

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundredth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundredth Legislature

1961

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO
ELECTRONIC FILES. THIS IS THE SECOND FILE.]**

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Sec. 260. R. S., c. 93, § 14, amended. Section 14 of chapter 93 of the Revised Statutes is amended to read as follows:

'Sec. 14. Remedies of an obligee. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

I. **Compel performance.** By mandamus, ~~suit~~ civil action or proceeding ~~at law or in equity~~ to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this chapter.

II. **Enjoin.** By ~~suit~~ civil action or proceeding ~~in equity~~ to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of said authority.'

Sec. 261. R. S., c. 94, § 20, amended. The 2nd sentence of section 20 of chapter 94 of the Revised Statutes is amended to read as follows:

'A town, the State or any kindred of a pauper, having incurred expense for the relief of such pauper, may complain to the Superior Court in the county where any of the kindred reside; ~~and the~~. The court may cause such kindred to be summoned, and upon hearing or default may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and shall issue a writ of execution ~~as in actions of tort~~.'

Sec. 262. R. S., c. 94, § 37, amended. The first sentence of section 37 of chapter 94 of the Revised Statutes is amended to read as follows:

'A town which has incurred expense for the support of a pauper or his wife, whether he has a settlement in that town or not, may recover the full amount expended for the support of either or both, from either the pauper or his wife, their executors or administrators, in ~~an~~ a civil action ~~of assumpsit~~.'

Sec. 263. R. S., c. 94, § 42, amended. Section 42 of chapter 94 of the Revised Statutes is amended to read as follows:

'Sec. 42. **Bringing paupers into a town.** Whoever brings into and leaves in a town any poor, indigent or ~~insane~~ mentally ill person, having no visible means of support and having no settlement in such town, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or ~~insane~~ mentally ill ~~as aforesaid~~, with intent to charge such town in this State with the support of such person, shall be punished by a fine of not more than \$300 or by imprisonment for not more than 11 months; and shall be further liable to any town or to the State for such sums of money as are expended by such town or by the State for the support and maintenance of such person which may be recovered in ~~an~~ a civil action ~~on the case~~.'

Sec. 264. R. S., c. 96, § 12, amended. Section 12 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 12. Violations of sections 8 and 9. Whoever violates any provisions of sections 8 and 9 shall be punished by a fine of not more than \$100, to be recovered on complaint, and shall also be liable to ~~an~~ a civil action ~~on the case~~, brought by the park commissioners or by a taxpayer, in the name and for the benefit of the town or city wherein said offense is committed, for all damages sustained.'

Sec. 265. R. S., c. 96, § 70, amended. The last sentence of section 70 of chapter 96 of the Revised Statutes is amended to read as follows:

'All damage, accruing to a person in his business or property through neglect of such road commissioner or the municipal officers of such town to so render passable ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a ~~special civil action on the case~~.'

Sec. 266. R. S., c. 96, § 79, amended. The first sentence of section 79 of chapter 96 of the Revised Statutes is amended to read as follows:

'Whoever willfully violates any provision of ~~the preceding~~ section 78 shall be punished, for the first offense by a fine of not more than \$50 and costs, and for each subsequent offense by a fine of not more than \$100 and costs, and shall be further liable for double the amount of the actual damage, to be recovered in ~~an~~ a civil action ~~on the case~~ by the ~~city, town or plantation~~ municipality, or, in behalf of any unorganized place, by the county where the offense is committed.'

Sec. 267. R. S., c. 96, § 89, amended. Section 89 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 89. Persons injured by highway defects; damages; notice. Whoever receives any bodily injury or suffers damage in his property through any defect or want of repair or sufficient railing in any highway, town way, causeway or bridge may recover for the same in a ~~special civil action on the case~~, to be commenced within one year from the date of receiving such injury or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county or the municipal officers or road commissioners of such town or any person authorized by any commissioner of such county or any municipal officer or road commissioner of such town to act as a substitute for either of them had 24 hours' actual notice of the defect or want of repair, but not exceeding \$4,000 in case of a town, ~~and if~~. If the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way, ~~and any~~. Any person who sustains injury or damage ~~as aforesaid~~ or some person in his behalf shall, within 14 days thereafter, notify one of the county commissioners of such county or of the municipal officers of such town by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in ~~an~~ a civil action ~~on the case~~, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life, ~~at~~. At the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged when it would materially aid in a clear understanding of the case.'

Sec. 268. R. S., c. 96, § 93, amended. Section 93 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 93. Railroad company notified of action against town for defective crossing.** In ~~an~~ a civil action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing may be notified of the pendency of the ~~suit~~ action and take upon itself the defense of the same.'

Sec. 269. R. S., c. 96, § 94, amended. Section 94 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 94. Liability of railroad company.** In such trial described in section 93, after notice as provided therein, if the plaintiff recovers and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said ~~suit~~ action in ~~an~~ a civil action of ~~debt~~ for all damage and costs paid by them.'

Sec. 270. R. S., c. 96, § 105, amended. The first sentence of section 105 of chapter 96 of the Revised Statutes is amended to read as follows:

'If the municipal officers of any town unreasonably neglect to cause a guide-post to be erected in their town as provided by law, they forfeit \$5 for each month's neglect, to be recovered in ~~an~~ a civil action ~~on the case~~ by any person suing therefor.'

Sec. 271. R. S., c. 96, § 106, amended. The last sentence of section 106 of chapter 96 of the Revised Statutes is amended to read as follows:

'If not so made, the person making it is liable to the town, in an action ~~on the case~~ for all damages occasioned by the repair of the way or paid to persons injured by defects therein caused by such excavation.'

Sec. 272. R. S., c. 96, § 122, amended. The last sentence of section 122 of chapter 96 of the Revised Statutes is amended to read as follows:

'If any owner or occupant, on requirement of the surveyor, neglects to furnish his proportion of labor, materials or money, the same may be furnished by the other owners and occupants and recovered of him in ~~an~~ a civil action ~~on the case~~.'

Sec. 273. R. S., c. 96, § 135, amended. Section 135 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 135. Actions for collection.** If assessments under ~~the provisions of~~ section 131 are not paid, and said town does not proceed to collect said assessments by a sale of the lots or parcels of land upon which such assessments are made, or does not collect or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said town, in the name of said town, may maintain ~~an~~ a civil action against the party so assessed for the amount of said assessment, ~~as for money paid, laid out and expended~~ in any court competent to try the same, and in such ~~suit~~ action may recover the amount of such assessment with 12% interest on the same from the date of said assessments and costs.'

Sec. 274. R. S., c. 96, § 136, amended. Section 136 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 136. **Persons paying assessment to have lien on lot and buildings; enforcement.** When any such assessment under ~~the provisions of~~ section 131 shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien may be enforced in ~~an~~ a civil action ~~of assumpsit as for money paid, laid out and expended,~~ and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under ~~the provisions of~~ chapter 178, which lien shall continue one year after said assessment is paid.'

Sec. 275. R. S., c. 96, § 141, amended. Section 141 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 141. **Connecting private drains with public, without permission.** If any person connects a private drain with a public drain or enters it by a side drain without a permit, the municipal officers may forthwith destroy such connection; ~~and such.~~ Such person forfeits to the town where the offense is committed not more than \$200, to be recovered by indictment or civil action ~~of debt.~~

Sec. 276. R. S., c. 96, § 146, amended. Section 146 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 146. **Private drain repaired, in case of owner's neglect.** If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the road commissioner, unreasonably neglect to repair such injury, it shall be repaired by the town and the expense thereof may be recovered to the town in ~~an~~ a civil action ~~on the case~~ against any one or more of the persons using such drain.'

Sec. 277. R. S., c. 96, § 147, amended. Section 147 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 147. **Willfully or carelessly injuring public drains.** Whoever willfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading into it, is liable to the town where it is located in ~~an~~ a civil action ~~on the case~~ for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.'

Sec. 278. R. S., c. 96, § 153, amended. The last sentence of section 153 of chapter 96 of the Revised Statutes is amended to read as follows:

'If such a delinquent owner or proprietor neglects payment of said value and fees for one month after demand, the complainant may recover of him double the amount thereof with interest at the rate of 1% a month in ~~an~~ a civil action ~~on the case.~~

Sec. 279. R. S., c. 96, § 156, amended. Section 156 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 156. **Application to Superior Court; notice.** The proprietors, or a majority of them in interest, may apply by ~~petition~~ complaint to the Superior

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Court ~~sitting~~ in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor ~~and the~~. The court shall cause notice of the ~~petition~~ complaint to be given in such manner as it may judge proper to any proprietors who have not joined in the ~~petition~~ complaint, that they may appear and answer thereto.'

Sec. 280. R. S., c. 96, § 158, amended. Section 158 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 158. Commissioners to make improvements. The commissioners shall, according to the tenor of the ~~petition~~ complaint and order of court, cause dams or dikes to be erected on the premises at such places and in such manner as they direct; may order the land to be flowed thereby for such periods of each year as they deem most beneficial; and cause ditches to be opened on the premises and obstructions in any rivers or streams leading therefrom to be removed; ~~and they~~. They shall meet from time to time as may be necessary to cause the works to be completed according to their directions.'

Sec. 281. R. S., c. 96, § 170, amended. Section 170 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 170. Notice required before entering upon premises of a third party; appeal. The commissioners, before proceeding to open floodgates, or to make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him seasonable notice in writing of their intention, to enable him to appear before them and object thereto; ~~and if~~. If he appeals from their determination and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal is determined; provided ~~that~~ the appeal is entered at the court held next after the expiration of filed in court within 7 days from the time of claiming the same.'

Sec. 282. R. S., c. 96, § 186, amended. Section 186 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 186. Double compensation for building fence. When the complainant has completed such fence and, after notice given, it has been adjudged sufficient by 2 or more of the fence-viewers, and the value thereof, with the fence-viewers' fees, certified under their hands, he may demand of the occupant or owner of the land where the fence was deficient double the value and fees thus ascertained; ~~in~~. In case of neglect or refusal for one month after demand, he may recover the same by ~~an~~ a civil action ~~on the case~~, with interest at the rate of 1% a month; and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence-viewers, certified by them, double the amount thereof may be recovered by the complainant as ~~herein~~ provided.'

Sec. 283. R. S., c. 96, § 187, amended. The last 2 sentences of section 187 of chapter 96 of the Revised Statutes are amended to read as follows:

'If such fence has been built and maintained by the parties in unequal proportions and the fence-viewers adjudge it to be good and sufficient, they may, after notice ~~as aforesaid~~ in writing under their hands, award to the party who built and maintained the larger portion the value of such excess, to be recovered in ~~an~~ a civil action ~~on the case~~ against the other party if not paid within 6 months after demand. Parties to assignments ~~under the provisions hereof~~ shall

pay the fees of the fence-viewers certified under their hands in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence-viewers may pay the same and recover of said delinquent party, in ~~an~~ a civil action ~~on the case~~, double the amount of his said proportion thereof.'

Sec. 284. R. S., c. 96, § 193, amended. Section 193 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 193. Liability of owner beginning to improve land lying in common. When any land which has been unenclosed is afterwards enclosed or used for pasturing, its occupant or owner shall pay for $\frac{1}{2}$ of each partition fence on the line between his land and the enclosure of any other occupant or owner and its value shall be ascertained in writing; if the parties do not agree, by 2 or more of the fence-viewers of the town where such fence stands; ~~and after~~. After the value is so ascertained, on notice to such occupant or owner, if he neglects or refuses for 30 days after demand to pay it, the proprietor of the fence may have ~~an~~ a civil action ~~on the case~~ for such value and the cost of ascertaining it.'

Sec. 285. R. S., c. 96, § 198, amended. Section 198 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 198. Compensation; recovery. Each fence-viewer shall be paid by the person employing him at the rate of \$3 a day for the time employed. If the party liable neglects to pay the same for 30 days after demand, each fence-viewer may recover double the amount in ~~an~~ a civil action ~~on the case~~.'

Sec. 286. R. S., c. 97, § 9, amended. Section 9 of chapter 97 of the Revised Statutes is amended to read as follows:

'Sec. 9. Compensation for building demolished. If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town in a ~~special~~ civil action ~~on the case~~.'

Sec. 287. R. S., c. 97, § 23, amended. The first sentence of section 23 of chapter 97 of the Revised Statutes, as repealed and replaced by chapter 7 of the public laws of 1957, is amended to read as follows:

'If any person fails to comply with the order of any officer under ~~the provisions of~~ section 22 or with the decision of the Insurance Commissioner on review and within the time fixed, then such officer or the Insurance Commissioner may ~~petition~~ file a complaint in the ~~Supreme Judicial Court~~ or the Superior Court in equity, in term time or vacation in the county where the building or premises is located to enforce the order of said officer or the Insurance Commissioner.'

Sec. 288. R. S., c. 97, § 38, amended. Section 38 of chapter 97 of the Revised Statutes is amended to read as follows:

'Sec. 38. When lawful fires kindled. Whoever for a lawful purpose kindles a fire on his own land shall do so at a suitable time and in a careful and prudent manner; and is liable in ~~an~~ a civil action ~~on the case~~ to any person injured by his failure to comply with this provision.'

Sec. 289. R. S., c. 97, § 41, amended. The last sentence of section 41 of chapter 97 of the Revised Statutes is amended to read as follows:

'No action shall be brought at common law for kindling fires in the manner described in section 39; but if such fire spreads and does damage, the person who kindled it and any persons present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, are liable in ~~an~~ a civil action ~~on the case~~ for such damage.'

Sec. 290. R. S., c. 97, § 42, amended. Section 42 of chapter 97 of the Revised Statutes is amended to read as follows:

'Sec. 42. Penalties, how recovered and appropriated. Penalties provided in sections 32 to 39 and section 41 may be recovered by complaint, indictment or civil action ~~of debt~~, half to the town where the offense is committed and half to the prosecutor.'

Sec. 291. R. S., c. 97, § 43, amended. The 2nd paragraph of section 43 of chapter 97 of the Revised Statutes is amended to read as follows:

'Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Insurance Commissioner in enforcing any such rule or regulation, may appeal to ~~a Justice of~~ the Superior Court by ~~presenting to him filing a petition~~ complaint therefor ~~in term time or vacation and he the court shall fix a time and place of hearing which may be in the chambers or in vacation~~ and cause notice thereof to be given to the commissioner and, after the hearing, the ~~justice court~~ may affirm or reverse the rule, regulation, act or order of the commissioner and the decision of ~~such justice~~ the court shall be final.'

Sec. 292. R. S., c. 97, § 49, amended. The last paragraph of section 49 of chapter 97 of the Revised Statutes is amended to read as follows:

'Any person or corporation aggrieved by any order of the commissioner issued under the provisions of this section may appeal to ~~a Justice of~~ the Superior Court by ~~presenting to him filing~~ within 30 days from the effective date of such order, a ~~petition~~ complaint therefor ~~in term time or vacation and he the court shall fix a time and place of hearing which may be in the chambers or in vacation~~ and cause notice thereof to be given to the commissioner and, after the hearing, the ~~justice court~~ may affirm or reverse in full or in part any such order of the commissioner and the decision of ~~such justice~~ the court shall be final. If the commissioner in the interest of public safety, because he deems there is immediate danger, forbids the use of such buildings for any public purpose until satisfactory compliance with his order, such order shall become immediately effective and the filing of ~~a petition for review~~ the complaint shall not operate as a stay thereof.'

Sec. 293. R. S., c. 97, § 56, amended. Section 56 of chapter 97 of the Revised Statutes is amended to read as follows:

'Sec. 56. Fines. All fines and forfeitures, imposed by ~~the~~ ~~preceeding~~ sections 52 to 55, may be recovered by the town where the building is located by ~~an~~ a civil action ~~on the case~~ or by indictment.'

Sec. 294. R. S., c. 98, § 5, amended. The last paragraph of section 5 of chapter 98 of the Revised Statutes is amended to read as follows:

'If such vessel has no crew on board, or if the master or other person in charge neglects or refuses to move such vessel as directed by the harbor master, then and in that case such harbor master may put a suitable crew on board and move such vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners thereof, and shall charge \$2, to be paid by the master or owner of such vessel, which charge together with the cost of the crew for removing such vessel the harbor master may collect by ~~suit~~ **civil action.**'

Sec. 295. R. S., c. 98, § 7, amended. The 5th and 6th sentences of section 7 of chapter 98 of the Revised Statutes are amended to read as follows:

'Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as ~~hereinbefore~~ provided, may appeal to ~~any justice of~~ the Superior Court within 10 days after the mailing of such written notice. ~~On receiving such an appeal, said justice in term time or in vacation~~ The court shall set a time and place for hearing and give notice thereof in the same manner as ~~hereinbefore~~ provided for a hearing before the municipal officers.'

Sec. 296. R. S., c. 98, § 11, amended. Section 11 of chapter 98 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Extension of weirs and wharves; application to herring weirs and traps.** No fish weir, trap or wharf shall be extended, erected or maintained except in accordance with ~~the provisions of~~ sections 7 to 11; ~~and no.~~ No fish weir, trap or wharf shall be erected or maintained in tidewaters below lowwater mark in front of the shore or flats of another without the owner's consent, under a penalty of \$50 for each offense, to be recovered in ~~an~~ a civil action ~~of debt~~ by the owner of said shore or flats. This section and ~~the~~ ~~preceding~~ sections 7 to 10 apply to all herring weirs and traps; but do not apply to other weirs or traps, the materials of which are chiefly removed annually, provided ~~that~~ such weirs or traps do not obstruct navigation nor interfere with the rights of others. This section shall not affect any wharves so erected or maintained on the 21st day of April, 1901.'

Sec. 297. R. S., c. 99, § 5, amended. Section 5 of chapter 99 of the Revised Statutes is amended to read as follows:

'**Sec. 5. Ship owner's liability to freighters.** No ship owner is answerable beyond the amount of his interest in the vessel and freight for the embezzlement, loss or destruction, by the master and mariners, of any property put on board of such vessel; , nor for any act of theirs without his privity or knowledge; ~~but~~ ~~if.~~ If several owners of property on the same voyage suffer such damage ~~as aforesaid~~, and the whole vessel and her freight for the voyage are not sufficient to compensate each of them, they shall be compensated by the owner of the vessel in proportion to their respective losses, and for that purpose, they or the owner of the vessel, or any of them, may ~~prosecute a bill in equity~~ file a complaint for discovery and payment of the sum, for which said owner is liable to the parties entitled thereto.'

Sec. 298. R. S., c. 99, § 12, amended. Section 12 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 12. Jurisdiction; performing duties of port wardens without authority. In the cities and towns for which they are elected, port wardens shall have exclusive jurisdiction in all matters pertaining to their duties, as specified in this chapter; ~~and any~~. Any other person who performs or attempts to perform any such duties in any city or town wherein there is a port warden forfeits for each offense \$100, to be recovered in ~~an~~ a civil action ~~of debt~~ by any prosecutor.'

Sec. 299. R. S., c. 99, § 14, amended. Section 14 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 14. Using lighters without marks and for falsely marking. The master or owner who uses his craft without such marks prescribed in ~~the preceding~~ section 13 and any person who falsely marks any such boat or lighter forfeits \$50 to be recovered by any prosecutor in ~~an~~ a civil action ~~of debt~~.'

Sec. 300. R. S., c. 99, § 16, amended. Section 16 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 16. Throwing ballast into roadstead, port or harbor; or taking stone from shore or island without consent. No master of any vessel shall throw overboard ballast in any road, port or harbor, under penalty of \$60, and no person shall take any stone or other ballast from any island, beach or other land, without consent of the owner, under a penalty of not more than \$7 for each offense, to be recovered in ~~an~~ a civil action ~~of debt~~ by any prosecutor, $\frac{1}{2}$ for himself and $\frac{1}{2}$ for the town where the offense is committed.'

Sec. 301. R. S., c. 100, § 7, amended. The last sentence of section 7 of chapter 100 of the Revised Statutes is amended to read as follows:

'Any person, firm or corporation found guilty of violating ~~the provisions of~~ this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months; ~~and jurisdiction in equity~~. Jurisdiction to enjoin threatened violations of ~~the provisions of~~ this section is conferred upon the ~~Supreme Judicial and Superior Courts~~ Court.'

