended, in
72 the fifty-sixth section, by adding at the end there-
73 of the following words :

74 “And the provisions of this section shall extend
75 to the assessors of any town, who are or may be
76 required by law to assess any tax upon any school
77 district; the assessors being responsible only for
78 their own personal faithfulness and integrity, and
79 further liabilities, if any, shall rest solely with
80 such school district.”

SECT. 3. The sixteenth chapter shall be
2 amended, by striking out the fifth section, and
3 inserting, instead thereof, a new section, in the fol-
4 lowing words :

5 “SECT. 5. Any staff officer who has ceased
6 to act as such, in consequence of the resignation,
7 promotion or removal of the officer who appointed
8 him, may be honorably discharged; and any such
9 officer, who has been so discharged, not having
10 served five years, may be exempted from military
11 duty, by paying two dollars per year, as provided
12 in the preceding section.”

13 The same chapter shall be further amended by
14 inserting, at the end of the twenty-fifth section, the
15 following words :

16 “The brigade inspectors shall make the annual
17 returns of their inspections of the militia of the
18 respective brigades to which they belong, to the
19 adjutant general, and also transmit abstracts there-
20 of to the major generals of the respective divisions
21 to which they belong, on or before the last day of
22 October annually.” 1834, 121 § 27

23 The same chapter shall be further amended in the
24 forty-second section, by striking out all the section
25 after the word “allowance,” and inserting, instead
26 thereof, the following words :

27 “Provided that, when the commanding officer of
28 a company, raised at large, shall make requisitions
29 to such treasurer, for rations in money and for
30 powder, directed by law, he shall designate the
31 number and names of the members of such compa-
32 ny, belonging to such town, city or plantation, and
33 certify that they perform military duty in his com-
34 pany.”

35 The same chapter shall be further amended, in
36 section forty-five, after the words, “the adjutant
37 general and quarter master general, to be appointed
38 by the Governor, with advice of the Council, with
39 the rank of brigadier general,” by inserting the
40 words following :

41 “And said officers shall keep their respective
42 offices at the seat of government ; and their com-
43 missions shall continue in force four years from

44 the time of their appointment, unless they shall be
45 sooner removed by the Governor and Council.”

1829, 424

SECT. 4. The seventeenth chapter shall be
2 amended, in section fifty one, by striking out the
3 words, “under the provisions of the sixteenth
4 section of chapter seventy-seven;” so that said
5 fifty-first section, as amended, will be as follows :

6 “SECT. 51. All the sums, which may hereaf-
7 ter be received by the State, for the tax on the
8 several banks, shall continue to be appropriated
9 to the support of town or district schools.”

SECT. 5. The twentieth chapter shall be
2 amended, in section one, by striking out the follow-
3 ing words, “for the use and support of the gospel
4 ministry in such town.”

5 The same chapter shall be further amended, by
6 striking out the seventh section thereof.

7 The same chapter shall be further amended, in
8 section fourteen, by inserting, after the words “any
9 sale of the same,” the following words, “to the
10 persons and uses specified in the respective grants
11 and reservations, under which such lands have
12 become so vested”; so that said fourteenth section,
13 as amended, will be, as follows :

14 “SECT. 14. In all cases, where such lands have
15 become vested in any parish, the assessors, clerk
16 and treasurer, for the time being, where no other

17 trustees for the same purpose are already appointed,
18 are hereby constituted a body corporate, and trus-
19 tees of the ministerial funds in such parish forever,
20 with like powers, and under like liabilities, as
21 selectmen, town clerk and treasurer; and shall
22 pay the annual income and profits of such lands,
23 and interest on the proceeds of any sale of the
24 same, to the persons and uses specified in the re-
25 spective grants and reservations, under which such
26 lands have become so vested; and shall, at each
27 annual meeting for choice of parish officers, ex-
28 hibit an account of their proceedings, and a state-
29 ment of funds, receipts and expenditures."

30 The same chapter shall be further amended, in
31 section fifteen, by inserting, after the words "the
32 first meeting of the trustees," the words "consti-
33 tuted by the third and fourteenth sections"; so
34 that the said fifteenth section, as amended, will be
35 as follows:

36 "SECT. 15. The first meeting of the trustees
37 constituted by the third and fourteenth sections, in
38 any year, may be called by a personal notice,
39 given by any one of said trustees, to all the other
40 trustees, of the time and place of meeting, seven
41 days, at least, prior to said meeting."

SECT. 6. The thirty-second chapter shall be
2 amended, by inserting at the end of section five,
3 the following words:

4 “If any such poor and indigent person be in-
5 sane, the said overseers shall, either wholly, or in
6 part, with the assistance of the friends of such
7 person, cause him to be removed to, and provide
8 for his support in, the insane hospital of this State :
9 Provided, that he can, under the regulations of the
10 hospital for the time being, be admitted therein,
11 and that, in the opinion of the superintendent of
12 the hospital, or of such physician as he shall de-
13 pute to make an examination into the case, the
14 insanity of such person be such, that he will derive
15 benefit from a residence therein. And the said
16 superintendent shall appoint a suitable physician,
17 as near as may be to the place of residence of such
18 insane person, to make such examination, the
19 expense whereof shall be paid by the town, to
20 which such person is chargeable for support.”

SECT. 7. The sixtieth chapter shall be amend-
2 ed by adding at the close thereof the following
3 words, “or otherwise containing one hundred and
4 twenty-eight cubic feet; and the measurer shall
5 make due allowances for refuse or defective wood,
6 or bad stowage;” so that the section as amended
7 shall be as follows :

8 “SECT. 1. All cord wood, exposed to sale,
9 shall be four feet long, including half the scarf ;
10 and, being well and closely laid together, a cord
11 of wood or bark shall measure eight feet in length,

12 four feet in width, and four feet in height, or other-
 13 wise containing one hundred and twenty-eight
 14 cubic feet; and the measurer shall make due allow-
 15 ance for refuse or defective wood, or bad stowage.

SECT. 8. The Revised Statutes shall be fur-
 2 ther amended by inserting between chapter seventy-
 3 six and chapter seventy-eight a new chapter, to be
 4 numbered seventy-seven, and entitled, "of banks,"
 5 in the following words :

"Chapter 77.

O F B A N K S ."

[Here insert the bank law as amended in the two
 branches.]

SECT. 9. The ninety-first chapter shall be
 2 amended, in section four, after the words "limited
 3 to," by striking out the word "such," and insert-
 4 ing, instead thereof, the word "any;" so that the
 5 said fourth section, as amended, will be as follows:
 6 "SECT. 4. When any contingent remainder,
 7 or executory devise, or other estate in expectancy,
 8 has been so granted or limited to any person, that,
 9 in case of his death before the happening of the
 10 contingency, the estate would descend to his heirs
 11 in fee simple, such person may, before the hap-
 12 pening of the contingency, sell, assign or devise
 13 the premises, subject to such contingency."

SECT. 10. The ninety-fourth chapter shall be
 2 amended by inserting, at the end of section thirty-
 3 four, the following words :

4 “ And such corporation shall have the right to
5 redeem any lands, and, if mortgaged, the debts
6 secured thereby, sold by virtue of the provisions of
7 this section, within the time, and in like manner,
8 and with like remedies to compel a reconveyance,
9 as are provided in the forty-first and forty-second
10 sections ; and such right of redeeming shall be
11 liable to attachment on mesne process, and seizure
12 and sale on execution, as provided in the forty-
13 third section, for the attachment and sale of the
14 right of redeeming an equity of redemption ; re-
15 serving to the corporation the same right of redeem-
16 ing from the purchaser at said second sale.”

1838, 332. § 1, 2.