Sec. 302. R. S., c. 100, § 7-B, amended. The last 2 sentences of section 7-B of chapter 100 of the Revised Statutes, as enacted by chapter 130 of the public laws of 1959, are amended to read as follows:

'Any expenses incurred by a municipality in the abatement of such nuisances may be recovered in ~~an~~ a civil action ~~of debt~~ brought in the name of the municipality against the guilty party. If requested, and if the gravamen of the offense so indicates, the court in its discretion may award double damages in such ~~suits~~ actions.'

Sec. 303. R. S., c. 100, § 17, amended. Section 17 of chapter 100 of the Revised Statutes is amended to read as follows:

'Sec. 17. Damage by dogs. When a dog does damage to a person or his property, his owner or keeper, and ~~also~~ the parent, guardian, master or mistress of any minor who owns such dog, forfeits to the person injured the amount of the damage done, provided the said damage was not occasioned through the fault of the person injured; to be recovered by ~~an~~ a civil action ~~of trespass~~.'

Sec. 304. R. S., c. 100, § 18, amended. The next to the last paragraph of section 18 of chapter 100 of the Revised Statutes, as repealed and replaced by section 1 of chapter 186 of the public laws of 1957, is amended to read as follows:

'The State may maintain ~~an~~ a civil action ~~on the case~~ against the owner or keeper of the dogs to recover the amount paid unless, before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.'

Sec. 305. R. S., c. 100, § 25, amended. The last paragraph of section 25 of chapter 100 of the Revised Statutes is amended to read as follows:

'If a dog whose owner or keeper refuses or neglects to comply with said order wounds any person by a sudden assault ~~as aforesaid~~, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs, to be recovered by ~~an~~ a civil action ~~on the case~~.'

Sec. 306. R. S., c. 100, § 37, amended. Section 37 of chapter 100 of the Revised Statutes is amended to read as follows:

'Sec. 37. Prosecutions. The licensing board shall prosecute for any violation of sections 29 to 36 that comes to its knowledge, by complaint, indictment or civil action ~~of debt; and all~~. All penalties recovered shall inure to the town where the offense is committed. Any citizen of the State may prosecute for any violation of the said sections in the same manner as the licensing board may prosecute.'

Sec. 307. R. S., c. 100, § 60, amended. The 2nd paragraph of section 60 of chapter 100 of the Revised Statutes is amended to read as follows:

'Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Insurance Commissioner in enforcing any such rule or regulation, may appeal to a Justice of the Superior Court by ~~presenting to him filing a petition~~ ~~complaint~~ therefor ~~in term time or vacation~~, and ~~he~~ the court shall fix a time and place of hearing ~~which may be at chambers or in vacation~~, and cause notice thereof to be given to the commissioner; ~~and after~~. After the hearing, the ~~justice court~~ may affirm or reverse the rule, regulation, act or order of the commissioner, and the decision of ~~such justice the court~~ shall be final.'

Sec. 308. R. S., c. 100, § 85, amended. The first and last paragraphs of section 85 of chapter 100 of the Revised Statutes are amended to read as follows:

'Every nonresident person, firm or corporation, licensed to conduct public auctions by any other state, desiring to do business in this State as an auctioneer, shall deposit with the Secretary of State the sum of \$100 as a special deposit, and shall name the Secretary of State agent upon whom service may be made in any civil action ~~at law or in equity~~ which may be brought against said applicant, to the same effect and in the same manner as upon a resident defendant ~~and after~~. After such compliance ~~with the foregoing~~, upon application in proper form and the payment of a further sum of \$50 as a state license fee, the Secretary of State shall issue to such applicant a license to conduct auctions in any ~~city, town, municipality or unincorporated township or plantation~~ in the State, in the same

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manner and to the same legal effect as a legal voter of a city or town, licensed as an auctioneer of such city or town, might do.'

'If such licensee is a firm or corporation, only one person of any firm or one agent of any corporation may conduct any auction sale, and all acts of any such person acting in behalf of such firm or corporation shall be the acts of the principal, so that in the event of ~~suit~~ a civil action against the principal for any acts of omission or commission, proof of such agency shall not be required as a requisite to the maintenance of such action.'

Sec. 309. R. S., c. 100, § 89, amended. The first 2 sentences of section 89 of chapter 100 of the Revised Statutes are amended to read as follows:

'If ~~suit~~ action is brought against any nonresident licensee by any resident of the State aggrieved by such licensee, service of any legal process may be made upon the Secretary of State as agent for such licensee, and the courts of the State shall have original jurisdiction over any civil action ~~at law or in equity~~, as also the parties, to the same effect as if said licensee were a resident of the State. If ~~suit~~ action is brought in a municipal court or a trial justice court, such licensee shall be considered to be a resident of the county in which the plaintiff resides.'

Sec. 310. R. S., c. 100, § 111, amended. Section 111 of chapter 100 of the Revised Statutes is amended to read as follows:

'**Sec. 111. Lien for license fee.** Every town in which is kept, exposed or offered for sale an itinerant vendor's stock of goods has a lien on such goods for the amount due such town for local license fee on such stock, to be enforced by ~~suit~~ civil action and attachment within 10 days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in section 109, the tax collector of the town to which such license fee is due may maintain ~~an~~ a civil action ~~of debt~~ by writ of attachment or trustee process therefor in the name of such town or in his own name for the benefit of such town. Tax collectors, police officers and constables shall prosecute for violations of the provisions ~~hereof~~ relating to itinerant vendors, in their respective towns, and shall report such violations promptly to the assessors for the purpose of computing and certifying such local license.'

Sec. 311. R. S., c. 100, § 116, amended. The first sentence of section 116 of chapter 100 of the Revised Statutes is amended to read as follows:

'Each deposit made with the Secretary of State shall be subject, so long as it remains in his hands, to attachment and execution in behalf of creditors whose claims arise in connection with business done in the State, and the Secretary of State may be held to answer as trustee, under the trustee process, in any civil action ~~in debt or case~~ brought against any licensee, and the Secretary of State shall pay over, under order of court or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise.'

Sec. 312. R. S., c. 100, § 136-F, amended. Section 136-F of chapter 100 of the Revised Statutes, as enacted by chapter 367 of the public laws of 1959, is amended to read as follows:

'**Sec. 136-F. Penalty.** Any person violating any provision of sections 136-A to 136-F shall be punished by a fine of not more than \$1,000, and ~~the Supreme~~

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Judicial Court or the Superior Court shall have jurisdiction ~~in equity~~ on the complaint of any interested person to restrain and enjoin the violation of any of said provisions.'

Sec. 313. R. S., c. 100, § 160, amended. Section 160 of chapter 100 of the Revised Statutes is amended to read as follows:

'Sec. 160. **Fraudulent marks.** If an inspector falsely and fraudulently marks any package of flour, he shall be punished by a fine of \$5 for every such package and forfeits to any person injured thereby 3 times the amount of damage, in ~~an~~ a civil action ~~of debt.~~'

Sec. 314. R. S., c. 100, § 188, amended. Section 188 of chapter 100 of the Revised Statutes, as amended by section 46 of chapter 363 of the public laws of 1959, is further amended to read as follows:

'Sec. 188. **Penalties; jurisdiction.** All pecuniary penalties in sections 174 to 188 may be recovered by civil action ~~of debt~~, indictment or complaint, and all other forfeitures by a libel filed by the treasurer or any inhabitant of the town interested. Where the violation of any of the provisions of sections 174 to 188 is made an offense punishable by a fine, trial justices within their county shall have jurisdiction of such offenses concurrent with municipal courts and the Superior Court.'

Sec. 315. R. S., c. 100, § 192, amended. Section 192 of chapter 100 of the Revised Statutes is amended to read as follows:

'Sec. 192. **Pure sperm oil defined; adulteration.** All oils sold under the names of sperm, summer, fall and winter oils are deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor \$15 for each offense; ~~and the~~. The oil so sold shall be deemed whale oil, and the seller is liable to the purchaser for the difference between pure sperm oil and whale oil, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 316. R. S., c. 102, § 9, amended. The first paragraph of section 9 of chapter 102 of the Revised Statutes is amended to read as follows:

'If the commissioner or commissioners who are in charge of the affairs of any such ~~city, town or plantation municipality~~ under the provisions of this chapter are of the opinion that said ~~city, town or plantation municipality~~ has incurred, prior to the date on which the administration of the affairs of said ~~city, town or plantation municipality~~ were taken over by the board, debts and obligations in excess of the debt limit fixed by the Constitution of the State for such ~~city, town or plantation municipality~~, and that but for the provisions of section 7, said ~~city, town or plantation municipality~~ would be subjected to a multiplicity of ~~suits~~ actions, said commissioner or commissioners may bring in the name of the inhabitants of said ~~city, town or plantation municipality~~ a ~~bill in equity~~ complaint in the Superior ~~or Supreme~~ Judicial Court in the county in which said ~~city, town or plantation municipality~~ is located ~~in term time or in vacation~~ against all of the known persons, firms or corporations holding any debts or obligations against the inhabitants of said ~~city, town or plantation municipality~~, to have the validity of all the debts and obligations of said ~~city, town or plantation herein municipality~~ determined.'

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Sec. 317. R. S., c. 102, § 9, amended. The 2nd sentence of the last paragraph of section 9 of chapter 102 of the Revised Statutes is amended to read as follows:

'Any party aggrieved by the finding of said court may appeal ~~to the next term of within 30 days to the Superior Court to be held~~ in the county where such ~~city, town or plantation~~ municipality is located.'

Sec. 318. R. S., c. 103, § 4, amended. The 3rd sentence of section 4 of chapter 103 of the Revised Statutes is amended to read as follows:

'When any justice of said court holds nisi prius terms of the Superior Court in any town other than the town in which he resides, or when any hearing of ~~a cause in law or in equity~~ a civil action is had before a Justice of the Supreme Judicial Court ~~or the Superior Court~~ other than one residing in the town where said hearing is had, such justice shall be reimbursed by the State for his expenses actually and reasonably incurred in holding such terms or in attending said hearing, upon presentation to the State Controller of a detailed statement of such expenses.'

Sec. 319. R. S., c. 103, § 6, amended. The last sentence of the first paragraph of section 6 of chapter 103 of the Revised Statutes, as amended by section 1 of chapter 392 of the public laws of 1955, is further amended to read as follows:

'The Governor with the advice and consent of the Council may upon being notified of the retirement of any such justice under ~~the provisions of~~ this section appoint such justice to be an Active Retired Justice of the Supreme Judicial Court for a term of 7 years from such appointment, unless sooner removed, and such justice may be reappointed for a like term, and such justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such cases and matters and hold court only at such terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court, and said Chief Justice is empowered and authorized to so assign and designate any such Active Retired Justice of the Supreme Judicial Court as to his services and may direct as to which term of the law court he shall attend, and if the Chief Justice so orders, he may hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of the Supreme Judicial Court is authorized to hear or issue ~~either at law or in equity~~.'

Sec. 320. R. S., c. 103, § 9, amended. Section 9 of chapter 103 of the Revised Statutes, as amended by section 67 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'**Sec. 9. Constitution of law court; concurrence required.** When sitting as a law court to determine questions of law arising in ~~suits at law or in equity~~ **civil actions** and in criminal trials and proceedings, the Supreme Judicial Court shall be composed of 5 or more of the justices who shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act.'

Sec. 321. R. S., c. 103, § 15, amended. The 2nd sentence of the first paragraph of section 15 of chapter 103 of the Revised Statutes is amended to read as follows:

'They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of courts of the county and the court shall immediately after the decision of the question submitted to it make such order, direction, judgment or decree as is fit and proper for the disposal of the case, and cause a rescript in all civil ~~suits~~ actions, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of courts of the county where the action is pending and to the reporter of decisions; ~~and if~~. If no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.'

Sec. 322. R. S., c. 103, § 15, amended. The 2nd sentence of the last paragraph of section 15 of chapter 103 of the Revised Statutes is amended to read as follows:

'Whenever, in the opinion of the law court, the ends of justice require, it may remand any case to the court below or to any justice thereof ~~in term time or vacation~~ for the correction of any errors in pleading or procedure.'

Sec. 323. R. S., c. 105, § 8, amended. The 5th, 6th and 7th sentences of section 8 of chapter 105 of the Revised Statutes are amended to read as follows:

'The Supreme Judicial Court and the Superior Court shall have concurrent jurisdiction ~~in equity~~, upon petition of 3 or more members of any bar association within the State or of the Attorney General, to restrain violations ~~of the provisions~~ of this section. In all proceedings under ~~the provisions~~ of this section, the fact, as shown by the records of the clerk of courts in the county in which a person resides, that such person is not recorded as a member of the bar in such county shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State. The Supreme Judicial Court or any justice thereof ~~in term time or vacation~~ shall have the power to issue a rule requiring any person alleged to have violated any of the provisions of this section to appear on a day fixed and show cause why he should not be adjudged in contempt, and abide the order of such court or justice in the premises, which order shall be served by a copy in hand at least 5 days before the return day.'

Sec. 324. R. S., c. 105, § 10, amended. Section 10 of chapter 105 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Summary proceedings against attorney failing to pay money collected.** If an attorney at law receives money or any valuable thing on a claim left with him for collection or settlement and fails to account for and pay over the same to the claimant for 10 days after demand, he is guilty of a breach of duty as an attorney; ~~and such~~. **Such** claimant may file in the office of the clerk of the Superior Court in the county where such attorney resides, a motion in writing under oath setting forth the facts; ~~and thereupon~~. **Thereupon** any Justice of the Superior Court ~~in term time or in vacation~~ shall issue ~~a rule an order~~ requiring the attorney to appear on a day fixed and show cause why he should not so account and pay, and to abide the order of such justice in the premises; which shall be served by copy in hand at least 5 days before the return day.'

Sec. 325. R. S., c. 105, § 12, amended. Section 12 of chapter 105 of the Revised Statutes is amended to read as follows:

'Sec. 12. Appeal. Either party may ~~allege exceptions to appeal from any ruling or decree of such justice; and they shall be allowed unless deemed frivolous to the law court as in any civil action.'~~

Sec. 326. R. S., c. 107, § 4, sub-§ XI, amended. Subsection XI of section 4 of chapter 107 of the Revised Statutes is amended to read as follows:

'XI. Redelivery of goods or chattels. In ~~suits~~ civil actions for redelivery of goods or chattels taken or detained from the owner and secreted or withheld so that the same cannot be replevied, and in ~~bills in equity~~ civil actions, by creditors, to reach and apply in payment of a debt any property, right, title or interest, legal or equitable, of a debtor or debtors, which cannot be come at to be attached on writ or taken on execution in a ~~suit at law~~ civil action, and any property or interest conveyed in fraud of creditors.'

Sec. 327. R. S., c. 107, § 4, sub-§ XIII, amended. Subsection XIII of section 4 of chapter 107 of the Revised Statutes, as amended by section 37 of chapter 443 of the public laws of 1957, is further amended to read as follows:

'XIII. Pledging credit of public corporation for purpose not authorized by law. When counties, cities, towns, school districts, School Administrative Districts, village or other public corporations, for a purpose not authorized by law, vote to pledge their credit or to raise money by taxation or to exempt property therefrom or to pay money from their treasury, or if any of their officers or agents attempt to pay out such money for such purpose, the court shall have ~~equity~~ jurisdiction on ~~petition or application of complaint filed by~~ not less than 10 taxable inhabitants thereof, briefly setting forth the cause of complaint.'

Sec. 328. R. S., c. 107, § 5, amended. Section 5 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 5. Jurisdiction between partners and part owners; extent and effect on other parties. The court has jurisdiction of cases mentioned in ~~subsection VII of the preceding section 4, subsection VII,~~ notwithstanding persons interested not within the jurisdiction of the court are not made parties; but, in such cases, no decree affects the right of any person not a party to the ~~suit~~ action, unless he voluntarily becomes a party before final decree, except as ~~hereinafter~~ otherwise provided. In all such cases the court has jurisdiction, if the case requires it, over all property of the partnership or cotenancy within the State, and the other partners or cotenants, out of the jurisdiction, may protect their interests by coming in at any time as parties to the ~~bill~~ action; but, if there is no such property within the State, the jurisdiction of the court is limited to the adjustment of accounts and compelling contribution between the parties over whom the court has jurisdiction.'

Sec. 329. R. S., c. 107, § 7, amended. Section 7 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 7. Interest of a copartner applied in payment of plaintiff's debt. In such ~~suit~~ action the interest of a copartner in the partnership property may be reached and applied to the payment of the plaintiff's debt; ~~provided, however, that unless.~~ Unless the plaintiff's debt is in judgment, the business of the partnership shall not be interfered with by injunction or otherwise, farther than to restrain the withdrawal of any portion of the debtor's share or interest therein,

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until the plaintiff's debt is established; ~~and provided further, that if~~. If either copartner shall give to the plaintiff a sufficient bond with sureties approved by the clerk, conditioned to pay to the plaintiff the amount of his debt and costs, within 30 days after the same is established, the court shall proceed no further therein save to establish the debt; ~~and any~~. Any injunction previously issued shall be dissolved upon the filing of such bond. But no provision of ~~subsection XI of section 4, subsection XI, or of this section, or of section 6 shall be so construed as to reach and apply in payment of a debt, any property exempted by the provisions of sections 6, 7, 8 and 20 of chapter 58, sections 6, 7, 8 and 20, and by chapter 112.~~

Sec. 330. R. S., c. 107, § 12, amended. Section 12 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 12. Verification of complaint. Verification by the oath of a party for whose benefit the ~~bill~~ complaint sets forth that it is prosecuted is equivalent to such verification by the plaintiff.'

Sec. 331. R. S., c. 107, § 33, amended. Section 33 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 33. Writs of seizin or execution, etc. Writs of seizin or execution and all other processes appropriate to ~~causes civil actions in equity~~ which equitable relief is sought may be issued by the court to enforce its decrees.'

Sec. 332. R. S., c. 107, § 36, amended. The last sentence of section 36 of chapter 107 of the Revised Statutes is amended to read as follows:

'Nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by ~~suit at law or in equity~~ civil action.'

Sec. 333. R. S., c. 110, § 30, amended. Section 30 of chapter 110 of the Revised Statutes is amended to read as follows:

'Sec. 30. Injuring or concealing such records. Whoever knowingly destroys, defaces or conceals such record forfeits not less than \$200 nor more than \$1,000, and is liable for damages to any person injured in ~~an~~ a civil action ~~on the case~~.'

Sec. 334. R. S., c. 111, § 13, amended. Section 13 of chapter 111 of the Revised Statutes is amended to read as follows:

'Sec. 13. Account of items in writing may be required. Every officer or other person upon receiving any fees provided for by law, if required by the person paying them, shall make a particular account thereof in writing specifying for what they accrued or he forfeits to such person treble the sum paid, to be recovered in ~~an~~ a civil action ~~of debt~~.'

Sec. 335. R. S., c. 112, § 7, amended. Section 7 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 7. Liability of indorser. In case of avoidance or inability of the plaintiff or petitioner, the indorser is liable, in ~~an~~ a civil action ~~on the case~~ brought

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within one year after the original judgment in the court in which it was rendered, to pay all costs recovered against the plaintiff. A return upon the execution by an officer of the county where the indorser lives, that he has demanded of the indorser payment thereof, and that he has neglected to pay or to show the officer personal property of the plaintiff sufficient to satisfy the execution, or that he cannot find the indorser within his precinct, is conclusive evidence of his liability in the ~~suit~~ action.'

Sec. 336. R. S., c. 112, § 8, amended. Section 8 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 8. Court may require new indorser or additional deposit. If, pending such ~~suit~~ action, petition or process, any such indorser or deposit becomes insufficient or such indorser removes from the State, the court may require a new and sufficient indorser or additional deposit, and by consent of the defendant the name of the original indorser may be struck out; ~~and such~~. Such new indorser shall be liable or such deposit holden for all costs from the beginning of the ~~suit~~ action; ~~and, if~~. If such new indorser is not provided or security furnished within the time fixed by the court, the action shall be dismissed and the defendant shall recover his costs.'