17 The same chapter shall be further amended, by
18 inserting, at the end thereof, a new section, as
19 follows :

20 **SECT. 50.** All the right and title, to a convey-
21 ance of real estate, by virtue of a bond or contract,
22 which any debtor may have, may be taken and
23 sold on execution, in the manner prescribed in the
24 thirty-sixth and four following sections ; and any
25 such right, so sold, and also any right, title and
26 interest, which any person owns, in virtue of a
27 possession and improvement, having been sold on
28 execution, as provided in the said thirty-sixth and
29 four following sections, may be redeemed from the
30 purchaser, or person holding under him, by like

31 proceedings, on the same conditions, and with the
32 same remedies to compel a reconveyance thereof, as
33 are provided in the forty-first and forty-second
34 sections; and this right to redeem from the pur-
35 chaser shall be liable to attachment on mesne pro-
36 cess, and seizure and sale on execution, as provi-
37 ded in the forty-third section, for the attachment
38 and sale of the right of redeeming an equity of
39 redemption; and, in all cases, where a right to
40 redeem from a former sale or levy has been sold on
41 execution, the debtor shall have the same right of
42 redeeming it, as is allowed upon the first sale of
43 rights in equity of redeeming mortgaged real es-
44 tate.”

SECT. 11. The ninety-sixth chapter shall be
2 amended in the seventh section, by inserting at the
3 close thereof the following:
4 “All records and documents of the Supreme
5 Judicial Court of Massachusetts, previous to the
6 separation of Maine, now remaining in the several
7 counties in this State, shall remain under the con-
8 trol and authority of the Supreme Judicial Court
9 of this State, in the same manner and for the same
10 purposes as the records and documents of their
11 own doings; and the clerks of the same Court
12 shall have the like power in relation to the one as
13 the other of those records and documents.

1820, 54, § 1.”

SECT. 12. The ninety-seventh chapter shall
2 be amended in the thirteenth section, by inserting,
3 after the word “town,” the following, “or in any
4 libel for forfeited goods originally commenced in
5 the District Court”; so that the section, as amend-
6 ed, will be, as follows :

7 “SECT. 13. Any party, aggrieved at the judg-
8 ment of any District Court, or any demurrer or
9 agreed statement of facts, or in any personal ac-
10 tion, wherein issue in fact has been joined and a
11 verdict given, in which the debt or damage de-
12 manded exceeds two hundred dollars, or in any
13 action of replevin, or action of trespass on lands,
14 writ of entry or of dower, or action against a town,
15 or in any libel for forfeited goods, originally com-
16 menced in the said Court, may appeal therefrom
17 to the next Supreme Judicial Court to be held for
18 the same county.” 1821, 81, § 2.

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

22 “If there shall not be, in the opinion of the
23 Court, a reasonable time for the party appealing to
24 produce the sureties required, during the term of
25 the Court, the Court may designate some justice of
26 the peace, to take such recognizance, within ten
27 days after the adjournment of the Court, and the
28 Court shall order a stay of execution accordingly ;

29 and the recognizance, if so taken, and filed with
30 the clerk, shall be as valid, as if taken in Court.”

1831, 505, § 2, 3.

SECT. 13. The ninety-ninth chapter shall be
2 amended in the twenty-first section, by striking
3 out the words “scire facias”; so that the section,
4 as amended, shall be, as follows :

5 “SECT. 21. The party, for whose benefit any
6 judgment shall have been rendered by the com-
7 missioners of any county, shall have like remedy
8 for the same and interest, by an action of debt
9 upon such judgment, before any Court of compe-
10 tent jurisdiction, as is provided for judgments re-
11 covered before the judicial Courts.”

SECT. 14. The one hundred and fourth chap-
2 ter shall be amended, in the twelfth section, by
3 striking out, after the words “official bond,” the
4 following words : “for any neglects or misdoings,
5 which may occur after such new bond shall have
6 been filed and accepted,” and inserting the last
7 mentioned words at the close of the section ; so
8 that the section, as amended, shall be, as follows :

9 “SECT. 12. Whenever any surety upon the
10 official bond of any sheriff or coroner, or the heirs,
11 executors, or administrators of such surety, shall
12 petition the county commissioners, in the county
13 of such sheriff or coroner, to be discharged from
14 such bond, the Court shall cause such sheriff or

15 coroner to be served with an attested copy of the
16 petition, and may require him to give a new bond
17 to their satisfaction; and upon such new security
18 being given, such surety, or his legal representa-
19 tives, shall be free from any further responsibility
20 on such bond, for any neglects or misdoings, which
21 may occur after such new bond shall have been
22 filed and accepted.”

23 The same chapter shall be amended in the
24 twenty-seventh section, by inserting, after the word
25 “deputy,” the words “coroner or constable”; so
26 that the section, as amended, shall be as follows :

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

SECT. 15. The one hundred and fifth chapter
2 shall be amended in the eighteenth section, by
3 striking out the words “as heir, legatee, creditor
4 or debtor, or,” and inserting instead thereof the
5 words “either in his own right, or in trust, or in
6 any other manner, or be”; and by inserting, after
7 the words “jurisdiction of such estate,” the follow-
8 ing words: “or if he be interested at the time of
9 his appointment to office”; and by inserting at the

10 end of said section the following words : “ And in
11 all cases, where, by reason of the interest of the
12 judge, or for any other cause, an estate shall be
13 settled in an adjoining county, the register of pro-
14 bate of such adjoining county shall transmit to the
15 probate office of the county where such estate
16 should otherwise have been settled, copies of all
17 records relating to said estate, to be recorded on
18 the records of the county where such estate be-
19 longs”; so that the said eighteenth section, as
20 amended, will be as follows :

21 “SECT. 18. Whenever any judge of probate
22 shall be interested, either in his own right, or in
23 trust, or in any other manner, or be within the
24 degree of kindred, by means of which, by law,
25 he might, by any possibility, be heir to any part
26 of the estate of any person deceased, such estate
27 shall be settled in the probate court of the most
28 ancient adjoining county ; provided, that the
29 amount of the interest of such judge shall not be
30 less than one hundred dollars, in such estate. If
31 his interest commence at any time, after he shall
32 regularly have assumed jurisdiction of such estate,
33 or if he be interested at the time of his appoint-
34 ment to office, further proceedings therein shall be
35 transferred to the probate court held in the most
36 ancient adjoining county. And, in all cases,
37 where, by reason of the interest of the judge, or

38 for any other cause, an estate shall be settled in
39 an adjoining county, the register of probate of such
40 adjoining county shall transmit to the probate
41 office of the county where such estate should
42 otherwise have been settled, copies of all records
43 relating to said estate, to be recorded on the re-
44 cords of the county where such estate belongs.”

SECT. 16. The one hundred and seventh chap-
2 ter shall be amended in the thirteenth section, by
3 striking out the word “nevertheless,” and insert-
4 ing the words “notwithstanding there may be an
5 appeal”; so that the section, as amended, shall
6 be as follows :

7 “SECT. 13. When, by reason of a suit con-
8 cerning the proof of a will, or from any other
9 cause, there shall be a delay in granting letters
10 testamentary or of administration, the judge of
11 probate may, in his discretion, appoint a special
12 administrator, who shall, notwithstanding there
13 may be an appeal, proceed in the execution of his
14 duties, until it shall be otherwise ordered by the
15 supreme court of probate.”

SECT. 17 The one hundred and eighth chap-
2 ter shall be amended in the twenty-fifth section by
3 adding at the close the following words: “or
4 other appropriate action”; so that the section, as
5 amended, shall be as follows :

6 “SECT. 25. Any residuary legatee, or any per-

7 son having a particular legacy given him, under
8 any last will, may sue for and recover the same of
9 the executor, in an action of debt at common law,
10 or other appropriate action."