Sec. 337. R. S., c. 112, § 11, amended. Section 11 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 11. Civil actions on judgment. ~~Actions of debt~~ Civil actions founded on judgment rendered by any court of record in the State may be brought in the county where it was rendered or in the county in which either party thereto or his executor or administrator resides at the time of bringing the action.'

Sec. 338. R. S., c. 112, § 31, amended. Section 31 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 31. Sale on writ of personal property attached. When personal property is attached, the officer, by consent of the debtor and creditor, may sell it on the writ of attachment before or after ~~entry~~ filing in court, observing the directions for selling on execution; ~~and if~~. If it is attached by different officers, it may be so sold by the first attaching officer; or in case of his death, if he was a deputy sheriff, by the sheriff or another deputy by written consent of the debtor and all attaching creditors; ~~and the~~. The proceeds, after deducting necessary expenses, shall be held by the officer making the sale, subject to the successive attachments as if sold on execution.'

Sec. 339. R. S., c. 112, § 41, amended. Section 41 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 41. Replevin of property attached and claimed by one not a party to action; sale. When personal property, attached on mesne process, is claimed by a person not a party to the ~~suit~~ action, he may replevy it within 10 days after notice given him therefor by the attaching creditor, and not afterwards; ~~and after~~. After that, the attaching officer, without impairing the rights of such person, at the request and on the responsibility of the plaintiff and with consent of other attaching creditors, if any, may sell it at auction as on execution, unless the debtor claims it as his and forbids the sale.'

Sec. 340. R. S., c. 112, § 42, amended. Section 42 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 42. Property of part owner attached, appraised and delivered to another owner on giving bond; bond returned with writ of attachment. When personal property is attached in a ~~suit~~ civil action against one or more part owners thereof, at the request of another part owner, it shall be appraised as ~~hereinbefore~~ provided, one appraiser to be chosen by the creditor, one by the officer and the other by the requesting part owner; ~~and thereupon~~. Thereupon it shall be delivered to such part owner on his giving bond to the officer with 2 sufficient sureties, conditioned to restore it in like good order, pay the appraised value of the defendant's share therein or satisfy all judgments recovered in the attaching ~~suits~~ actions, if demanded within the time during which it would be held by the attachments. Such bond shall be returned with the writ of attachment with the doings of the officer thereon and, if forfeited, like proceedings may be had as are provided in section 36.'

Sec. 341. R. S., c. 112, § 45, amended. The first sentence of the last paragraph of section 45 of chapter 112 of the Revised Statutes is amended to read as follows:

'Such summons, when property is attached on the writ, shall be returnable to the court to which the writ is returnable ~~or to any justice thereof in vacation~~ not less than 10 days nor more than 60 days after service thereof, and when property is seized on execution such summons shall be made returnable to ~~any justice or judge of~~ the court issuing such execution on any day fixed by ~~such justice or judge~~ the court not less than 10 days nor more than 60 days thereafter.'

Sec. 342. R. S., c. 112, § 46, amended. Section 46 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 46. Mortgagee must account within 10 days after notice; false account. The officer may give the claimant written notice of his attachment; ~~and if~~. If he does not within 10 days thereafter deliver to the officer a true account of the amount due on his claim, he thereby waives the right to hold the property thereon; ~~and if~~. If his account is false, he forfeits to the creditor double the amount of the excess, to be recovered in ~~an~~ a civil action ~~on the case~~.'

Sec. 343. R. S., c. 112, § 52, amended. Section 52 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 52. If replevied, liable to further attachments. The property described in section 51 replevied from the officer is liable to further attachments as if in his possession; ~~and if~~. If there is judgment for a return in the replevin ~~suit~~ action, the plaintiff and his sureties are liable for the whole property or its value, although some attachments were made after the replevin.'

Sec. 344. R. S., c. 112, § 53, amended. Section 53 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 53. If officer dies or is removed, further attachments. If an attaching officer dies or is removed from office while the attachment is in force, whether the property was in his possession or not, it and its proceeds may be further attached by any other officer the same as it might have been by the first officer. Such further attachments shall be made by a return setting forth an attachment in common form and by whom the property was previously attached; and if the goods have not been replevied, by leaving a certified copy of the writ of attach-

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ment, omitting the declaration and of the return of that attachment, with the former officer if living, or if dead, with his executor or administrator, or if none has been appointed, with the person having possession of the goods; or if the goods have been replevied and the officer who made the original attachment is dead, such copy shall be left with his executors or administrators or with the plaintiff in replevin; ~~and the~~. The attachment shall be considered as made when such copy is delivered in either of the modes ~~before~~ described.'

Sec. 345. R. S., c. 112, § 56, amended. Section 56 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 56. Liability if property sold before demand; set off not allowed. If, after such decree and before such demand, the officer has sold the property on execution, he is liable to the executor or administrator in ~~an~~ a civil action, ~~not of trespass but for money had and received~~ for the proceeds, if in his hands; but if paid over to the judgment creditor, such creditor is so liable, and he shall not set off any demand which he has against the executor or the administrator or against the estate of the deceased.'

Sec. 346. R. S., c. 112, § 57, amended. Section 57 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 57. Appraisal of property under attachment. After the death of a defendant and before a decree of insolvency on his estate, the executor or administrator may demand of the attaching officer a certified copy of his return on the writ of attachment, with a description of the property attached, so that it may be described in the inventory of the estate subject to the attachment, and the appraisers may demand a view thereof so as to appraise it; ~~and if~~. If the officer fails to comply with either demand, he forfeits to the executor or administrator not less than \$10 nor more than \$30.'

Sec. 347. R. S., c. 112, § 59, amended. Section 59 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 59. If officer dies pending action and no administrator appointed, party in interest may carry on action. If an officer authorized to serve precepts dies pending ~~a suit~~ an action for or against him for official neglect or misconduct and no administration is granted on his estate within 3 months thereafter, the party for whose benefit the ~~suit~~ action is so prosecuted or defended may carry it on in his own name by entering his appearance and giving security for costs, as the court directs.'

Sec. 348. R. S., c. 112, § 61, amended. Section 61 of chapter 112 of the Revised Statutes, as amended by chapter 22 of the public laws of 1959, is further amended to read as follows:

'Sec. 61. Real estate attached on writs of attachment from certain municipal courts. If a municipal court has a regular seal and has jurisdiction in any action where the amount of damage claimed exceeds \$20, real estate and interests in real estate attachable on writs of attachment from the Superior Court may be attached on writs of attachment or taken on executions from such court where the amount of the debt or damage, exclusive of costs, exceeds \$20.'

Sec. 349. R. S., c. 112, § 65, amended. Section 65 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 65. When right of redemption or to a deed by contract attached, the creditor may redeem or pay. When a right to redeem real estate under mortgage, levy, sale on execution or for taxes or a right to a conveyance by contract is attached, the plaintiff in the ~~suit~~ action, before or after sale on execution, may pay or tender to the person entitled thereto the amount required to discharge such encumbrance or fulfill such contract; ~~and thereby~~. ~~Thereby~~ the title and interest of such person vest in the plaintiff subject to the defendant's right to redeem; ~~but such~~. Such redemption by the defendant or any person claiming under him by a title subsequent to the attachment shall not affect such attachment, but it shall continue in force and the prior encumbrance as against it shall be deemed discharged.'

Sec. 350. R. S., c. 112, § 66, amended. Section 66 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 66. Mortgagee or contractor to state, on demand, sum due; on payment, to release his interest in premises. Such person, on written demand, shall give the plaintiff a true written statement of the amount due him; and on payment or tender thereof shall release all his interest in the premises; and if he refuses, he may be compelled to do so ~~by a bill in equity~~ in a civil action seeking equitable relief. Such release shall recite that under authority of this section and ~~the preceding~~ section 65, the plaintiff had attached the premises and paid or tendered the amount due the grantor; ~~the~~. The plaintiff shall thereupon hold such title in trust for the defendant, and subject to his right of redemption, without power of alienation until after one year from the termination of said ~~suit~~ action, or from the sale of the equity on any execution recovered therein.'

Sec. 351. R. S., c. 112, § 74, amended. The last 3 sentences of section 74 of chapter 112 of the Revised Statutes are amended to read as follows:

'Before or after the ~~entry~~ filing of said ~~writ~~ complaint in said court, or before or after judgment thereon, or if said ~~writ~~ complaint is not ~~entered~~ filed in court, the plaintiff or his attorney in such ~~suit~~ action may discharge the attachment in writing on the margin of the record thereof, or said plaintiff or said attorney may give a certificate, signed, sealed and acknowledged by him that said attachment is in whole or in part discharged, which the register of deeds shall record with a reference thereto on the margin of the records of attachments. The register of deeds shall note the record of said discharge on the margin of the records of attachments within an hour of the delivery to him of either of the aforesaid certificates. Such attachments may be discharged on the record thereof in the registry of deeds by an attorney at law authorized in writing by the plaintiff in said ~~suit~~ action; provided ~~however~~, ~~that~~ said writing is first recorded or filed in said registry of deeds with a reference thereto made by said register of deeds on the margin of the record of the attachment.'

Sec. 352. R. S., c. 112, § 75, amended. Section 75 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 75. Real estate attachment discharged of record when dissolved. When an attachment of real estate is made in any action and the ~~writ~~ complaint is not ~~entered~~ filed in court, or when any attachment of real estate is dissolved by lapse of time or failure to levy upon the judgment debt within the time prescribed by law to preserve said attachment and the said attachment then remains undischarged upon the records of the registry of deeds, the plaintiff upon the demand of the defendant shall either cause the said attachment to be discharged upon

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the records of the registry of deeds or give a certificate, signed, sealed and acknowledged by him that said attachment is discharged, when said certificate is prepared and presented to the plaintiff by the defendant, which said certificate the register of deeds shall record with reference thereto on the margin of the record of said attachment.'

Sec. 353. R. S., c. 112, § 82, amended. The 2nd sentence of section 82 of chapter 112 of the Revised Statutes is amended to read as follows:

'The ~~justice~~ court shall ~~also~~ require the petitioner to give bond to each trustee named in the petition, with sureties, in a sum sufficient to protect him against any judgment recovered by the plaintiff and paid by him, and his legal costs in the ~~suit~~ action, and the costs allowed him by ~~such justice~~ the court at the hearing on the petition, if he appears.'

Sec. 354. R. S., c. 112, § 83, amended. Section 83 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 83. Costs. The party finally prevailing in the ~~suit~~ action shall recover the costs of these proceedings, taxed as costs of court in other cases and certified by such justice, and execution shall issue therefor.'

Sec. 355. R. S., c. 112, § 84, amended. The first sentence of section 84 of chapter 112 of the Revised Statutes is amended to read as follows:

'When real estate or personal property is attached on mesne process, and in all cases of attachment on trustee process, the attachment shall be vacated upon the defendant or someone in his behalf delivering to the officer who made such attachment, or to the plaintiff or his attorney, a bond to the plaintiff in a penal sum not exceeding the ~~ad damnum~~ amount of the ~~writ~~ attachment, such bond to be approved as to penal sum and sureties by the plaintiff or his attorney, or by any Justice or clerk of the Superior Court, conditioned that within 30 days after the rendition of the judgment, or after the adjournment of the court in which it is rendered or after the certificate of decision of the law court shall be received in the county where the cause is pending, he will pay to the plaintiff or his attorney of record the amount of said judgment including costs; ~~the~~. The bond shall be returned by the officer with the process, for the benefit of the plaintiff, and thereupon all liability of the officer to the plaintiff by reason of such attachment shall cease.'

Sec. 356. R. S., c. 112, § 91, amended. Section 91 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 91. Actions for breach of promise to marry prohibited. No action ~~suit~~ or proceeding to recover damages for breach of promise to marry shall be maintained.'

Sec. 357. R. S., c. 112, § 102, amended. Section 102 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 102. Limitation of actions for penalties. Actions ~~and suits~~ for any penalty or forfeiture on a penal statute, brought by a person to whom the penalty or forfeiture is given in whole or in part, shall be commenced within one year after the commission of the offense; ~~and if~~. If no person so prosecutes, it may be recovered by ~~suit~~ civil action, indictment or information in the name and for

the use of the State at any time within 2 years after the commission of the offense, and not afterwards.'

Sec. 358. R. S., c. 113, § 10, amended. Section 10 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 10. On appeals, original papers sent up; exceptions.** In cases carried from a trial justice or municipal court to a higher court, all depositions and original papers, except the process by which the ~~suit~~ action was commenced, the return of service thereon and the pleadings shall be certified by the proper officer and carried up without leaving copies unless otherwise ordered by the court having original cognizance.'

Sec. 359. R. S., c. 113, § 13, amended. Section 13 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Complaint lost after service, new one filed.** When in an action pending, the loss or destruction of a writ ~~or process~~, complaint or other process after service is proved by affidavit or otherwise, the court may allow a new one to be filed, corresponding thereto as nearly as may be, with the same effect as the one lost or destroyed.'

Sec. 360. R. S., c. 113, § 29, amended. Section 29 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 29. Treasurers may bring an action in their own names.** Treasurers of state, counties, towns and corporations may maintain ~~suits~~ civil actions in their own names as treasurers on contracts given to them or their predecessors and prosecute ~~suits~~ civil actions pending in the names of their predecessors.'

Sec. 361. R. S., c. 113, § 33, amended. Section 33 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 33. Grantee may defend action.** Grantees may appear and defend in ~~suits~~ civil actions against their grantors in which the real estate conveyed is attached.'

Sec. 362. R. S., c. 113, § 35, amended. Section 35 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 35. In actions of covenant, if encumbrance right of dower, it may be assigned and be measure of damages.** In an action for breach of covenant against encumbrances contained in a deed of real estate, when the encumbrance is a right of dower, if such dower has been assigned and not released, the value thereof shall be the measure of damages; but if it has been demanded and not assigned, the court, on application of the plaintiff, shall cite the claimant of dower to appear and become a party by personal service made 14 days before ~~the term of court to which it is returnable; if the date set for such appearance.~~ If she does not appear or if she appears and refuses to release such right, the court shall appoint 3 commissioners to assign the same, who shall proceed in the manner provided for commissioners appointed under ~~the provisions of~~ chapter 176 to make partition; ~~and when.~~ When their report is made and accepted by the court, it is a legal assignment of dower and the value thereof is the measure of damages in said action.'

Sec. 363. R. S., c. 113, § 45, amended. Section 45 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 45. **Partial failure of consideration of note.** In any ~~proceeding at law or in equity~~ civil action in which the amount due on a promissory note given for the price of land conveyed is in question and a total failure of consideration would be a defense, partial failure of consideration may be shown in reduction of damages.'

Sec. 364. R. S., c. 113, § 54, amended. Section 54 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 54. **Sureties on official bond may defend.** Sureties upon official bonds may appear and defend in ~~suits~~ actions against their principal whenever such sureties may ultimately be liable upon such bonds.'

Sec. 365. R. S., c. 113, § 61, amended. Section 61 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 61. **In trespass, jury to find if willful.** In action ~~of~~ for trespass on property, the court and jury or magistrate shall determine whether the trespass was committed willfully; ~~if~~. If so found, a record thereof shall be made and a memorandum thereof minuted on the margin of the execution.'

Sec. 366. R. S., c. 113, § 65, amended. Section 65 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 65. **Petition to defend prior actions by subsequent attaching creditor.** When property has been attached, a plaintiff who has caused it to be attached in a subsequent ~~suit~~ action may, by himself or attorney, ~~petition~~ move the court for leave to defend the prior ~~suit~~ action and set forth therein the facts as he believes them to be, under oath; ~~and the~~. The court may grant or refuse such leave.'

Sec. 367. R. S., c. 113, § 66, amended. Section 66 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 66. **If leave granted, bond given.** If leave is granted, the petitioner shall give bond or enter into recognizance with sufficient surety in such sum as the court orders, to pay the plaintiff in the prior ~~suit~~ action all damages and costs occasioned by such defense; ~~and so~~. An entry of record shall be made that he is admitted to defend such ~~suit~~ action.'

Sec. 368. R. S., c. 113, § 71, amended. Section 71 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 71. **Actions by bankrupts or insolvents.** A person who has been declared a bankrupt or an insolvent may maintain an action respecting his former property in his own name, unless objection is made ~~by plea in abatement~~, if before final judgment the assent of his trustee or assignee is filed in the office of the clerk of the court in which the action is pending.'

Sec. 369. R. S., c. 113, § 73, amended. Section 73 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 73. Other actions against bankrupts or insolvents. All other actions for recovery of a debt provable in bankruptcy or insolvency, when it appears that any defendant therein has filed his petition in bankruptcy or insolvency or has been adjudged a bankrupt or an insolvent, on petition of his creditors before or after the commencement of the ~~suit~~ action, shall be continued until the bankrupt or insolvent proceedings are closed unless the plaintiff strikes such defendant's name from the ~~suit~~ action, which he may do without costs; but when such defendant does not use diligence in the prosecution of his bankrupt or insolvent proceedings, after ~~a term's~~ 30 days' notice to him in writing from the plaintiff, the court may refuse further delay.'

Sec. 370. R. S., c. 113, § 93, amended. The first sentence of section 93 of chapter 113 of the Revised Statutes, as last repealed and replaced by section 187 of chapter 317 of the public laws of 1959, is amended to read as follows:

'In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding 3, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services upon a per diem basis, shall be paid by the county on presentation of the proper certificate of the clerk of courts for the county, ~~and the~~ or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court shall direct. The amount thereof shall be fixed by the court upon the coming in of the report.'

Sec. 371. R. S., c. 113, § 101, amended. Section 101 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 101. Challenge of jurors. The court, on motion of either party in ~~a suit~~ an action, may examine, on oath, any person called as a juror therein, whether he is related to either party, has given or formed an opinion or is sensible of any bias, prejudice or particular interest in the cause; ~~and if~~. If it appears from his answers or from any competent evidence that he does not stand indifferent in the cause, another juror shall be called and placed in his stead.'

Sec. 372. R. S., c. 113, § 114, amended. Section 114 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 114. Parties, husbands, wives and others interested as witnesses. No person is excused or excluded from testifying in any civil ~~suit or proceeding at law or in equity~~ action by reason of his interest in the event thereof as party or otherwise, except as ~~hereinafter~~ otherwise provided, but such interest may be shown to affect his credibility, and the husband or wife of either party may be a witness.'

Sec. 373. R. S., c. 113, § 115, amended. Section 115 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 115. Exemption when action implies an offense. No defendant shall be compelled to testify in any ~~suit~~ action when the cause of action implies an offense against the criminal law on his part. If he offers himself as a witness, he waives his privilege of not criminating himself, but his testimony shall not be used in evidence against him in any criminal prosecution involving the same subject matter.'

Sec. 374. R. S., c. 113, § 117, amended. Section 117 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 117. Testimony of party out of State.** When a party to a ~~suit~~ civil action resides without the State or is absent therefrom during the pendency of the ~~suit~~ action and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition; ~~and such.~~ Such nonresident or absent party, upon such notice to him or his attorney of record in the ~~suit~~ action of the time and place appointed for taking his deposition, as the court orders, shall appear and give his deposition. If he refuses or unreasonably delays to do so, ~~he the action may be nonsuited dismissed or defaulted by order of court unless his attorney admits the affidavit of the party desiring his testimony as to what the absent party would say, if present, to be used as testimony in the case.'~~

Sec. 375. R. S., c. 113, § 128, amended. Section 128 of chapter 113 of the Revised Statutes, as amended by section 2 of chapter 412 of the public laws of 1955, is further amended to read as follows:

'**Sec. 128. Fees of witnesses.** Witnesses in the Supreme Judicial Court or the Superior Court or in the probate courts and before a trial justice or a municipal court shall receive \$5, and before referees, auditors or commissioners specially appointed to take testimony or special commissioners on disputed claims appointed by probate court, \$5, or before the county commissioners \$5 for each day's attendance and 8c a mile for each mile's travel going and returning home; ~~but the.~~ The court in its discretion may allow at the trial of any cause, civil or criminal in said Supreme Judicial Court or the Superior Court, a sum not exceeding \$50 per day for the attendance of any expert witness or witnesses at said trial, in taxing the costs of the prevailing party, except that the expense of all expert witnesses for the State in murder cases shall be in such amounts as the presiding justice shall allow and shall be paid by the State and charged against the appropriation for the Department of the Attorney General; ~~but such.~~ Such party or his attorney of record shall first file an affidavit ~~during the term at which such trial is held~~ within 30 days after entry of judgment and before the cause is settled, stating the name, residence, number of days in attendance and the actual amount paid or to be paid each expert witness in attendance at such trial. No more than \$5 per day shall be allowed or taxed by the clerk of courts in the costs of any ~~suit~~ civil action for the per diem attendance of a witness, unless the affidavit ~~herein provided~~ is filed, and the per diem is determined and allowed by the presiding justice.'