SECT. 18. The one hundred and fourteenth
2 chapter shall be amended, in section fifteenth, after
3 the word, "officer," by inserting the following
4 words: "if there be but one defendant, such ac-
5 tion shall be commenced in the county where he
6 resides;" so that said fifteenth section, as amend-
7 ed, will be as follows:

8 "SECT. 15. Any action, commenced against two
9 or more defendants, residing in different counties,
10 and to be tried before a municipal or police court,
11 or a justice of the peace, may be brought in the
12 county where either of the defendants lives; and
13 the writ, in such case, shall be executed in such
14 counties, accordingly, by the proper officer. If
15 there be but one defendant, such action shall be
16 commenced in the county where he resides; and
17 any action, commenced before either of said courts,
18 shall be brought in the town where the plaintiff,
19 or some defendant or trustee, or the attorney com-
20 mencing the action lives."

SECT. 19. The one hundred and fifteenth chap-
2 ter shall be amended, in section two, by striking
3 out the words, "except as hereinafter provided,"
4 and inserting, instead thereof, the following words:

5 “and the charge in the declaration shall be taken
6 and deemed to be true; and the court shall there-
7 upon give such damages as they shall find, upon
8 inquiry, that the plaintiff has sustained; unless
9 the plaintiff shall move to have a jury to inquire
10 into the damages, in which case the court shall
11 enter up judgment for such damages as the jury
12 shall assess,” so that said second section, as amend-
13 ed, shall be as follows :

14 “SECT. 2. When the defendant shall have been
15 duly served with process and return thereof made,
16 according to the mandate of the writ, or order of a
17 judge of the court endorsed thereon, and he shall
18 not appear by himself or attorney, his default shall
19 be recorded, and the charge in the declaration
20 shall be taken and deemed to be true; and the
21 court shall thereupon give such damages, as they
22 shall find, upon inquiry, that the plaintiff has sus-
23 tained, unless the plaintiff shall move to have a
24 jury, to inquire into the damages, in which case
25 the court shall enter up judgment for such dama-
26 ges as the jury shall assess. But such default
27 shall be erased, or taken off by leave of court, or
28 without such leave, if the defendant shall appear
29 in court in person or by attorney, at any time be-
30 fore the jury are dismissed, and pay to the plaintiff
31 such costs as the court shall order. And if, by
32 the return of the officer or otherwise, it appear to

34 the court, that the defendant has not had sufficient
35 notice, they may order such further notice as they
36 may think proper.” 1821, 59, § 15.

37 The same chapter shall be further amended, by
38 inserting, at the end of section twenty-two, the
39 following words :

40 “ And in all actions of trespass upon lands,
41 wherein the defendant, by his plea, or brief state-
42 ment, shall disclaim all right, title and interest in
43 the land upon which the trespass is alleged to have
44 been committed, and declare that the trespass was
45 involuntary, or by negligence or mistake, and that
46 he had tendered or offered sufficient amends there-
47 for before the action was commenced, or brings
48 money into court to satisfy the damage the plaintiff
49 has sustained, with costs ; if upon trial it appear,
50 that such trespass was involuntary, or by negli-
51 gence or mistake, and the jury shall not assess
52 greater damages for the trespass than the money
53 tendered or brought into court therefor, the de-
54 fendant shall recover of the plaintiff his reasonable
55 costs. And any person, after the commencement
56 of a suit against him, and before the entry thereof
57 in court, shall have the same right to tender pay-
58 ment of the amount due to the plaintiff or his attor-
59 ney in the action, and legal costs to the time of such
60 tender, and with the same effect, as before the
61 commencement of the suit. Provided that in ac-

62 tions brought against towns under the provisions
63 of the eighty-ninth section of chapter twenty-five,
64 the defendant towns shall have the same right to
65 avail themselves of a tender before the commence-
66 ment or entry of the action, or an offer of judgment
67 in court, for any specified sum, as damages, as is
68 by law provided in cases of contract.”

1821, 59, § 18. 1822, 182.

69 The same chapter shall be further amended, in
70 section one hundred and one, by inserting, after
71 the word “filed,” the following words: “in the
72 supreme judicial court”; so that the said one hun-
73 dred and first section, as amended, will be as fol-
74 lows:

75 “SECT. 101. When a motion is made and filed
76 in the supreme judicial court, that a verdict may
77 be set aside, as being against law, or the direction
78 of the court, or against evidence, the whole evi-
79 dence shall be drawn up in the form of a report,
80 and signed by the presiding judge; and, if the
81 motion shall be founded on any alleged cause,
82 other than the rulings and instructions of the judge
83 to the jury, the evidence, as to the facts stated in
84 the motion, shall be heard, examined, and reported
85 by the judge, and, in either case, the action shall
86 be continued, to be heard on the motion before the
87 whole court.”

88 The same chapter shall be further amended, by

89 inserting, at the close of section one hundred and
90 four, the following words: "in which case, the
91 first execution may be issued in not less than one
92 year, and not more than two years from the time
93 judgment was rendered."

SECT. 20. The one hundred and seventeenth
2 chapter shall be amended, in section fifteen, by
3 striking out the words, "in case of goods and
4 chattels," and inserting, instead thereof, the fol-
5 lowing words: "is provided in the nineteenth
6 section"; so that the said fifteenth section, as
7 amended, will be as follows :

8 "SECT. 15. If the property has been, and then
9 is attached, the officer shall proceed in seizing and
10 selling it on execution, in the same manner, as is
11 provided in the nineteenth section."

SECT. 21. The one hundred and twentieth
2 chapter shall be amended, by inserting, at the end
3 of section fifteen, the following words: "applica-
4 tions for review of actions, and actions of review."

1821, 59, § 27, 28.

SECT. 22. The one hundred and twenty-third
2 chapter shall be amended, by inserting, at the end
3 thereof, three new sections, as follows :

4 "SECT. 11. When an appeal shall be claimed
5 from the judgment of a District Court, in any
6 civil action, and, by reason of any mistake or ac-
7 cident, the appellant shall not duly enter his ap-

8 peal, or the appellee shall not duly enter his com-
9 plaint for affirmation of judgment, in the Supreme
10 Judicial Court, the Court may, on the petition of
11 the appellant, or of the appellee, as the case may
12 be, allow the appeal or the complaint to be entered
13 at any other term of the Court, held for the same
14 county, upon such terms as they may deem just
15 and reasonable; and, if the appeal or the com-
16 plaint be so entered, the Court shall proceed
17 therein, as if it had been entered at the proper
18 term.

19 “SECT. 12. When an appeal shall be claimed
20 from the judgment of a justice of the peace, or a
21 municipal or police court, in any civil action, and,
22 by reason of any mistake or accident, the appel-
23 lant shall not duly enter his appeal, or the appellee
24 shall not duly enter his complaint for affirmation
25 of judgment in the District Court, the Court may,
26 on the petition of the appellant, or of the appellee,
27 as the case may be, allow the appeal or the com-
28 plaint to be entered at any other term of the Court,
29 held for the same county, upon such terms as they
30 may deem just and reasonable; and, if the appeal
31 or the complaint be so entered, the Court shall
32 proceed therein, as if it had been entered at the
33 proper term.

34 “SECT. 13. No petition for the entry of any
35 such appeal or complaint shall be sustained, un-

36 less it be presented to the Court, or filed in the
37 clerk's office, within one year after the term at
38 which the same ought to have been entered; and
39 no attachment made, and no bail taken, shall be
40 revived, or continued in force, by the entry of any
41 such appeal or complaint by the original plaintiff,
42 as provided in the two preceding sections; but
43 such attachment and bail shall remain discharged."

1821, 57, § 67.