Sec. 376. R. S., c. 113, § 130, amended. Section 130 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 130. Not obliged to attend court unless fees paid or tendered.** No person is obliged to attend any court as a witness in a civil ~~suit~~ action or at any place to have his deposition taken unless his legal fees for travel to and from the place and for one day's attendance are first paid or tendered; ~~and his.~~ His fees for each subsequent day's attendance must be paid at the close of the preceding day if he requests it.'

Sec. 377. R. S., c. 113, § 148, amended. Section 148 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 148. Adjutant General's certificate as evidence.** The certificate of the Adjutant General relating to the enlistment of any person from this State in the

United States' service and of all facts pertaining to the situation of such person, to the time of and including his discharge, as found upon the records of his office, are prima facie evidence of the facts so certified in any ~~suit~~ civil action or proceeding.'

Sec. 378. R. S., c. 113, § 152, amended. Section 152 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 152. Testimony of a deceased subscribing witness or magistrate given in subsequent action. When the testimony of a subscribing witness to a deed or of the magistrate who took the acknowledgment thereof has been taken in the trial of any civil ~~cause~~ action in relation to the execution, delivery or registry of such deed, and such witness has since died, proof of such former testimony is admissible in the trial of any other civil ~~cause~~ action involving the same question if the parties are the same or if one of the parties is the same and the adverse party acted as agent or attorney for the adverse party in the former ~~suit~~ action, but such testimony may be impeached like the testimony of a living witness.'

Sec. 379. R. S., c. 113, § 156, amended. The first sentence of the 2nd paragraph of section 156 of chapter 113 of the Revised Statutes is amended to read as follows:

'Costs for travel shall be taxed for the prevailing party in civil ~~suits~~ actions according to the distance of said party or his attorney who resides nearest to the place of trial, unless said prevailing party or his attorney who resides farthest from said place of trial actually travels the greater distance for the special purpose of attending court in such cause, in which case costs shall be taxed for the last-named distance, and when the action is in the name of an indorsee and the plaintiff is the prevailing party, such costs for travel shall be taxed according to the distance of the attorney, payee or indorsee who is nearest to the place of trial, unless the attorney, payee or indorsee residing the greater distance from said place of trial actually travels such greater distance for the special purpose of attending court in said cause.'

Sec. 380. R. S., c. 113, § 156, amended. The next to the last paragraph of section 156 of chapter 113 of the Revised Statutes is amended to read as follows:

'No costs shall accrue, be taxed or allowed for any precept required in legal proceedings ~~whether in law or equity~~ unless the same shall issue from and bear the indorsement of an attorney at law.'

Sec. 381. R. S., c. 113, § 166, amended. Section 166 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 166. State liable for costs in civil action. When a defendant prevails against the State in a civil ~~suit~~ action, judgment for his costs shall be rendered against it and the treasurer of the county shall pay the amount on a certified copy of the judgment; ~~and the~~. The amount shall be allowed to him in his account with the State.'

Sec. 382. R. S., c. 113, § 167, amended. Section 167 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 167. No fees for travel taxable for State. When the State recovers costs in a civil ~~suit~~ action no fees shall be taxed for the travel of an attorney.'

Sec. 383. R. S., c. 113, § 175, amended. Section 175 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 175. If execution could issue, no costs in action on judgment. A plaintiff shall not be allowed costs in an action on a judgment of any tribunal on which an execution could issue when such ~~suit~~ action was commenced, except in trustee process.'

Sec. 384. R. S., c. 113, § 178, amended. Section 178 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 178. When bankrupt recovers no costs. When a defendant pleads a discharge in bankruptcy or insolvency obtained after the commencement of the ~~suit~~ action, he recovers no costs before the time when the certificate was produced in court.'

Sec. 385. R. S., c. 113, § 187, amended. The last sentence of section 187 of chapter 113 of the Revised Statutes is amended to read as follows:

'If no sufficient cause is shown to the contrary, the justice shall direct an execution to be issued for the amount allowed the creditor by such report with interest from its return to the probate court, and costs allowed by the probate court, if any, \$3 for clerk's fees, and travel and attendance and expense of copies and service of notices, as in ~~suits at law~~ civil actions.'

Sec. 386. R. S., c. 113, § 188, amended. The 2nd sentence of section 188 of chapter 113 of the Revised Statutes is amended to read as follows:

'They shall take full notes of all oral testimony and other proceedings in the trial of ~~causes civil actions, either at law or in equity~~ including the charge of the justice in all trials before a jury and all comments and rulings of said justice in the presence of the jury during the progress of the trial, as well as all statements and arguments of counsel addressed to the court, and during the trial furnish for the use of the court or either of the parties a transcript of so much of their notes as the presiding justice may direct.'

Sec. 387. R. S., c. 113, § 188, amended. The 2nd paragraph of section 188 of chapter 113 of the Revised Statutes is amended to read as follows:

'Official Court Reporters appointed by the Chief Justice of the Supreme Judicial Court shall ~~also~~ receive, from the county in which the court or ~~an equity~~ proceeding is held, their expenses when in attendance upon such court or ~~equity~~ proceeding away from their place of residence but not otherwise; ~~a~~. A detailed statement of such expenses actually and reasonably incurred shall be approved by the presiding or sitting justice.'

Sec. 388. R. S., c. 113, § 189, amended. Section 189 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 189. Appointment for hearings in vacation. At any hearing in vacation of a ~~cause in law or equity~~ civil action pending in the Supreme Judicial Court or in the Superior Court, the presiding justice may, when necessary, appoint a Court Reporter other than his regularly appointed Official Court Reporter to report the proceedings thereof, who shall receive for his services from the

treasury of the county in which the ~~cause~~ civil action is pending a sum not exceeding \$10 a day for attendance in addition to actual traveling expenses; but when at such hearings the presiding justice employs his regularly appointed Official Court Reporter, such Official Court Reporter shall receive from said treasury only the amount of his actual expenses incurred in attending the same.'

Sec. 389. R. S., c. 113, § 191, repealed and replaced. Section 191 of chapter 113 of the Revised Statutes is repealed and the following enacted in place thereof:

'Sec. 191. Death or disability. When in any criminal case any material part of a transcript of the evidence taken by the Official Court Reporter cannot be obtained because of his death or disability, the justice who presided at the trial of the case shall on motion, after notice and hearing, if it is evident that the lack of such transcript prejudices the respondent in prosecuting his exceptions or appeal, set aside any verdict rendered in the case and grant a new trial at any time within one year after it was returned.'

Sec. 390. R. S., c. 113, § 193, amended. Section 193 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 193. Stenographic reports taxed in bill of costs. Any amount legally chargeable by Official Court Reporters for writing out their reports for use in ~~law cases~~ civil actions and actually paid by either party whose duty it is to furnish them may be taxed in the bill of costs and allowed against the losing party, as is now allowed for copies, if furnished by the clerk.'

Sec. 391. R. S., c. 114, § 4, amended. The last sentence of section 4 of chapter 114 of the Revised Statutes is amended to read as follows:

'When a partnership is made a trustee ~~in a trustee suit on trustee process~~, service upon one member of the firm shall be a sufficient attachment of the property of the principal defendant in the possession of the firm, provided ~~that~~ such service be made at any place of business of the firm or, if such service is made elsewhere, that legal service be afterward made upon the other members of the firm.'

Sec. 392. R. S., c. 114, § 28, amended. Section 28 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 28. Trustee not appearing defaulted. When a person summoned as trustee neglects to appear and answer to the ~~suit~~ action, he shall be defaulted and adjudged trustee as alleged.'

Sec. 393. R. S., c. 114, § 32, amended. Section 32 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 32. If trustee discloses an assignment of the principal's claim. When it appears by the answers of a trustee that any goods, effects or credits in his hands are claimed by a 3rd person by virtue of an assignment from the principal debtor or in some other way, the court may permit such claimant to appear, if he sees cause. If he does not appear voluntarily, notice may be issued and served on him as the court directs; ~~if~~. If he appears, he may be admitted as a party to the ~~suit~~ action so far as respects his title to the goods, effects or credits in question, and he may allege and prove any facts not stated or denied in the

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disclosure of the trustee; ~~but if~~. If he does not appear in person or by attorney, the assignment shall have no effect to defeat plaintiff's attachment.'

Sec. 394. R. S., c. 114, § 33, amended. Section 33 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 33. Principal defendant may testify. On the trial between the attaching creditor and such claimant, the principal defendant may be examined as a witness for either party if there is no other objection to his competency except his being a party to the original ~~suit~~ action.'

Sec. 395. R. S., c. 114, § 34, amended. Section 34 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 34. Form of judgment against principal and trustee. When the plaintiff recovers judgment against the principal and there is any supposed trustee who has not appeared and been discharged by disclosure or discontinuance of the ~~suit~~ action against him, the court shall award judgment and execution against the goods, effects and credits in his hands, as well as against the principal, in the usual form.'

Sec. 396. R. S., c. 114, § 38, amended. Section 38 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 38. Death of trustee before judgment, administrator cited. If he dies before judgment in the original ~~suit~~ action, his executor or administrator may appear voluntarily or may be cited to appear as in case of the death of a defendant in an ordinary action; ~~and further~~. Further proceedings shall then be conducted as if the executor or administrator had been originally summoned as trustee; except that the examination of the deceased, if any had been taken and filed, shall have the same effect as if he were living.'

Sec. 397. R. S., c. 114, § 39, amended. Section 39 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 39. If administrator does not appear, judgment rendered. If in such case the executor or administrator does not appear, the plaintiff, instead of suggesting the death of the deceased, may take judgment against him by default or otherwise, as if he were living; ~~and the~~. The executor or administrator shall pay, on the execution, the amount which he would have been liable to pay to the principal defendant; ~~and he~~. He shall be thereby discharged from all demands on the part of the principal defendant in the ~~suit~~ action for the amount so paid, as if he had himself been adjudged trustee.'

Sec. 398. R. S., c. 114, § 41, amended. Section 41 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 41. If trustee dies within 30 days after judgment, proceedings to preserve the attachment. If any person against whom execution issues as trustee is not living at the expiration of 30 days after final judgment in the ~~trustee suit~~ action, the demand, to be made by force of the execution for continuing the attachment as provided in section 73, may be made on his executor or administrator at any time within 30 days after his appointment with the same effect as if made within 30 days after the judgment.'

Sec. 399. R. S., c. 114, § 43, amended. Section 43 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 43. Remedy on his bond if he neglects to pay. If after final judgment against an executor or administrator for any certain sum due from him as trustee he neglects to pay it, the original plaintiff in the foreign attachment has the same remedy for recovering the amount, either upon a suggestion of waste or by ~~a suit~~ **an action** on the administration bond, as the principal defendant in the foreign attachment would have had upon a judgment recovered by himself for the same demand against the executor or administrator.'

Sec. 400. R. S., c. 114, § 53, amended. Section 53 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 53. Property sold on execution. The officer, having sold on execution any personal property delivered to him by virtue ~~of the provisions~~ of this chapter, after deducting the fees and charges of sale, shall pay to the plaintiff the sum by him paid or tendered to the trustee or applied in the performance of such contract or condition or discharge of such liability and the interest from the time of such payment, tender or application to the time of sale; ~~and so~~. So much of the residue as is required therefor, he shall apply in satisfaction of the plaintiff's judgment and pay the balance, if any, to the debtor, first paying the trustee his costs accruing ~~before the service of the seire facias~~ as provided in section 14.'

Sec. 401. R. S., c. 114, § 58, amended. Section 58 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 58. If defendant in action pending is summoned as trustee of plaintiff. If, during the pendency of an action, the defendant is summoned as trustee of the plaintiff, the first ~~suit~~ **action** may nevertheless proceed so far as to ascertain by a verdict or otherwise, what sum, if any, is due from the defendant; but the court may, on motion of the plaintiff in the trustee ~~suit~~ **action**, continue it for judgment until the termination of the trustee ~~suit~~ **action**, or until the attachment therein is dissolved by the discharge of the trustee or satisfaction of the judgment otherwise.'

Sec. 402. R. S., c. 114, § 59, amended. Section 59 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 59. Defendant not adjudged trustee after judgment in first action. If the first ~~suit~~ **action** is not continued and judgment is rendered therein, the defendant shall not afterwards be adjudged a trustee on account of the demand thus recovered against him while he is liable to an execution thereon.'

Sec. 403. R. S., c. 114, § 60, amended. Section 60 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 60. If, before final judgment, defendant adjudged trustee on other action. If, before final judgment is rendered in the first ~~suit~~ **action**, the defendant in that ~~suit~~ **action** is adjudged trustee in the other and pays thereon the money demanded in the first ~~suit~~ **action** or any part of it, the fact shall be stated on the record of the first ~~suit~~ **action** and judgment therein shall be rendered for the costs due to the plaintiff and for such part of the debt or damages, if any, as remains due and unpaid.'

Sec. 404. R. S., c. 114, § 64, amended. Section 64 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 64. Trustee may retain pay due him, but not for unliquidated damages. Every trustee may retain or deduct out of the goods, effects and credits in his hands all his demands against the principal defendant, of which he could have availed himself if he had not been summoned as trustee, by way of ~~setoff~~ counter-claim on trial or by a setoff of judgments or executions between himself and the principal defendant, except unliquidated damages for wrongs and injuries; ~~and he~~. He is liable for the balance only, after their mutual demands are adjusted.'

Sec. 405. R. S., c. 114, § 77, amended. Section 77 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 77. False disclosure. Whoever, summoned as trustee, upon his examination willfully and knowingly answers falsely, shall be deemed guilty of perjury, and shall pay to the plaintiff in the ~~suit~~ action so much of the judgment recovered against the principal defendant as remains unsatisfied, with interest and costs, to be recovered in ~~an~~ a civil action ~~on the case~~.'

Sec. 406. R. S., c. 115, § 1, amended. Section 1 of chapter 115 of the Revised Statutes is amended to read as follows:

'Sec. 1. Bail bond; returned with writ. When bail is taken on mesne process, it shall be by bond to the sheriff, if taken by him or his deputy, otherwise to the officer making the arrest, with condition that the defendant will appear and answer to the ~~suit~~ action and abide final judgment thereon and not avoid. The bond shall be returned with the writ and the clerk shall note on the writ that a bail bond is so filed.'

Sec. 407. R. S., c. 115, § 15, amended. Section 15 of chapter 115 of the Revised Statutes is amended to read as follows:

'Sec. 15. Surrender in such case, before and after judgment. If the principal is surrendered before final judgment in the original ~~suit~~ action, the bail shall deliver to the officer a copy of the writ with the return thereon, attested by the justice; but if he is surrendered after such judgment, the bail shall deliver a copy of the entry of surrender, attested by the justice; ~~and in~~. In either case, the officer shall deliver the copy to the jailer with the prisoner, which shall be a sufficient warrant to the officer for receiving and conveying him to jail and to the jailer for holding him in custody.'

Sec. 408. R. S., c. 115, § 16, amended. Section 16 of chapter 115 of the Revised Statutes is amended to read as follows:

'Sec. 16. Remedy of bail against principal. Bail may have their remedy against their principal, by ~~an~~ a civil action ~~on the case~~, for all damages sustained by them by reason of their suretyship.'

Sec. 409. R. S., c. 117, § 31, amended. The first sentence of section 31 of chapter 117 of the Revised Statutes is amended to read as follows:

'Depositions and disclosures of trustees may be taken by such commissioners stenographically by the consent of the parties to the ~~suit~~ action or proceeding,

and their notes shall be transcribed in full by questions and answers and read to the deponent or trustee and signed by him.'

Sec. 410. R. S., c. 118, § 9, amended. Section 9 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Return of sale; fraud, in sale or in return.** The officer shall, in his return on the execution, particularly describe each article or lot of goods sold and the price at which it was sold; ~~and if.~~ If he commits any fraud in the sale or return, he forfeits to the debtor 5 times the sum of which he defrauds him, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 411. R. S., c. 118, § 13, amended. Section 13 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Notice of seizure.** If the property was not attached on mesne process in the same ~~suit~~ action, the officer shall leave a copy of the execution with the treasurer, cashier, clerk or other recording officer of the company and the property shall be considered as seized on execution when the copy is so left. If it was so attached and remains attached, the officer shall proceed in seizing and selling it on execution as provided in section 16.'

Sec. 412. R. S., c. 118, § 15, amended. Section 15 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 15. Shares sold to be transferred; new certificate to purchaser; dividends.** Within 14 days after the sale, the officer shall leave an attested copy of the execution and of the return thereon with the officer of the company whose duty it is to record transfers of shares; ~~and the.~~ The purchaser is thereupon entitled to a certificate or certificates of the shares bought by him, on paying the fees therefor and for recording the transfers; ~~and if.~~ If such shares or interest were attached in the ~~suit~~ action in which the execution issued, he shall have all dividends which accrue after the attachment.'

Sec. 413. R. S., c. 118, § 28, amended. Section 28 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Cases in which executions not set off.** Executions shall not thus be set off against each other, when the sum due on one of them has been lawfully and in good faith assigned to another person before the creditor in the other execution became entitled to the sum due thereon; nor when there are several creditors or debtors in one execution, and the sum due on the other is due to or from a part of them only; nor to so much of the first execution as is due to the attorney in the ~~suit~~ action for his fees and disbursements therein.'

Sec. 414. R. S., c. 118, § 32, amended. Section 32 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 32. Remedy of owner of property so sold.** The owner of any real or personal estate so sold may recover against the town, in ~~an~~ a civil action ~~of assumpsit,~~ the full value thereof with interest at the rate of 12% yearly, with costs of ~~suit~~ the action; and may prove and recover the real value thereof, whatever was the price at which it was sold.'

Sec. 415. R. S., c. 119, § 14, amended. Section 14 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 14. **Specific performance of a contract to convey real estate after death of contractor.** If a person, who has contracted in writing to convey real estate, dies before making the conveyance, the other party may ~~have a bill in equity~~ file a ~~complaint in the Supreme Judicial Court or in the Superior Court~~ to enforce specific performance thereof against his heirs, devisees, executors or administrators, if commenced within 3 years from the grant of administration or from the time when he is entitled to such conveyance, but not exceeding 4 years after the grant of administration, provided ~~that~~ written notice of the existence of the contract is given to the executor or administrator within one year after the grant of administration.'

Sec. 416. R. S., c. 119, § 16, amended. Section 16 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 16. **Enforcement of decree.** If the defendant neglects or refuses to convey according to the decree, the court may render judgment for the plaintiff for possession of the land, to hold according to the terms of the intended conveyance, and may issue a writ of seizin as in a real action, under which the plaintiff, having obtained possession, shall hold the premises as effectually as if conveyed in pursuance of the decree; or the court may enforce its decree by any other process ~~according to chancery proceedings.~~

Sec. 417. R. S., c. 119, § 17, amended. Section 17 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 17. **Provision, in case of death of obligee, before conveyance.** If the person entitled to such conveyance dies before bringing his ~~suit~~ action, or before the conveyance is completed or such seizin and possession are obtained, his heir, devisee or other person entitled to the estate under him may bring and prosecute such ~~suit~~ action, and shall be entitled to the conveyance or seizin and possession in like manner as the obligee.'

Sec. 418. R. S., c. 119, § 18, amended. Section 18 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 18. **Administrator may petition for authority to make conveyance.** If the party to whom any such conveyance was to be made or those claiming under him do not commence ~~a suit~~ an action as ~~before~~ provided, and the heirs of the deceased party are under age or otherwise incompetent to convey the lands contracted for, the executor or administrator of the deceased may file a ~~bill in equity in the Supreme Judicial Court or~~ complaint in the Superior Court, setting forth the contract and circumstances of the case; ~~whereupon.~~ **Whereupon** the court by its decree may authorize such executor or administrator to convey the estate as the deceased should have done; ~~and such.~~ **Such** conveyance shall be deemed a performance of the contract on the part of the deceased so as to entitle his heirs, executors or administrators to demand a performance thereof on the part of the other party.'