SECT. 23. The one hundred and twenty-fifth
2 chapter shall be amended, by adding, at the end
3 of the nineteenth section, the following words:

4 "When such mortgagee or person claiming un-
5 der him, being out of the State, or whose residence
6 is unknown, shall have proceeded according to the
7 provisions of the fifth section of this chapter, for
8 the purpose of foreclosure, the mortgagor, or other
9 person having a right to redeem, may file his bill
10 or petition, as provided in section sixteen, and may
11 at the same time pay to the clerk of the court the
12 sum due, and the Court shall order such notice to
13 be given as they may judge proper; and such pay-
14 ment shall have the like effect and force, as a ten-
15 der of payment made before the commencement of
16 the suit."

SECT. 24. The one hundred and fortieth chap-
2 ter shall be amended by inserting at the end
3 thereof a new section in the words following:

4 “SECT. 38. When any insane person is ar-
5 rested or imprisoned on mesne process or execution,
6 any judge of the supreme judicial court or district
7 court, or any judge of probate within his county,
8 on application, may inquire into the case, and, if
9 he think proper, may issue a writ of habeas corpus,
10 and cause such person to be brought before him
11 for examination, and after notice to the creditor or
12 attorney, if either be living in the State, and a
13 hearing thereon, if it shall be proved to the satis-
14 faction of said judge, that the person is insane, he
15 may discharge such person from arrest or impris-
16 onment ; and, in that case, the creditor shall have
17 a right to make a new arrest, upon the same de-
18 mand, whenever such debtor shall become of sound
19 mind. But, if such person be arrested on the
20 same demand a second time before he becomes
21 of sound mind, and be discharged again for the
22 same reason, his body shall forever thereafter be
23 exempted from arrest therefor.”

SECT. 25. The one hundred and forty-fourth
2 chapter shall be amended in section one, by strik-
3 ing out the words, “to her satisfaction;” so that
4 the said first section, as amended, will be as
5 follows :

6 “SECT. 1. When a woman is entitled to dow-
7 er, and it is not set out to her by the heir or tenant
8 of the freehold, according to the intendment of the

9 law, nor assigned to her by the judge of probate,
10 she may recover the same by a writ of dower, in
11 the manner herein after prescribed.”

SECT. 26. The one hundred and fifty-sixth
2 chapter shall be amended by adding at the end of
3 the chapter a new section as follows :

4 “SECT. 16. Upon any conviction of burglary,
5 robbery or larceny, unless it be before a justice of
6 the peace for larceny, the court may order a meet
7 recompense to the prosecutor, and also to the
8 officer, who has secured or kept the stolen proper-
9 ty, not exceeding their actual expenses, with a
10 reasonable allowance for their time and trouble, to
11 be paid by the county treasurer, and charged by
12 him to the State.”

1821, 7, 16. M. R. S. 126, § 26.