Sec. 419. R. S., c. 120, § 9, amended. Section 9 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 9. **Effect; lien on property disclosed.** On such examination, the court, justice or commissioner, except as provided in section 14, may determine that

the defendant shall forever thereafter be exempt from arrest on any execution issued on the judgment recovered in the ~~suit~~ action, and that such execution shall run against the property only of the defendant, or otherwise, as justice requires, on the facts so disclosed or proved; ~~and all~~. All attachable property so disclosed, from the time of the disclosure, shall be held attached as provided in section 7, subject to ~~the provisions of the 2 following sections 10 and 11.~~

Sec. 420. R. S., c. 120, § 10, amended. Section 10 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Certificate of real estate disclosed filed in registry of deeds.** If the disclosed property is real estate, the court, justice or commissioner shall deliver to the plaintiff a certificate thereof, stating the names of the parties and the amount of the claim in the ~~writ~~ complaint, which the plaintiff shall file with the register of deeds for the county or district where the estate lies within 5 days after its date; ~~and the~~. The register shall enter and file it as returns of officers making attachments of real estate and shall be entitled to the same fees from the plaintiff.'

Sec. 421. R. S., c. 120, § 11, amended. Section 11 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Lien on personal estate preserved.** If personal estate liable to attachment is disclosed, and the plaintiff states that he is apprehensive that it may be removed or concealed so that it cannot be taken on execution, the court ~~in~~ ~~form time or any justice thereof in vacation~~ or the trial justice before whom the ~~suit~~ action is pending may issue an order signed and sealed, directing any officer authorized to serve processes in the ~~suit~~ action to take such property into his custody and hold it as if originally attached; and he shall execute the order accordingly.'

Sec. 422. R. S., c. 120, § 14, amended. Section 14 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 14. Property which cannot be attached delivered up or assigned by debtor.** If, on any disclosure and examination before judgment, it appears that the debtor possesses, has in his power, or with intent to protect the same from his creditors, has assigned, secreted or otherwise disposed of any bank bills, notes, accounts, bonds or other contracts or property not exempt from attachment, but which cannot be reached to be attached from its nature or otherwise, the debtor, if under arrest, shall not be released nor shall he be exempted from arrest on execution on judgment in such ~~suit~~ action, unless he assigns and delivers to such person, as the examining magistrate, court or commissioner appoints, all such property, or so much of it as they adjudge sufficient security for the creditor, to be held by him, under the direction of the court or justice before whom the ~~suit~~ action is pending, in trust for the parties that it may be applied and appropriated as provided in sections 57 and 58.'

Sec. 423. R. S., c. 120, § 18, amended. Section 18 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 18. Creditor's election to arrest on execution or otherwise.** If the creditor elects so to arrest him and the officer having the execution returns that the debtor is not found, his bond shall be forfeited; ~~and on~~. On judgment thereon, execution shall issue for the amount of judgment in the original ~~suit~~

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action, and interest. If the debtor is not arrested within that time and does not avoid arrest, no execution, issued or founded on such judgment, shall run against his body, but against his property only.'

Sec. 424. R. S., c. 120, § 32, amended. Section 32 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 32. Lien on personal estate disclosed; if debtor or other person conceals. If the debtor or the officer of the debtor corporation discloses personal estate liable to be seized on execution, the petitioner shall have a lien on it, or so much of it as the magistrate in his record judges necessary, for 30 days; ~~and if~~. If the debtor or the officer of the debtor corporation transfers, conceals or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it on demand to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section 38; ~~and the~~. The petitioner may recover, in ~~an~~ a civil action ~~on the case~~ against him or any person fraudulently aiding in such transfer, concealment or disposal, double the amount due on said execution; ~~and any~~. Any execution on a judgment in such action shall run against the bodies of the debtor and other persons so aiding, but the payment thereof is a satisfaction of the original debt.'

Sec. 425. R. S., c. 120, § 33, amended. Section 33 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 33. Persons holding property in trust or in fraud of creditors compelled to appear and testify; lien. If said magistrate finds reasonable cause to believe that any other person holds any property or credits of the debtor in trust for him or in fraud of his creditors, or if the petitioner shall make oath that he believes that such other person so holds property of the debtor, the magistrate shall issue a similar subpoena to such person to appear and testify in relation thereto, the same to be served as subpoenas in civil ~~suits~~ actions. The testimony of such witness may be reduced to writing and signed by him, and if it shall satisfactorily appear to the magistrate from all the evidence in the case that such person so holds property or credits of the debtor, he shall so certify upon the execution; ~~and the~~. The petitioner shall have a lien upon said property or credits for 30 days succeeding such disclosure, to be enforced by ~~bill in equity~~ complaint seeking equitable relief or trustee process, and if upon such ~~bill in equity~~ complaint or trustee process the court finds such property or credits to be so held as aforesaid, it may order the same, or so much of them as may be necessary to satisfy the judgment and all costs, to be conveyed, transferred or assigned to the petitioner; ~~and if~~. If the parties cannot agree upon the value of such property or credits, they shall be assigned to the petitioner, if he shall give such trustee a bond with sufficient surety, accepted by the court, to account for and pay over to said trustee the surplus of the proceeds of such property or credits, after satisfying said judgment and costs.'

Sec. 426. R. S., c. 120, § 39, amended. The next to the last sentence of section 39 of chapter 120 of the Revised Statutes is amended to read as follows:

'The magistrate shall ~~also~~ issue a capias under his hand and seal, and annex the same to said execution in force at the time of said disclosure, and the debtor may be arrested and imprisoned on said capias and execution, ~~the same as upon executions issued in actions of tort~~ where the original debt exclusive of costs exceeds \$10 and not otherwise.'

Sec. 427. R. S., c. 120, § 41, amended. Section 41 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 41. Release of debtor when arrested. When a debtor is arrested upon said capias and execution or upon any subsequent execution upon which a copy of either of the certificates required by ~~the 2 preceding~~ sections 39 and 40 has been indorsed, all subsequent proceedings for his release shall be the same as in case of arrest or imprisonment on executions in ~~civil actions of tort~~; but if said debtor fails to obtain his discharge at any subsequent examination before justices of the peace, he shall not a second time disclose before such justices, but may thereafter apply to a Justice of the Superior Court and disclose as provided in section 72.'

Sec. 428. R. S., c. 120, § 46, amended. Section 46 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 46. When execution to run against body. In any ~~civil actions~~ ~~action of tort and in all other cases~~, except where express provision is by law made to the contrary, an execution shall run against the body of the judgment debtor; ~~and he. He~~ may be arrested and imprisoned thereon for the purpose of obtaining a discovery of his property wherewith to satisfy it ~~as hereinafter stated.~~

Sec. 429. R. S., c. 120, § 50, amended. Section 50 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 50. Bond given on such arrest. When a debtor is arrested or imprisoned on execution, he may be released by giving bond to the creditor, in double the sum due thereon, with surety or sureties approved in writing by the creditor or by 2 or 3 justices of the peace in the county where he is arrested or imprisoned, selected and proceeding as provided in section 68, or a Justice of the Supreme Judicial or Superior Court ~~in term or vacation~~; conditioned that he will, within 6 months thereafter, cite the creditor before 2 justices of the peace, submit himself to examination and take the oath prescribed in section 56, pay the debt, interest, costs and fees arising in said execution, or deliver himself into the custody of the keeper of the jail to which he is liable to be committed under said execution.'

Sec. 430. R. S., c. 120, § 51, amended. Section 51 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 51. Bond, when valid. The bond described in ~~the preceding~~ section 50 is a valid statute bond although the penalty varies not exceeding 5% from the sum aforesaid; ~~and judgment. Judgment~~ in a ~~suit~~ ~~civil action~~ thereon shall be rendered according to ~~the provisions of~~ section 66.'

Sec. 431. R. S., c. 120, § 64, amended. Section 64 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 64. Lien on personal estate disclosed; if debtor or other person conceals. If an execution debtor discloses personal estate liable to be seized on execution, the creditor shall have a lien on it for 30 days, or so much of it as the justices, in their record, judge necessary; ~~and if. If~~ the debtor transfers, conceals or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it on demand to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section

59; ~~and the~~. The creditor may recover, in ~~an~~ a civil action ~~on the case~~ against him or any person fraudulently aiding in such transfer, concealment or disposal, double the amount due on said execution; ~~and any~~. Any execution on a judgment in such action shall run against the bodies of the debtor and other persons so aiding; but the payment thereof is a satisfaction of the original debt.'

Sec. 432. R. S., c. 120, § 72, amended. Section 72 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 72. When debtor twice refused discharge. A debtor who has been twice refused a discharge shall not again disclose before such justices; but may by motion apply to a Justice of the Superior Court, ~~who in term time or vacation~~ which, after notice to the creditor or his attorney and a hearing of the parties, may appoint a commissioner to take his examination and disclosure; and shall then fix his compensation, which shall be paid by the debtor before commencing his disclosure. The commissioner shall give to the creditor or his attorney 7 days' notice of the time and place appointed by him for such hearing; ~~and all~~. All proceedings relating to such disclosure, oath, discharge and disposal of the property disclosed shall be the same as in disclosures before such justices, and shall have like effect.'

Sec. 433. R. S., c. 120, § 75, amended. Section 75 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 75. Limitation of actions on bonds. No ~~suit~~ action on any bond herein authorized shall be sustained unless commenced within one year after the forfeiture; except that ~~the provisions of sections 99 and 100 of chapter 112, sections 99 and 100,~~ are applicable to such ~~suits~~ actions.'

Sec. 434. R. S., c. 120, § 77, amended. Section 77 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 77. False disclosures; liability. When a debtor, herein authorized or required to disclose on oath, willfully discloses falsely or withholds or suppresses the truth, the creditor of record or in interest may bring a ~~special civil action on the case~~ against him, whether he is criminally prosecuted or not, particularly alleging the false oath and fraudulent concealment of his estate or property; ~~and on~~. On oath before a justice of the peace he may declare his belief of the truth of the allegations in the ~~writ; such~~ complaint. Such justice shall certify the oath on the ~~writ; and thereupon~~ complaint. Thereupon the debtor shall be held to bail, or in default thereof be committed to jail to abide the judgment in the ~~suit action; and if~~. If the creditor prevails in the ~~suit action~~, judgment shall be rendered against the debtor for double the amount of the debt and charges on the former judgment; ~~and the~~. The debtor may be arrested and committed to jail on any execution issued on the judgment last recovered, without the privilege of release or discharge except by payment or consent of the creditor.'

Sec. 435. R. S., c. 120, § 78, amended. Section 78 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 78. Fraudulent concealment or transfer; liability. Whoever knowingly aids or assists a debtor or prisoner in a fraudulent transfer or concealment of his property, to secure it from creditors and to prevent its attachment or seizure on execution, is liable to any creditor suing therefor in ~~an~~ a civil action ~~on the~~

ease, in double the amount of property so fraudulently transferred or concealed, not exceeding double the amount of such creditor's demand.'

Sec. 436. R. S., c. 120, § 81, amended. Section 81 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 81. Disability of persons committed for willful trespass. When, in the trial of ~~an~~ a civil action ~~of~~ for trespass on property, the court, jury or magistrate determines that such trespass was committed willfully and the fact is recorded and noted on the margin of the execution on such judgment and the debtor is thereon arrested and committed to jail, he shall not be entitled to give any bond for his liberation; ~~and if~~. If he applies to take the oath described in section 56, no notice shall be issued to the creditor until at least 30 days after his commitment.'

Sec. 437. R. S., c. 124, § 6, amended. Section 6 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 6. Defendant to pay only single damages in certain cases. If the jury finds that the defendant in such ~~suit~~ action has good reason to believe himself the owner of the land in severalty, or that he and those under whom he claims had been in exclusive possession thereof, claiming it as their own, for 3 years next before the acts complained of were committed, only single damages shall be recovered.'

Sec. 438. R. S., c. 124, § 8, amended. Section 8 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 8. Treble damages for waste, pending an action. If, during the pendency of an action for the recovery of land, the tenant commits strip or waste by cutting, felling or destroying wood, timber, trees or poles standing thereon, he shall pay to the aggrieved party treble damages, to be recovered in ~~an~~ a civil action ~~of~~ trespass.'

Sec. 439. R. S., c. 124, § 9, amended. The first sentence of section 9 of chapter 124 of the Revised Statutes is amended to read as follows:

'Whoever cuts down, destroys, injures or carries away any ornamental or fruit tree, timber, wood, underwood, stones, gravel, ore, goods or property of any kind from land not his own, without license of the owner, or injures or throws down any fences, bars or gates, or leaves such gates open, or breaks glass in any building is liable in damages to the owner in ~~an~~ a civil action ~~of~~ trespass.'

Sec. 440. R. S., c. 124, § 11, amended. Section 11 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 11. Trespass on improved or ornamental grounds. Whoever enters on any grass land, dooryard, ornamental grounds, orchard or garden and cuts down, defaces, destroys or takes therefrom, without permission of the owner, any grass, hay, fruit, vegetable or ornamental tree or shrub is liable in ~~an~~ a civil action ~~of~~ trespass to the party injured in treble damages.'

Sec. 441. R. S., c. 124, § 12, amended. The first sentence of section 12 of chapter 124 of the Revised Statutes is amended to read as follows:

'Whoever, after notice by the owner, occupant or lessee in any of the ways provided in ~~the following~~ section 13, trespasses upon any island within salt waters, for the purpose of shooting or hunting thereon, is liable to such owner, occupant or lessee in exemplary damages to an amount not less than \$20 nor more than \$50, in addition to all actual damage sustained by said owner, occupant or lessee, and shall ~~also~~ forfeit to said owner, occupant or lessee \$5 for each bird of any kind shot, caught, taken or killed on such island, all to be recovered in ~~an~~ a civil action ~~of debt~~.'

Sec. 442. R. S., c. 124, § 13, amended. Section 13 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 13. Notices; injuring signboards. Notices referred to in ~~the preceding~~ section 12 shall be given by erecting and maintaining signboards at least one foot square in at least 2 conspicuous places on the premises, one of them near one of the usual landing places on said island, reading as follows: "All persons are forbidden to shoot or hunt on this island," with the name of the owner, occupant or lessee; or such notice may be given verbally or in writing by the owner, occupant or lessee of the island to any person and shall be binding on the person so notified, whether the signboards herein named are erected and maintained or not; ~~and whoever~~. Whoever tears down or in any way defaces or injures any such signboard forfeits \$100, to be recovered by the owner, occupant or lessee of such island in ~~an~~ a civil action ~~of debt~~.'

Sec. 443. R. S., c. 124, § 16, amended. Section 16 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 16. Waste on lands of an insolvent deceased. If an heir or devisee of a person deceased, after the estate of the decedent is represented insolvent and before sale of the real estate for payment of debts or before all the debts are paid, removes or injures any building or any trees, except such trees as are needed for fuel or repairs, or commits any strip or waste on such estate, he shall forfeit treble the amount of damages, to be recovered by the executor or administrator in ~~an~~ a civil action ~~of trespass~~.'

Sec. 444. R. S., c. 124, § 18, amended. Section 18 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 18. One or more tenants in common may join in actions; notice to others. All or any of the tenants in common or joint tenants of lands may join or sever in personal actions for injuries done thereto, setting forth in the declaration the names of all other cotenants, if known, and the court may order notice to be given in such actions to all other cotenants known, and all or any of them at any time before final judgment may become plaintiffs in the action, and prosecute the ~~suit~~ action for the benefit of all concerned.'

Sec. 445. R. S., c. 125, § 4, amended. Section 4 of chapter 125 of the Revised Statutes is amended to read as follows:

'Sec. 4. Judgment, if beasts are lawfully distrained. If it appears that the beasts were lawfully taken or distrained, the defendant shall have judgment for the sum found due from the plaintiff for the damages for which the beasts were distrained, with legal fees, costs and expenses occasioned by the distress and costs of the replevin ~~suit~~ action; or, instead thereof, the justice or court may enter judgment for a return of the beasts to the defendant, to be held by him

for the original purpose, irrepleviable by the plaintiff, and for the defendant's damages and costs in the replevin ~~suit~~ action.'

Sec. 446. R. S., c. 125, § 8, amended. Section 8 of chapter 125 of the Revised Statutes is amended to read as follows:

'Sec. 8. Goods, unlawfully detained, replevied. When goods, unlawfully taken or detained from the owner or person entitled to the possession thereof, or attached on mesne process, or taken on execution, are claimed by any person other than the defendant in the ~~suit~~ action in which they are so attached or taken, such owner or person may cause them to be replevied.'

Sec. 447. R. S., c. 125, § 13, amended. Section 13 of chapter 125 of the Revised Statutes is amended to read as follows:

'Sec. 13. Disposal of money recovered by officer for goods attached or taken on execution. All sums recovered by an officer in an action of replevin on account of goods attached or taken in execution by him or recovered in a ~~suit~~ civil action upon the replevin bond shall be applied:

I. Fees, charges, expenses. To pay the lawful fees and charges of the officer, and the reasonable expenses of the replevin ~~suit~~ action, and of the action on the bond, so far as they are not reimbursed by the costs recovered.

II. Payment to creditor. To pay the creditor, ~~at~~ in whose ~~suit~~ action the goods were attached or taken on execution, the sum, if any, recovered by him in that ~~suit~~ action or what remains unpaid, with interest at the rate of 12% a year for the time that the money was withheld from the creditor or the service of his execution was delayed by reason of the replevin.

III. Application of balance or if creditor does not recover judgment. If the attaching creditor in such case does not recover judgment in his ~~suit~~ action, or if any balance remains of the money so recovered by the officer after paying the creditor his due, such balance or the whole amount, as the case may be, shall be applied as the surplus of the proceeds of sale should have been applied if such goods had been sold on execution.'

Sec. 448. R. S., c. 126, § 38, amended. The first sentence of section 38 of chapter 126 of the Revised Statutes is amended to read as follows:

'When ~~an insane~~ a mentally ill person is arrested or imprisoned on mesne process or execution in a civil ~~suit~~ action, a Justice of the Supreme Judicial Court or of the Superior Court or the judge of probate within his county, on application, may inquire into the case; issue a writ of habeas corpus; cause such person to be brought before him for examination; and after notice to the creditor or his attorney, if either is living in the State, and a hearing, if it is proved to the satisfaction of said justice or judge that the person is ~~insane~~ mentally ill, he may discharge him from arrest or imprisonment; and the creditor may make a new arrest on the same demand when the debtor becomes of sound mind.'

Sec. 449. R. S., c. 128, § 1, amended. Section 1 of chapter 128 of the Revised Statutes is amended to read as follows:

'Sec. 1. Persons entitled to writ, and from what court. If any person is imprisoned, restrained of his liberty or held in duress, unless by a lawful writ,

warrant or other process, civil or criminal, he may have the writ for replevying the person, on ~~application made~~ ~~complaint~~ filed by himself or anyone in his behalf ~~to any Justice of~~ in the Superior Court, ~~in term time or vacation~~ at the discretion of ~~such justice~~ the court and not otherwise.'

Sec. 450. R. S., c. 128, § 9, amended. Section 9 of chapter 128 of the Revised Statutes is amended to read as follows:

'Sec. 9. If plaintiff produced. If the defendant, after the return of eloignment, produces the body of the plaintiff in court, the court shall deliver him from imprisonment, upon his giving the defendant such bond as hereinbefore in this chapter directed to be taken by the officer when the plaintiff is delivered by him; and for want thereof, he shall be committed to abide the judgment on the writ for replevying the plaintiff; and, in either case, the ~~suit~~ action shall be tried as aforesaid.'

Sec. 451. R. S., c. 129, § 21, amended. Section 21 of chapter 129 of the Revised Statutes is amended to read as follows:

'Sec. 21. Quo warranto. Petitions, informations and other processes in quo warranto proceedings may be made returnable ~~before the Supreme Judicial Court of~~ the Superior Court, ~~in term time or in vacation~~ as and when the court ~~or any justice thereof~~ may order, and by like order the cause may be heard in vacation if the justice hearing the same shall determine that justice so requires.'

Sec. 452. R. S., c. 130, § 15, amended. Section 15 of chapter 130 of the Revised Statutes is amended to read as follows:

'Sec. 15. Shipmasters, carrying apprentices and minors out of State. If the master of a vessel carries out of the State an apprentice, indented servant or person under 21 years of age, without the consent of his parent, master or guardian, he shall be punished by a fine of not more than \$200; and be liable in ~~an~~ a civil action ~~on the case~~ to such parent, master or guardian for all damages thereby sustained.'

Sec. 453. R. S., c. 130, § 35, amended. The 3rd sentence of section 35 of chapter 130 of the Revised Statutes is amended to read as follows:

'Any person, firm or corporation violating any of the provisions of this section shall be liable in ~~an~~ a civil action ~~of debt~~ to a penalty of not less than \$25 nor more than \$100, to each and every person, severally and not jointly, whose name appears in any such list.'

Sec. 454. R. S., c. 131, § 17, amended. Section 17 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 17. Malicious injury; tampering with; setting in motion any railroad car. Whoever willfully, mischievously or maliciously breaks the seal upon any freight car, or breaks and enters any railroad car, locomotive or work equipment on any railroad in the State, or destroys, injures, defiles or defaces any railroad car, locomotive or work equipment on any railroad in the State, or mischievously or maliciously releases the brakes upon, moves or sets in motion any railroad car, locomotive or work equipment on the track or sidetrack of any railroad in the State, shall be punished by a fine of not more than \$500 or by imprisonment

for not more than 2 years, and shall ~~also~~ be liable to the corporation injured in ~~an~~ a civil action of ~~trespass~~ for the amount of injury so done.'

Sec. 455. R. S., c. 131, § 20, amended. Section 20 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 20. Interference, removal or destruction of transit points, etc. Whoever willfully or maliciously disturbs, removes or destroys any transit point, reference point, stake, plug, hub, guard-stake, bench mark or other monument of any railroad, highway or other engineering location or survey shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days; and in addition thereto shall be liable in ~~an~~ a civil action of ~~debt~~ for the amount of damage done.'

Sec. 456. R. S., c. 131, § 22, amended. Section 22 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 22. Malicious injury to buildings, fixtures, goods or valuable papers, civil action for damages not exceeding treble amount. Whoever willfully and wantonly or maliciously destroys, injures or defaces any building or fixture attached thereto without consent of the owner; or destroys, injures or secretes any goods, chattels or valuable papers of another, shall be punished by a fine of not more than \$500 or by imprisonment for less than one year; and shall ~~also~~ be liable to the party injured, in ~~an~~ a civil action of ~~trespass~~, for the amount of injury so done and for a further sum, not exceeding in all 3 times such amount, as the jury deems reasonable.'

Sec. 457. R. S., c. 131, § 24, amended. The last sentence of section 24 of chapter 131 of the Revised Statutes is amended to read as follows:

'Said forfeitures may be recovered by complaint or civil action of ~~debt~~, $\frac{1}{2}$ to the plaintiff or informer and $\frac{1}{2}$ to the county in which the trial is had.'

Sec. 458. R. S., c. 131, § 28, amended. Section 28 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 28. Driving nails, spikes, etc., in logs intended for manufacture; civil action for double damage. Whoever willfully or maliciously drives or causes to be driven into any log or logs intended to be sawed or manufactured any nail, spike, bolt or other article such as is likely to cause injury to or destruction of any saw or instrument used in the manufacture of such logs or endanger the life or person of anyone engaged in such manufacture, shall be punished by a fine of not less than \$100 nor more than \$500, and by imprisonment for not less than one year nor more than 5 years; and shall ~~also~~ be liable to any person injured in ~~an~~ a civil action ~~on the case~~ for double the damages sustained by such person.'

Sec. 459. R. S., c. 131, § 29, amended. Section 29 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 29. Injuring or cutting loose booms, rafts, vessels or boats; civil action for double damages. Whoever willfully or maliciously, without consent of the owner, cuts away, lets loose, injures or destroys any boom, raft or logs or other lumber, or any vessel, gondola, scow or other boat, fastened to any place, of

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which he is not the owner or legal possessor, shall be punished by a fine of not more than \$500 and by imprisonment for less than one year; and shall ~~also~~ be liable to the person injured in ~~an~~ a civil action ~~of trespass~~ for double the damages by him sustained.'

Sec. 460. R. S., c. 131, § 31, amended. Section 31 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 31. Protection of *rhododendron maximum linnaeus* and *kalmia latifolia linnaeus*. Whoever without the consent of the owner of the land whereon the same may be growing injures, destroys, digs up or removes any *rhododendron maximum linnaeus* or *kalmia latifolia linnaeus*, or any part or parts of the plants of either of said species growing upon the land of another, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100, and in addition thereto shall be liable to the owner of the land upon which the same was growing in ~~an~~ a civil action ~~of trespass~~ in treble damages.'

Sec. 461. R. S., c. 133, § 28, amended. Section 28 of chapter 133 of the Revised Statutes is amended to read as follows:

'Sec. 28. Circulating advertisements in the similitude of bank bills. Whoever puts in circulation or distributes any notice, advertisement or shop bill, in the form and similitude of a bank bill, forfeits \$50 for each offense, to be recovered by civil action ~~of debt~~ in the name and to the use of the prosecutor.'

Sec. 462. R. S., c. 135, § 15, amended. Section 15 of chapter 135 of the Revised Statutes is amended to read as follows:

'Sec. 15. Extorting illegal fees in performance of official duty. If any person, for performing any service or official duty for which the pay is fixed by law, willfully and corruptly demands and receives, or takes security for any greater sum, or if any witness falsely and corruptly certifies that as such he traveled more miles or attended more days than he actually did, or certifies that he attended as such for more than one party in the same case, he shall be punished by a fine of not less than \$30 for each offense, to be recovered for the State by indictment found within one year after the offense is committed, or by civil action ~~of debt~~ commenced within the same time, to the use of the person first suing therefor in his own name.'

Sec. 463. R. S., c. 135, § 18, amended. The first sentence of section 18 of chapter 135 of the Revised Statutes is amended to read as follows:

'Whoever loans, advances or promises to loan or advance any money, gives or promises to give day of payment on any demand left with him for collection, gives or promises any valuable consideration, becomes liable in any manner for the payment of anything, becomes surety for another for such payment, or requests, advises or procures another person to become responsible or surety as aforesaid, with intent thereby to procure any account, note or other demand for the profit arising from its collection by a ~~suit at law or in equity~~ civil action, or brings, prosecutes or defends, or agrees to bring, prosecute or defend any ~~suit at law or in equity~~ civil action upon shares, shall be punished by a fine of not less than \$20 nor more than \$1,000, or by imprisonment for not more than 11 months.'

Sec. 464. R. S., c. 136, § 7, amended. Section 7 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 7. Riotous assemblies destroying certain properties or causing personal injuries. If any persons, unlawfully and riotously assembled as described in section 9, pull down or begin to pull down or destroy any dwelling house, building, ship or vessel; or perpetrate any premeditated injury, not a felony, on any person, each shall be punished by a fine of not more than \$500 or by imprisonment for not more than 5 years; and shall also be answerable to any person injured, in ~~an~~ a civil action ~~of trespass~~, to the full amount of damages by him sustained.'

Sec. 465. R. S., c. 136, § 8, amended. Section 8 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 8. Liability of towns for property injury by mobs; town's remedy against rioters. When the injury to any property described in ~~the preceding~~ section 7 amounts to \$50 or more, the town where such property is situated shall indemnify the owner thereof for $\frac{3}{4}$ of the value of such injury, to be recovered in ~~an~~ a civil action ~~on the case~~, if he uses all reasonable diligence to prevent such injury and to procure the conviction of the offenders; ~~and the~~. The town paying such sum may recover it in ~~an~~ a civil action ~~on the case~~ against the persons doing the injury.'

Sec. 466. R. S., c. 136, § 14, amended. Section 14 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 14. Complaint, warrant and proceedings to prevent and to punish such offense. If any person competent to testify in civil ~~suits~~ actions makes complaint on oath before any judge of a municipal court or trial justice that an offense specified in section 12 is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said section by arresting any persons whom he finds willfully violating the same and by bringing the respondents before such magistrate for trial.'

Sec. 467. R. S., c. 137, § 27, amended. Section 27 of chapter 137 of the Revised Statutes is amended to read as follows:

'Sec. 27. Appeal. Any person aggrieved by any decision of the Insurance Commissioner under ~~the provisions of~~ sections 22 to 24, within 30 days after such decision may appeal therefrom ~~to a Justice of~~ to the Superior Court ~~in term time or vacation~~ who shall forthwith, after notice and hearing, affirm or reverse such decision, and the finding of ~~such justice~~ the court shall be final.'

Sec. 468. R. S., c. 137, § 45, amended. Section 45 of chapter 137 of the Revised Statutes is amended to read as follows:

'Sec. 45. Damages. Whoever shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by ~~the~~ ~~preceding~~ sections 43 and 44 may sue therefor in ~~an~~ a civil action ~~on the case~~ and shall recover 3 times the damages by him sustained.'

Sec. 469. R. S., c. 139, § 8, amended. Section 8 of chapter 139 of the Revised Statutes is amended to read as follows:

'Sec. 8. Loser by gambling or betting may recover loss; form of execution. Whoever, by gambling or betting on persons gambling, loses to any person so gambling or betting any money or goods, and pays or delivers any part thereof, may sue for and recover the same of the winner in ~~an~~ a civil action ~~on the case~~ brought within 3 months thereafter; ~~and if~~. If the loser does not, without covin or collusion, within said time prosecute therefor with effect, any other person may sue for and recover of the winner treble the value of the same in such action, $\frac{1}{2}$ to his own use and $\frac{1}{2}$ to the town; ~~and all~~. All executions issued on judgments in favor of the loser or in favor of a 3rd person, as above-mentioned, shall show that the judgment was rendered against the defendant for or on account of money won at gambling, and shall order the defendant to be committed to jail for 3 months from the date of arrest, at the county's expense, unless the judgment, costs and board while in jail are sooner paid; after which time he may be released, on giving bond or disclosing, as in case of poor debtors.'

Sec. 470. R. S., c. 140, § 5, amended. Section 5 of chapter 140 of the Revised Statutes is amended to read as follows:

'Sec. 5. Complaint, warrant and proceedings to prevent and to punish. If any person competent to testify in civil ~~suits~~ actions makes complaint on oath before any judge of a municipal court or trial justice that an offense specified in section 4 is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said section by arresting any persons whom he finds willfully violating the same, and by bringing the respondents before such magistrate for trial.'

Sec. 471. R. S., c. 141, § 1, amended. The 2nd sentence of section 1 of chapter 141 of the Revised Statutes is amended to read as follows:

'The ~~Supreme Judicial Court and the Superior Court~~ shall have jurisdiction ~~in equity~~, upon information filed by the county attorney or upon ~~petition of complaint~~ filed by not less than 7 legal voters of his county setting forth any of the facts contained herein, to restrain, enjoin or abate the same, and an injunction for such purpose may be issued by said court ~~or any justice thereof~~.'

Sec. 472. R. S., c. 141, § 18, amended. Section 18 of chapter 141 of the Revised Statutes is amended to read as follows:

'Sec. 18. Action for damages caused by nuisance. Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender ~~an~~ a civil action ~~on the case~~ for his damages, unless otherwise specially provided.'

Sec. 473. R. S., c. 141, § 23, amended. The 2nd paragraph of section 23 of chapter 141 of the Revised Statutes is amended to read as follows:

'When application is made for such license, said officers shall assign a time and place for its consideration, and give at least 14 days' public notice thereof, in such manner as they think proper, at the expense of the applicant. Any person aggrieved by the decision of the selectmen of towns in granting or refusing such license may appeal therefrom ~~within 30 days to the next term of the Superior Court~~ held in said county, which court may appoint a committee of 3 disinterested persons, as is provided in relation to appeals from location of high-

ways. Said committee shall be sworn and give 14 days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, ~~the Supreme Judicial Court in equity or the Superior Court in equity~~ may enjoin the erection of such building and engine.'

Sec. 474. R. S., c. 141, § 24, amended. The last paragraph of section 24 of chapter 141 of the Revised Statutes is amended to read as follows:

'Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in ~~an~~ a civil action ~~of debt~~, and is liable for all damages caused by any explosion; ~~and if~~. If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.'

Sec. 475. R. S., c. 141, § 26, amended. Section 26 of chapter 141 of the Revised Statutes is amended to read as follows:

'Sec. 26. Town officers may order nuisance abated. If no application is made to ~~a justice of the supreme judicial court or the Superior Court~~, as is hereafter provided, the municipal officers of such town shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within 30 days after demand, or may be recovered of such person by an action for money paid.'

Sec. 476. R. S., c. 141, § 27, amended. Section 27 of chapter 141 of the Revised Statutes is amended to read as follows:

'Sec. 27. Owner may apply to Superior Court. Any owner aggrieved by such order may, within 30 days after said order is so made and filed, apply to ~~a justice of the supreme judicial or Superior Court in term time or vacation~~, who shall forthwith, after notice and hearing, affirm, annul or alter such order. ~~If the court is not in session, the action shall be entered on the docket of the preceding term.~~

Sec. 477. R. S., c. 142, § 3, amended. Section 3 of chapter 142 of the Revised Statutes is amended to read as follows:

'Sec. 3. Presumptive evidence of guilt; double damages. In prosecutions under ~~the provisions of~~ sections 1 and 2, if such log, mast or spar is found in the possession of the accused partly destroyed, partly sawed or manufactured, or with the marks cut out or altered, not being his property, it is presumptive evidence of his guilt; ~~and the~~. The burden of proof is then on him; ~~and whoever~~. Whoever is guilty of the offense described in either section is ~~also~~ liable to the owner, in ~~an~~ a civil action ~~of debt~~, for double the value of the log, mast or spar so dealt with.'

Sec. 478. R. S., c. 142, § 4, amended. Section 4 of chapter 142 of the Revised Statutes is amended to read as follows:

'Sec. 4. Right of owner to search mill, boom or raft for lost logs. The owner of such logs, masts or spars may at any time, by himself or his agent, enter in a peaceable manner upon any mill, mill-brow, boom or raft of logs or other

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timber in search of such lost property; ~~and whoever~~. Whoever willfully prevents or obstructs such search forfeits for each offense not less than \$20 nor more than \$50, to the person by whom or on whose account such entry was claimed, to be recovered in ~~an~~ a civil action ~~of debt~~.'

Sec. 479. R. S., c. 142, § 5, amended. Section 5 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 5. Logs or timber in Saco River or tributaries.** If any boom on the Saco River, or any of the waters connected therewith, is so placed or constructed as to prevent the free and usual passage of timber down the river, the owner or occupant thereof, at his own expense, shall release and turn out the timber so detained, when requested to do so by the owner thereof, if it can be done with safety; ~~and if~~. If, for 2 days after request, he neglects or refuses to do so, he is liable to the owner of the timber in ~~an~~ a civil action ~~on the case~~ for all damages by him sustained.'

Sec. 480. R. S., c. 142, § 6, amended. Section 6 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Logs and timber of different owners intermixed; lien for expenses; libel.** Any person whose timber in any waters of the State is so intermixed with the logs, masts or spars of another that it cannot be conveniently separated for the purpose of being floated to the market or place of manufacture may drive all timber with which his own is so intermixed toward such market or place, when no special and different provision is made by law for driving it; and is entitled to a reasonable compensation from the owner, to be recovered after demand therefor on said owner or agent, if known, in ~~an~~ a civil action ~~on the case~~; ~~he~~. He has a prior lien thereon until 30 days after it arrives at its place of destination to enable him to attach it; ~~and if~~. If the owner cannot be ascertained, the property may be libeled according to law and enough of it disposed of to defray the expenses thereof, the amount to be determined by the court hearing the libel.'

Sec. 481. R. S., c. 142, § 8, amended. Section 8 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Owner may remove timber on tender of damages; otherwise, damages for landowner.** The owner of said timber may enter on said land and remove it at any time before forfeiture, having previously tendered to the owner or occupant thereof a reasonable compensation for all damages occasioned by the lodging, remaining or removal of said timber and the expense of advertising it; but if the timber is removed by the owner, or otherwise, without such tender, the owner of the land may recover, in ~~an~~ a civil action ~~of trespass~~, the damages aforesaid.'

Sec. 482. R. S., c. 142, § 9, amended. Section 9 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Unlawful conversion of railroad sleepers, ship knees or cedar lumber on ponds and streams; double damages.** Whoever willfully and fraudulently takes, carries away or otherwise converts to his own use any railroad sleeper, knee or other ship timber or cedar for shingles or other purposes, the property of another, whether known or not, without his consent, lying in any river, stream, pond, bay or inlet, or on or near the shore thereof; or cuts out, alters or destroys any mark thereon, forfeits \$10 for each offense, to be recovered and appropri-

ated as provided in section 1; and is liable to the owner in double the amount thereof in ~~an~~ a civil action of debt; ~~and such~~. Such owner has all the rights and is subject to all the liabilities provided for the owner of logs, masts and spars in ~~the 6 preceding~~ sections 3 to 8.'

Sec. 483. R. S., c. 144, § 9, amended. Section 9 of chapter 144 of the Revised Statutes is amended to read as follows:

'Sec. 9. Recognizance returned to court, which may remit penalty. All recognizances taken under ~~the provisions of~~ this chapter shall be returned to the Superior Court on or before the first day of the next term, and be there filed by the clerk as of record; ~~and in~~. In any ~~suit~~ action thereon, if the forfeiture is found or confessed, the court may remit so much of the penalty, and on such terms, as it thinks proper.'

Sec. 484. R. S., c. 147, § 22, amended. Section 22 of chapter 147 of the Revised Statutes is amended to read as follows:

'Sec. 22. Forfeited recognizances defaulted. When a person, under recognizance in a criminal case, fails to perform its condition, his default shall be recorded and process shall be issued against such of the cognizors as the prosecuting officer directs, but no costs shall be taxed for travel in the ~~suit~~ action; ~~and any~~. Any surety may be discharged by paying to the county treasurer, before or after process, the amount for which he is bound as surety, with costs if any, or depositing it with the clerk of the court where the recognizance is filed.'

Sec. 485. R. S., c. 147, § 24, amended. Section 24 of chapter 147 of the Revised Statutes is amended to read as follows:

'Sec. 24. Court may remit penalty; or sureties may surrender principal in court. When the penalty of a recognizance in a criminal case is forfeited on ~~seire facias~~ proceedings against the principal, sureties or witnesses, the court, on application of any defendant, if satisfied that the default of the principal was without the consent or connivance of the bail, may remit all or any part of the penalty; or the sureties may surrender the principal in court at any time before final judgment on ~~seire facias~~ the proceedings and may, on application therefor, be discharged by paying costs of ~~suit~~ the action, provided that the court is satisfied as aforesaid.'

Sec. 486. R. S., c. 147, § 26, amended. Section 26 of chapter 147 of the Revised Statutes is amended to read as follows:

'Sec. 26. Action on any recognizance dismissed. Whenever in any ~~suit of~~ ~~seire facias~~ action on a recognizance taken in any criminal case, it appears that the surety has surrendered the principal into court for sentence, and that the principal has actually been sentenced upon the indictment or complaint on which the recognizance was taken, such ~~suit~~ action shall be dismissed upon payment of costs.'

Sec. 487. R. S., c. 150, § 6, amended. The 2nd sentence of section 6 of chapter 150 of the Revised Statutes is amended to read as follows:

'Such bond shall be held by the county treasurer and enforced for the security of any and all parties entitled to such fines and forfeitures, and ~~a~~ ~~suit~~ an action

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on such bond for the benefit of one party shall not bar ~~a suit~~ an action thereon for the benefit of any other party.'

Sec. 488. R. S., c. 150, § 8, amended. The last paragraph of section 8 of chapter 150 of the Revised Statutes is amended to read as follows:

'If any such officer neglects to pay over such fine, forfeiture or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after such escape pay the amount thereof to the county treasurer, he forfeits to the county double the amount; ~~and the~~. The county treasurer shall give notice of such neglect to the county attorney, who shall sue therefor in ~~an~~ a civil action ~~of debt~~ in the name of such treasurer.'