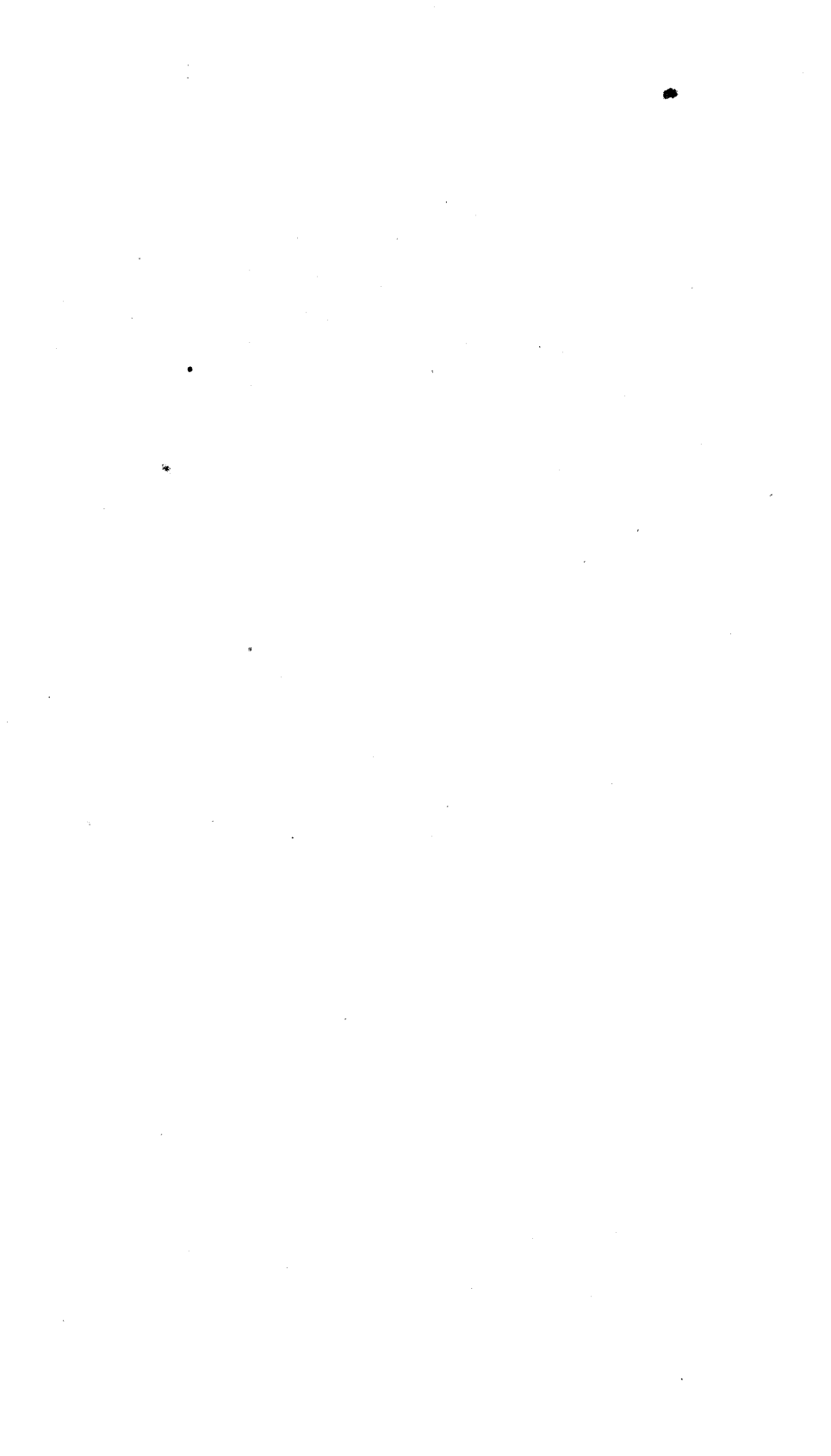
SECT. 27. The one hundred and fifty-ninth
2 chapter shall be amended by adding, at the close
3 of the chapter, a new section, as follows :

4 “SECT. 14. Whenever an insurrection shall
5 exist in this State, to obstruct the course of justice,
6 or the due execution of the laws, the Governor is
7 hereby empowered to detach and call into actual
8 service, such part of the militia, as in his opinion
9 shall be adequate to suppress the same.”

1821, 17, § 3.

SECT. 28. All the provisions of this act, ex-
2 cept the third section, shall take effect and be in

3 force from and after the thirty-first day of July, in
4 the year one thousand eight hundred and forty-
5 one; and the provisions of the third section of this
6 act shall take effect and be in force from and after
7 the first day of January, in the year one thousand
8 eight hundred and forty-two.



STATE OF MAINE.

IN SENATE, April 1, 1841.

Laid on the table, and 300 copies ordered to be printed
for the use of the Legislature.

[Extract from the Journal.]

ATTEST: DANIEL SANBORN, *Secretary.*