Sec. 489. R. S., c. 152-A, § 25, amended. The first paragraph of section 25 of chapter 152-A of the Revised Statutes, as enacted by section 1 of chapter 342 of the public laws of 1959, is amended to read as follows:

'Appeals, for the purpose only of raising questions of law, from decisions of the Superior Court rendered in cases before the Superior Court on appeal from decisions of juvenile courts, may be taken to the Supreme Judicial Court sitting as the law court in manner and form as appeals in ~~cases in equity~~ civil actions.'

Sec. 490. R. S., c. 153, § 2, amended. Section 2 of chapter 153 of the Revised Statutes is amended to read as follows:

'**Sec. 2. Jurisdiction in equity.** The courts of probate shall have jurisdiction in equity, concurrent with ~~the Supreme Judicial Court and~~ the Superior Court, of all cases and matters relating to the administration of the estates of deceased persons, to wills and to trusts which are created by will or other written instrument. Such jurisdiction may be exercised upon ~~bill or petition~~ **complaint** according to the usual course of proceedings in ~~equity~~ civil actions in which equitable relief is sought.'

Sec. 491. R. S., c. 153, § 28, amended. Section 28 of chapter 153 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Judges to inspect register's conduct of office.** Every judge of probate and the justices of the supreme court of probate shall constantly inspect the conduct of the register with respect to his records and the duties of his office, and give information in writing of any breach of his bond to the treasurer of his county, who shall ~~put it in suit~~ **bring a civil action**; ~~and the~~. The money thus recovered shall be applied toward the expenses of completing the records of such register under the direction of said judge and the surplus, if any, shall inure to the county; ~~but if~~. If it is not sufficient for that purpose, the treasurer may recover the deficiency from the register in ~~an~~ a civil action ~~on the case~~.'

Sec. 492. R. S., c. 153, § 31, amended. Section 31 of chapter 153 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Register not counsel in probate cases; nor draft or aid in drafting any paper which he is required to record.** No register shall be an attorney or counselor in or out of court in any ~~suit~~ action or matter pending in the court of

which he is register, nor in any appeal therefrom; nor be administrator, guardian, commissioner of insolvency, appraiser or divider of any estate, in any case within the jurisdiction of said court, except as provided in section 17, nor be in any manner interested in the fees and emoluments arising therefrom, in such capacity; nor commence or conduct, either personally or by his agent or clerk, any matter, petition, process or proceeding in the court of which he is register, in violation of this section, and for each and every violation of the preceding provisions of this section, such register shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months. No register shall draft or aid in drafting any document or paper, which he is by law required to record in full or in part, under a penalty of not more than \$100, to be recovered by any complainant in ~~an~~ a civil action ~~of debt~~ for his benefit or by indictment for the benefit of the county.'

Sec. 493. R. S., c. 154, § 13, amended. Section 13 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 13. What executors may act; powers of majority. When 2 or more persons are named executors in any will and are not released thereby from giving bonds, none shall act as such, or intermeddle, except those who give bonds ~~as aforesaid~~; but a majority of those legally qualified, unless it is otherwise prescribed therein, may do all the acts in the execution of such trust, which all could do, and all acts so done are as valid in law as if all had agreed thereto; ~~and a suit~~. An action may be maintained against the executors, so acting, on their bond, for the benefit of any person aggrieved by their acts, without joining the other parties to such bond.'

Sec. 494. R. S., c. 154, § 53, amended. Section 53 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 53. Notice; audit. In all cases where letters of administration are granted to a public administrator, the register shall immediately send to the Treasurer of State a copy of the petition and the decree thereon, and in all cases where the public administrator is ordered to pay the balance of the estate to the Treasurer of State, the judge shall give notice to the Treasurer of State of such amount and from what estate it is receivable; ~~and if~~. If said administrator neglects for 3 months after the order of the judge therefor to deposit the same, the Treasurer of State shall ~~cause~~ bring a civil action upon his probate bond ~~to be put in suit~~ for the recovery thereof. The records and accounts of said public administrator shall be audited annually by the State Department of Audit.'

Sec. 495. R. S., c. 154, § 56, amended. Section 56 of chapter 154 of the Revised Statutes, as amended by chapter 276 of the public laws of 1955, is further amended to read as follows:

'Sec. 56. Powers and duties. The special administrator shall collect all the goods, chattels and debts of the deceased, control and cause to be improved all his real estate, collect the rents and profits thereof and preserve them for the executor or administrator thereafter appointed; and for that purpose may maintain ~~suits~~ actions and sell such perishable and other goods as the judge orders; and shall have such powers to vote stock owned by the deceased as the deceased would have if living, at all corporation meetings, and the authority to sell and transfer any specific rights which may have accrued to the estate of said deceased as such stockholder and the judge may authorize and direct that the business

of the deceased, in whole or in part shall, for a limited time to be determined by him, be carried on by such special administrator as a going business; pay the expenses of the funeral and last sickness and of his administration; debts preferred under the laws of the United States; public rates and taxes, and money due the State from the deceased; and pay to the widow or widower, if any, and if not, to the guardian of the children under 14 years of age, for their temporary support, such sums as the judge orders, having regard to the state and the amount of the property; and sums so paid to the widow, widower or guardian shall be deducted, if the estate is solvent, from the share of the widow, widower or children, but if insolvent, shall be considered by the judge in his allowance to them.'

Sec. 496. R. S., c. 154, § 57, amended. Section 57 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 57. **Compensation; when powers cease.** The special administrator shall be allowed such compensation for his services as the judge thinks reasonable, not exceeding that allowed to other administrators; ~~and on~~. On the granting of letters testamentary or of administration his powers cease and he shall forthwith deliver all the goods, chattels, money and effects of said deceased in his hands, and the executor or administrator may prosecute any ~~suit~~ action commenced by the special administrator as if it had been commenced by himself.'

Sec. 497. R. S., c. 154, § 58, amended. Section 58 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 58. **Not sued by creditor without decree of judge.** No special administrator is liable to an action by any creditor of the deceased, without an application by such creditor to the judge and his decree authorizing it; ~~and the~~. The limitation of all ~~suits~~ actions against the estate begins to run from the time of granting letters testamentary or of administration in the usual form as if such special administration had not been granted.'

Sec. 498. R. S., c. 154, § 70, amended. The 2nd sentence of section 70 of chapter 154 of the Revised Statutes is amended to read as follows:

'Any personal estate or rights of action thus sold may be assigned to the purchaser and collected in the name of the executor or administrator, the purchaser giving him reasonable indemnity against costs, but reserving to debtors their rights of ~~setoff~~ counterclaim; or the purchaser may sue therefor in his own name, subject to the same defense as if sued in the name of the executor or administrator.'

Sec. 499. R. S., c. 154, § 72, amended. The first paragraph of section 72 of chapter 154 of the Revised Statutes is amended to read as follows:

'The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, may authorize executors or administrators to adjust, by arbitration or compromise, any claims for money or other property in favor of or against the estates by them represented and likewise any other actions ~~either at law or in equity~~ of whatsoever nature wherein such executors or administrators are parties.'

Sec. 500. R. S., c. 154, § 87, amended. Section 87 of chapter 154 of the Revised Statutes is amended to read as follows:

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'Sec. 87. Remedies between coexecutors and coadministrators. ~~Either the Supreme Judicial Court or the~~ The Superior Court may hear and determine in equity all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives in all cases where there is not a plain, adequate and complete remedy at law; and in. In such case, the court has the same power and may proceed in like manner as in cases between co-partners.'

Sec. 501. R. S., c. 154, § 92, amended. Section 92 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 92. Refusal to appear and answer when cited. If a person duly cited as aforesaid refuses to appear and submit himself to such examination, or to answer all lawful interrogatories, or to produce such books, papers or documents, the judge shall commit him to jail, there to remain until he submits to the order of the court or is discharged by the complainant or the Superior Court; and he. He is also liable to any injured party in ~~an~~ a civil action ~~on the case~~ for all the damages, expenses and charges arising from such refusal.'

Sec. 502. R. S., c. 155, § 21, amended. The first sentence of section 21 of chapter 155 of the Revised Statutes is amended to read as follows:

'~~An~~ A civil action of debt may be maintained in the name of the State against an administrator, executor, trustee, grantee or donee for the recovery of all taxes imposed by the provisions of sections 1 to 44 with interest thereon.'

Sec. 503. R. S., c. 155, § 26, amended. The last 2 sentences of the first paragraph of section 26 of chapter 155 of the Revised Statutes are amended to read as follows:

'Willful failure to comply herewith shall render such bank, savings bank, trust company or loan and building association liable to a penalty not to exceed \$10 to be collected in ~~an~~ a civil action of debt brought by the Attorney General. It shall be a complete defense to such action of debt that such officer or employee of the banking institution in charge of such account or accounts did not know of the depositor's death or no inheritance or estate tax was payable.'

Sec. 504. R. S., c. 155, § 33, amended. The first sentence of section 33 of chapter 155 of the Revised Statutes is amended to read as follows:

'An executor, administrator, trustee, grantee, donee, survivor or beneficiary aggrieved by the determination of the State Tax Assessor may within 90 days after the certification of any tax apply ~~by a petition in equity~~ to the probate court in the county where the estate is being administered for the abatement of the tax determined or any part thereof and if the court adjudges that the tax or any part thereof was wrongly determined, it shall order an abatement of such part thereof as was determined without authority of law.'

Sec. 505. R. S., c. 155, § 37, amended. The 2nd paragraph of section 37 of chapter 155 of the Revised Statutes is amended to read as follows:

'The State Tax Assessor is given authority to enforce the collection of any taxes secured by bond in ~~an~~ a civil action of debt brought thereon regardless of the fact that some other official may be named as obligee therein.'

Sec. 506. R. S., c. 156, § 7, amended. Section 7 of chapter 156 of the Revised Statutes is amended to read as follows:

'Sec. 7. When such interest under attachment. If the share of any such widow or widower, heir or devisee, or anyone claiming under such widow or widower, heir or devisee, is under attachment, the judge, on like application from the plaintiff in the ~~suit~~ action or from the attaching officer, shall require the money, not exceeding the amount of the attachment, to be paid to the officer, who shall be answerable therefor in his official capacity, subject to the rights of the parties, as if originally attached.'

Sec. 507. R. S., c. 156, § 11, amended. Section 11 of chapter 156 of the Revised Statutes is amended to read as follows:

'Sec. 11. Guardians appointed for minors, agents for owners out of State. If it appears to the court that any minor or ~~insane~~ mentally ill person, who has no guardian in the State, is interested in the premises, the court shall assign him a guardian for the ~~suit~~ action, to appear for him and defend his interest; ~~and if~~. If any owner resides without the State, having no agent therein, the judge shall appoint an agent to act for him.'

Sec. 508. R. S., c. 156, § 23, amended. Section 23 of chapter 156 of the Revised Statutes is amended to read as follows:

'Sec. 23. Assignment of debts; conditions of action. If any evidence of debt or account due to the deceased is thus assigned, the assignee may use the name of the executor or administrator to collect the same, by ~~suit~~ civil action or otherwise, on giving such indemnity against costs as the judge orders, saving to all supposed debtors the right to set off any claim against the estate of the deceased.'

Sec. 509. R. S., c. 156, § 27, amended. Section 27 of chapter 156 of the Revised Statutes is amended to read as follows:

'Sec. 27. Legatee may sue for legacy. Any legatee of a residuary or specific legacy under a will may sue for and recover the same of the executor in ~~an~~ a civil action of ~~debt~~ at ~~common law~~ or other appropriate action.'

Sec. 510. R. S., c. 157, § 13, amended. Section 13 of chapter 157 of the Revised Statutes is amended to read as follows:

'Sec. 13. Petition for leave to bring action, after failing to prosecute appeal. A person, whose claim has been disallowed in whole or in part and who by accident or mistake has omitted to give notice at the probate court in season, or after giving such notice has by accident or mistake omitted further to prosecute his appeal may, within 2 years after the report is made, petition the Superior Court and, after notice to the administrator and hearing, leave may be given to commence ~~within 30 days a suit at the next term of the court~~ civil action in the county where administration was granted for the recovery of his claim, but not after 4 years from granting administration. No decree of distribution can be disturbed by a judgment so recovered.'

Sec. 511. R. S., c. 157, § 14, amended. Section 14 of chapter 157 of the Revised Statutes is amended to read as follows:

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'Sec. 14. Proceedings on appeal. When an appeal is so taken or leave is so granted, the claim shall be determined in ~~an~~ a civil action ~~for money had and received~~ commenced within 3 months after the report was made or ~~at the next term~~ within 30 days after leave was granted. Such claim shall be deemed contingent and provision shall be made for it as in sections 10 and 11.'

Sec. 512. R. S., c. 157, § 15, amended. Section 15 of chapter 157 of the Revised Statutes is amended to read as follows:

'Sec. 15. If claim allowed and appeal taken by administrator, heir or creditor, claimant may apply to Superior Court. A person whose claim against an insolvent estate has been allowed by commissioners and their decision has been appealed from by the administrator, heir at law or any other creditor, and who by accident or mistake has omitted to commence ~~an~~ a civil action ~~for money had and received~~ within the time prescribed by section 14, may petition the Superior Court, and after notice to the administrator and a hearing, the court may grant leave to commence an action for the recovery of his claim ~~at the next term of the court~~, within 30 days after leave is granted, in the county where administration was granted, within 4 years from granting administration, but no decree of distribution can be disturbed by a judgment so recovered.'

Sec. 513. R. S., c. 157, § 20, amended. Section 20 of chapter 157 of the Revised Statutes is amended to read as follows:

'Sec. 20. Claims not presented or not allowed, barred, except in case of further assets. Claims not presented and claims disallowed without appeal are forever barred from recovery by ~~suit~~ civil action. Claims disallowed cannot be filed and proved in ~~setoff~~ a counterclaim, except to the amount of counterclaims on behalf of the estate; but when, after distribution, further assets come into the hands of the administrator, claims not presented to the commissioners, on petition to the judge, and after due notice if proved or not disputed, may be allowed and paid like contingent claims.'

Sec. 514. R. S., c. 157, § 22, amended. The last sentence of section 22 of chapter 157 of the Revised Statutes is amended to read as follows:

'He may, in ~~an~~ a civil action of ~~trespass~~, recover damages of a person committing the same, to be accounted for as assets, although such person is heir or devisee of the estate.'

Sec. 515. R. S., c. 158, § 31, amended. Section 31 of chapter 158 of the Revised Statutes is amended to read as follows:

'Sec. 31. Guardian ad litem; next friend. Nothing in this chapter affects the power of any court to appoint a guardian to defend the interests of any minor or other incapacitated person in any ~~suit~~ action pending in such court, nor their power to allow or appoint anyone as next friend of such person to commence, prosecute or defend any ~~suit~~ action in his behalf.'

Sec. 516. R. S., c. 158, § 32, amended. Section 32 of chapter 158 of the Revised Statutes is amended to read as follows:

'Sec. 32. Settlement of action not valid unless approved by court. No settlement of any ~~suit~~ action brought in behalf of an infant by next friend or defended

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on his behalf by guardian or guardian ad litem shall be valid unless approved by the court in which the action is pending, or to which the writ is returnable, or affirmed by an entry or judgment. The court may make all necessary orders for protecting the interests of the infant and may require the guardian ad litem or next friend to give bond to truly account for all money received in behalf of the infant. When the court in which such ~~suit~~ action is pending or to which it is returnable is in vacation, the judge of that court, or, if the ~~suit~~ action is pending in or returnable to the Superior Court, any Justice of the Superior Court, shall have the power to approve a settlement of said ~~suit~~ action and to make all necessary orders for protecting the interests of the infant and may require the giving of a bond as ~~above~~ provided.'

Sec. 517. R. S., c. 158, § 33, amended. Section 33 of chapter 158 of the Revised Statutes is amended to read as follows:

'**Sec. 33. Special guardians for married women.** Pending any proceedings in the probate court in which any married woman is interested, when, after personal notice and a hearing, the judge is satisfied that by reason of age or mental infirmity she is incompetent to manage her affairs or protect her rights, he may appoint her husband or other suitable person her guardian for the special purpose, with power to institute or defend proceedings ~~in law or equity~~ necessary for the interests of his ward, and no proceeding thus instituted shall be delayed or disposed of without the consent of such guardian.'

Sec. 518. R. S., c. 159, § 2, amended. Section 2 of chapter 159 of the Revised Statutes is amended to read as follows:

'**Sec. 2. Administrator as party in interest.** The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any ~~suit~~ action or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the Veterans Administration. Not less than 15 days prior to hearing in such matter notice in writing of the time and place thereof shall be given by mail, unless waived in writing, to the office of the Veterans Administration having jurisdiction over the area in which any such ~~suit~~ action or any such proceeding is pending.'

Sec. 519. R. S., c. 160, § 9, amended. The first sentence of section 9 of chapter 160 of the Revised Statutes is amended to read as follows:

'The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, may authorize any trustee to refer or compromise any claim or action ~~either at law or in equity~~ of whatsoever nature by or against the trust estate.'

Sec. 520. R. S., c. 160, § 10, amended. Section 10 of chapter 160 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Courts may direct trust estates sold and moneys invested.** Any judge of probate having jurisdiction of the trust and the Superior Court ~~in any county, or the Supreme Judicial Court in equity~~, on application of the trustee or of any person interested in the trust estate, after such notice as the judge or court shall order, may authorize or require him to sell any real or personal

estate held by him in trust and to invest the proceeds thereof, with any other trust moneys in his hands, in real estate, in policies of life or endowment insurance or annuity contracts issued by life insurance companies authorized to transact business in the State, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest, or in any other manner most for the interest of all concerned therein; and may give such further directions as the case requires for managing, investing and disposing of the trust fund, as will best effect the objects of the trust.'

Sec. 521. R. S., c. 160, § 11, amended. Section 11 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 11. Power as to trusts. Either of said courts may hear and determine ~~in equity~~ all other matters relating to the trusts herein mentioned.'

Sec. 522. R. S., c. 160, § 12, amended. Section 12 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 12. Actions on bonds of trustees. ~~Any~~ A civil action upon any bond given by a trustee may be ~~put in suit~~ brought by order of the judge of probate for the benefit of any person interested in the trust estate; ~~and the~~. The proceedings in such ~~suit~~ action shall be conducted in the manner prescribed with respect to bonds of administrators.'

Sec. 523. R. S., c. 160, § 22, amended. The last paragraph of section 22 of chapter 160 of the Revised Statutes is amended to read as follows:

'No rule of law against perpetuities or suspension of the power of alienation of the title to property shall operate to invalidate any trust created or attempted to be created, prior to August 20, 1951, by an employer as a part of a stock bonus, pension, disability, death benefit or profit sharing plan for the benefit of some or all of his employees to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees earnings or principal, or both earnings and principal, of the fund held in trust, unless the trust is terminated by a court of competent jurisdiction in a ~~suit~~ civil action instituted within 3 years after August 20, 1951.'

Sec. 524. R. S., c. 160, § 23, amended. Section 23 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 23. Vacancies under deed of trust or mortgage; property to vest in new trustee; record of decree. Whenever vacancies shall occur by the death or resignation of any or all of the trustees named in any deed of trust or mortgage, and from any cause such vacancy cannot be filled by appointment by the surviving trustee or trustees named therein or such trustees neglect or refuse to make such appointment, the probate court or the Superior Court, ~~or any judge thereof, in term time or vacation on the petition of a complaint filed by any party interested in said trust, and upon such notice to all persons interested by publication or otherwise as the court shall order, and after hearing thereon, may appoint a trustee or trustees to fill such vacancy or vacancies; and upon~~. Upon and by virtue of said appointment the property described in said deed of trust or mortgage, held by said trustees at the time of such decease or resignation, shall vest in said trustees so appointed without further conveyance thereof, and they shall have the rights and powers and be subject to the duties relating to such trust to the same extent and for the same purpose as the same were held by the

original trustees in said trust; ~~the~~. The decree making such appointment shall confirm the transfer of title as hereinbefore provided and shall be recorded as the original trust deed was recorded. The heirs at law and personal representatives of any deceased trustee shall not be necessary as parties to said ~~petition~~ **complaint** nor any proceedings thereunder, but may appear and be heard in relation to the matters therein contained, and such notice of said ~~petition~~ **complaint** and hearing shall be given them by publication or otherwise as the court may order.'

Sec. 525. R. S., c. 163, § 12, amended. Section 12 of chapter 163 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Guardian may invest proceeds of her interest; trust enforced.** The guardian, with consent of the judge to whom he accounts, may agree in writing with such wife how to invest or otherwise dispose of a part of the proceeds of the sale of the whole estate for her sole use, equivalent to her interest therein; ~~and the~~. The ~~Supreme Judicial Court~~ or the Superior Court may enforce such agreement ~~in equity~~, as a trust.'

Sec. 526. R. S., c. 163, § 28, amended. Section 28 of chapter 163 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Neglect or misconduct of person licensed.** If a person, interested in any estate sold as aforesaid, suffers damage by neglect or misconduct of the executor, administrator or guardian in such proceedings, he may recover compensation therefor in a ~~suit~~ **civil action** on the probate bond or otherwise as the case may require.'

Sec. 527. R. S., c. 164, § 6, amended. Section 6 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Actions on bonds in name of judge.** ~~Suits~~ **Actions** on probate bonds of any kind payable to the judge shall be originally commenced in the Superior Court for the county where said judge belongs and in his name or that of his successor at the time; ~~and they~~. They shall not abate by the death of the plaintiff, his resignation or the expiration of his term of office, but the process may be amended and prosecuted, without notice, in the name of his successor; ~~but no~~. **No** costs shall be awarded against the judge therein.'

Sec. 528. R. S., c. 164, § 8, amended. Section 8 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Proceedings and judgment.** Such surety may thereupon take out a writ, in the form prescribed by the court, to arrest the principal, if liable to arrest, or to attach his estate and summon him to appear and answer as a defendant in the action; ~~and if~~. If, after 14 days' previous service of such process, he fails thus to appear at the time appointed and judgment is rendered for the plaintiff, it shall be against him and the other defendants as if he had been originally a party, and any attachment made or bail taken on such process is liable to respond to the judgment as if made or taken in the original ~~suit~~ **action**.'

Sec. 529. R. S., c. 164, § 9, amended. Section 9 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Action on administrator's or executor's bond.** Every action against sureties on an administrator's or an executor's bond must be commenced within

6 years after such administrator or executor has been cited to appear to settle his account in the probate court where administration is granted on the estate, or, if not so cited, within 6 years from the time of the breach of his bond, unless such breach is fraudulently concealed by the administrator or executor from the heirs, legatees or persons pecuniarily interested, who are parties to the ~~suit~~ action, and in such case within 3 years from the time such breach is discovered.'

Sec. 530. R. S., c. 164, § 10, amended. Section 10 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Judgment for plaintiff.** When judgment is for the plaintiff by verdict, default or otherwise in any ~~suit~~ action on a probate bond, it shall be entered for the penalty in common form, and the subsequent proceedings shall be had by the court as ~~hereinafter~~ provided.'

Sec. 531. R. S., c. 164, § 12, amended. Section 12 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Judgment, if action fails.** If such ~~suit~~ action is not sustained, judgment shall be rendered and execution issued for costs against the person originating it ~~as aforesaid~~.'

Sec. 532. R. S., c. 164, § 17, amended. Section 17 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 17. Judge may authorize actions; execution, in case of failure to account.** The judge of probate may expressly authorize or instruct an administrator or administrator de bonis non, on the ~~petition~~ complaint of himself or any party interested, to commence a ~~suit~~ an action on a probate bond for the benefit of the estate, and such authority shall be alleged in the process; ~~and when.~~ When it appears, in any such ~~suit~~ action against an administrator, that he has been cited by the judge to account, upon oath, for such personal property of the deceased as he has received, and has not done so, execution shall be awarded against him for the full value thereof, without any allowance for charges of administration or debts paid.'

Sec. 533. R. S., c. 165, § 2, amended. Section 2 of chapter 165 of the Revised Statutes is amended to read as follows:

'**Sec. 2. Executions for costs against own goods and estate.** Executions for costs run against the goods and estate and for want thereof against the bodies of executors and administrators, in actions commenced by or against them and in actions commenced by or against the deceased, in which they have appeared, for costs that accrued after they assumed the prosecution or defense, to be allowed to them in their administration account, unless the judge of probate decides that the ~~suit~~ action was prosecuted or defended without reasonable cause.'

Sec. 534. R. S., c. 165, § 4, amended. The first sentence of section 4 of chapter 165 of the Revised Statutes is amended to read as follows:

'When an executor or administrator ceases to be such, an action pending in his favor or against him may be prosecuted by or against an administrator de bonis non; ~~and if.~~ If he does not appear after due notice, judgment may be rendered, as if the ~~suit~~ action had been commenced by or against him for debt and for costs as ~~herein~~ provided.'

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Sec. 535. R. S., c. 165, § 6, amended. Section 6 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 6. Appeal. ~~A writ of error~~ An appeal may be maintained by or against an administrator de bonis non, when it could be by or against an executor or first administrator.'

Sec. 536. R. S., c. 165, § 7, amended. Section 7 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 7. When only party to action dies. When the only plaintiff or defendant dies while an action that survives is pending, or after its commencement and before its entry, his executor or administrator may prosecute or defend, as follows: The action or an appeal, if made, may be entered, the death of the party suggested on the record and the executor or administrator may appear voluntarily; ~~if~~. If he does not appear ~~at the end term~~ within 90 days after such death or after his appointment, he may be cited to appear, and after due notice thereof, judgment may be entered against him by ~~consent~~ dismissal or default.'

Sec. 537. R. S., c. 165, § 14, amended. Section 14 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 14. Heirs, devisees or legatees may petition to defend action; bond. When ~~suit~~ a civil action has been brought against an executor or administrator, any of the heirs, devisees or legatees of the deceased may personally or by attorney petition the court for leave to defend the ~~suit~~ action, setting forth the facts as he believes them to be and his reasons for so desiring to defend, and the court may grant or refuse such leave. If leave is granted, the petitioner shall give to the administrator or executor bond in such sum as the court orders, to hold the executor or administrator harmless for any damages or costs occasioned by the ~~suit~~ action or by said defense; and an entry of record shall be made that he is admitted to defend such ~~suit~~ action.'

Sec. 538. R. S., c. 165, § 15, amended. The first sentence of section 15 of chapter 165 of the Revised Statutes, as amended by section 1 of chapter 126 of the public laws of 1957, is further amended to read as follows:

'All claims against estates of deceased persons, including claims for amounts paid under ~~the provisions of sections 276 to 297~~ of chapter 25, ~~sections 276 to 297~~, and except for funeral expenses, expenses of administration, legacies, distributive shares and for labor and materials for which ~~suit~~ a civil action may be commenced under ~~the provisions of section 39~~ of chapter 178, ~~section 39~~, shall be presented to the executor or administrator in writing or filed in the registry of probate, supported by an affidavit of the claimant or of some other person cognizant thereof, either before or within 6 months after his qualification as such executor or administrator.'

Sec. 539. R. S., c. 165, § 21, amended. Section 21 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 21. Limitations claimed for or against old administrator continued. When an executor or administrator after qualification dies, resigns or is removed without having fully administered the estate, and a new administrator is appointed, such new administration shall be deemed to be a continuation of the preceding administration, and all limitations which could be claimed for or

against the predecessor may be claimed for or against such successor; ~~provided, however, that the~~. The time when there is no representative of the estate shall not be reckoned as part of the periods for the filing or proof of claims or limitations for bringing ~~suits~~ civil actions; ~~and such~~. Such periods, and generally the periods referred to where no provision to the contrary is made, shall be reckoned exclusive of such time.'

Sec. 540. R. S., c. 165, § 22, amended. Section 22 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 22. Relief when claim not presented within time limited. If ~~the Supreme Judicial Court or~~ the Superior Court, upon a ~~bill in equity~~ complaint filed by a creditor whose claim has not been prosecuted within the time limited by ~~the preceding sections 1 to 21~~, is of the opinion that justice and equity require it, and that such creditor is not chargeable with culpable neglect in not prosecuting his claim within the time so limited, it may give him judgment for the amount of his claim against the estate of the deceased person; but such judgment shall not affect any payment or distribution made before the filing of such ~~bill~~ complaint.'

Sec. 541. R. S., c. 165, § 24, amended. Section 24 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 24. Executions after creditor's death. When a judgment creditor dies before the first execution issues or before an execution issued in his lifetime is fully satisfied, such execution may be issued or renewed by order of ~~any justice of the court~~ rendering such judgment, ~~in term time or vacation~~ or by like order of a municipal court or trial justice rendering such judgment, upon application in writing of the executor or general or special administrator of the deceased creditor; ~~and any~~. Any execution so issued or renewed may be subsequently renewed; but no execution shall issue or be renewed after the ~~term~~ time within which it might have been done if the party had not died.'

Sec. 542. R. S., c. 166, § 19, amended. The first sentence of section 19 of chapter 166 of the Revised Statutes is amended to read as follows:

'If the father and mother of a minor child are living apart from each other, the judge of probate or the Superior Court Justice in the county where either resides, on ~~petition~~ complaint of either ~~in term time or vacation~~ and after such notice to the other as he may order, may decree which parent shall have the exclusive care and custody of the person of such minor or he may apportion the care and custody of said minor between the parents, as the good of the child may require; ~~and he~~. He may order the father of the minor child or children to contribute to the support of such minor child or children such sums payable weekly, monthly or quarterly as are deemed reasonable and just and may enforce obedience by appropriate decrees, execution issuing for said sums when payable and for costs; which decrees shall be in force until further order of the judge or justice.'

Sec. 543. R. S., c. 166, § 21, amended. The first sentence of section 21 of chapter 166 of the Revised Statutes, as amended by chapter 199 of the public laws of 1955, is further amended to read as follows:

'Whenever, under any decree or order of the Supreme Judicial Court or Superior Court of this State or of any justice of either of said courts, ~~in term time or in vacation~~ or of any judge of any probate court in this State, any receiver,

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master, executor, administrator, trustee, guardian or other person acting under authority of either of said courts, or any justice or judge thereof shall have in his hands any funds not exceeding \$500 to be distributed or paid to any person under the age of 21 years, not having a guardian legally appointed in this State, payment may be made directly to such minor, if such minor be 10 years of age, and such minor's receipt therefor shall be a sufficient voucher for such payment in the settlement in court of any account by the party who makes such payment, and shall discharge and release him from any and all further liability on account of the same.'

Sec. 544. R. S., c. 166, § 29, amended. The last sentence of the first paragraph of section 29 of chapter 166 of the Revised Statutes, as amended by section 295 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'If the respondent does not comply with that part of the order relative to payment of expenses and costs of the action, execution may issue therefor as in civil actions ~~of tort.~~'

Sec. 545. R. S., c. 166, § 31, amended. Section 31 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 31. Town, failing in action, pays costs. A town prosecuting in behalf of the complainant is liable to the respondent, if he prevails, for his costs of court, to be recovered in ~~an~~ a civil action ~~on the case~~; or the court may, on his motion, enter judgment against the town for such costs and issue execution thereon.'

Sec. 546. R. S., c. 166, § 32, amended. The last sentence of section 32 of chapter 166 of the Revised Statutes is amended to read as follows:

'The mother and said town may, after such liberation, recover of him by a civil action ~~of debt~~ any sum of money which ought to have been paid pursuant to the order of the court.'

Sec. 547. R. S., c. 166, § 34, amended. The first sentence of section 34 of chapter 166 of the Revised Statutes is amended to read as follows:

'After return day, the court, ~~in term time or vacation~~ on motion of the respondent, shall order the complainant, her child and the respondent to submit to one or more blood grouping tests to determine whether or not paternity of the respondent can be excluded, the specimens for the purpose to be collected and the tests to be made by duly qualified physicians and under such restrictions as the court shall direct, the expenses therefor to be audited by the court and borne by the respondent.'

Sec. 548. R. S., c. 166, § 38, amended. The last sentence of section 38 of chapter 166 of the Revised Statutes is amended to read as follows:

'A ~~suit~~ action may be maintained against her therefor, and her property may be attached and taken on execution for such debts and for damages for such torts as if she were sole,; but she cannot be arrested.'

Sec. 549. R. S., c. 166, § 39, amended. Section 39 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 39. Capacity to prosecute or defend civil actions, with or without joinder of husband; neither liable to arrest. She may prosecute and defend ~~suits at law or in equity~~ civil actions, either of tort or contract, in her own name without the joinder of her husband, for the preservation and protection of her property and personal rights or for the redress of her injuries, as if unmarried, or may prosecute such ~~suits~~ actions jointly with her husband; ~~and~~ ~~the~~. The husband shall not settle or discharge any such action or cause of action without the written consent of the wife. Neither of them can be arrested on such writ or execution nor can he alone maintain an action respecting his wife's property.'

Sec. 550. R. S., c. 166, § 40, amended. Section 40 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 40. Proceedings between husband and wife. A wife may bring a ~~bill in equity~~ civil action against her husband for the recovery, conveyance, transfer, payment or delivery to her of any property, real or personal or both, exceeding \$100 in value, standing in his name, or to which he has the legal title, or which is in his possession or under his control, which in equity and good conscience belongs to her and which he neglects or refuses to convey, transfer, pay over or deliver to her, and upon proper proof, may maintain such ~~bill~~ action. And a husband shall have the same right to bring and maintain a ~~bill in equity~~ civil action against his wife for the purposes aforesaid, subject to the limitations aforesaid. Marriage shall be no bar to the maintenance of a ~~bill in equity~~ civil action by a wife against her husband or by a husband against his wife, brought for the purposes aforesaid. No costs shall be awarded against either party in any such proceedings. If it satisfactorily appears to the court on hearing that the party bringing the ~~bill~~ action has conveyed or transferred any of her or of his property, real or personal, to the other party to the ~~bill~~ action for the purpose of cheating, defrauding, hindering or delaying her or his creditors, the ~~bill~~ action shall be dismissed. An appeal from any final ~~decree~~ judgment may be taken ~~as in other equity causes~~ to the law court as in other civil actions. There shall be no survival of the right to institute proceedings under ~~the provisions of~~ this section, and if a wife or husband dies after the commencement of proceedings hereunder and before the final determination and disposition of the same, such proceedings shall abate.'

Sec. 551. R. S., c. 166, § 41, amended. Section 41 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 41. Action by married woman for alienation of affections of husband. Whoever, being a female person more than 18 years of age, debauches and carnally knows, carries on criminal conversation with, alienates the affections of the husband of any married woman or by any arts, enticements and inducements deprives any married woman of the aid, comfort and society of her husband, or whoever, being a male person, alienates the affections of the husband of any married woman or by any arts, enticements and inducements deprives any married woman of the aid, comfort and society of her husband, shall be liable in damages to said married woman in ~~an~~ a civil action ~~on the case~~ brought by her within 3 years after the discovery of such offense.'

Sec. 552. R. S., c. 166, § 43, amended. Section 43 of chapter 166 of the Revised Statutes, as amended, is further amended to read as follows:

'Sec. 43. Husband and father compelled to contribute to support of wife or minor children. Whenever a man, having a wife, a minor child or children,

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residing in this State and being of sufficient ability or being able to labor and provide for them, willfully and without reasonable cause, refuses or neglects to provide suitable maintenance for them, the Superior Court, the probate court and any municipal court ~~in term time, or any judge or justice of said courts in vacation~~ in the county where the wife or such minor child or children reside, or in the county where the husband or father may be found on petition of the wife for herself and for such child or children, or of such child or children by their guardian or by the municipality that is providing suitable maintenance, after such notice to the husband or father as it may order, and hearing, may order him to contribute to the support of his wife and such minor child or children or either of them such sums payable weekly, monthly or quarterly as are deemed reasonable and just, and may enforce obedience by appropriate decrees. Pending petition hereunder, the court may order the husband to pay to the court for the wife sufficient money for the prosecution thereof, upon default of which order execution may issue as in civil actions ~~of tort~~. Execution may ~~also~~ issue for said sums when payable, and for costs, and when the husband is committed to jail on execution the county having jurisdiction of the process shall bear the expense of his support. Any party aggrieved by any order or decree authorized by ~~the provisions of~~ this section and made by a probate court or municipal court may appeal from said order or decree in the same manner as provided for appeals from such court in other causes, and appeal may be taken from the Superior Court to the law court. Pending the determination of such appeal, the order or decree appealed from shall remain in force and obedience thereto may be enforced as if no appeal had been taken. ~~Said appeal shall be in order for hearing at the 1st term of the court appealed to, held after said appeal is taken, and no~~ No continuance thereof of such appeal shall be had without the consent of the appellant or without legal cause shown therefor to the justice of said court to which appeal is had.'

Sec. 553. R. S., c. 166, § 59, amended. Section 59 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 59. Pending divorce action, wife's expenses paid by husband. Pending a ~~libel~~ divorce action, the court ~~or any justice thereof in vacation~~ may order the husband to pay to the wife, or to her attorney for the wife, sufficient money for her defense or prosecution thereof, and to make reasonable provision for her separate support, on ~~petition~~ a motion for which costs and counsel fees may be ordered; enter such decree for the care, custody and support of the minor children as the court deems proper; and in all cases enforce obedience by appropriate processes on which costs and counsel fees shall be taxed as in other actions.'

Sec. 554. R. S., c. 166, § 60, amended. Section 60 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 60. Court may free wife from restraint pending divorce action. Pending a ~~libel~~ divorce action, the court, ~~or any justice thereof in vacation~~ on ~~petition~~ motion of the wife, may prohibit the husband from imposing any restraint on her personal liberty; and enforce obedience by appropriate processes.'

Sec. 555. R. S., c. 166, § 63, amended. The last paragraph of section 63 of chapter 166 of the Revised Statutes is amended to read as follows:

'The court may ~~also~~ decree to her reasonable alimony out of his estate, having regard to his ability, and sufficient money for her defense or prosecution of

hearings affecting alimony; and, to effect the purposes aforesaid, may order so much of his real estate, or the rents and profits thereof, as is necessary, to be assigned and set out to her for life; or, instead of alimony, may decree a specific sum to be paid by him to her or payable in such manner and at such times as the court may direct; and the court ~~or any justice in vacation~~ may at any time alter, amend or suspend a decree for alimony or specific sum when it appears that justice requires; and use all necessary legal processes to carry its decrees into effect.'

Sec. 556. R. S., c. 166, § 65-A, amended. Section 65-A of chapter 166 of the Revised Statutes, as enacted by chapter 428 of the public laws of 1955 and as amended by chapter 12 of the public laws of 1959, is further amended to read as follows:

'Sec. 65-A. Descent of real estate in divorce. No rights acquired under ~~the provisions of~~ sections 63 and 65 by a ~~libelant~~ plaintiff in the real estate of the ~~libelee~~ defendant are effectual against any person except the ~~libelee~~ defendant, his heirs and devisees and persons having actual notice of such divorce unless an abstract of the decree of divorce, setting forth the names and residence of the parties, the date of the decree and the court where granted, is filed in the registry of deeds for the county or registry district where the real estate is situated.

The clerk of the court granting the divorce, at the written request of the ~~libelant~~ plaintiff or his attorney, shall within 5 days of the receipt of said request make and send such an abstract, for recording, by registered mail, or deliver said abstract, to such registry or registries as so requested.

When a divorce has been granted out of the State, the ~~libelant~~ plaintiff, or his attorney, shall cause a duly authenticated copy of such ~~decree order~~ to be filed with the clerk of courts in each of the counties where the real estate or any part thereof is situated, and upon written request of said ~~libelant~~ plaintiff or his attorney, said clerk, within 5 days thereof, shall make and send such abstract, for recording, by registered mail, or deliver said abstract, to such registry or registries as so requested.

Such abstract shall be deemed recorded as of the time of its receipt in the registry where filed; ~~provided, however, that such.~~ Such abstract if received within 10 days of the date of the ~~decree order~~ of divorce shall have effect as if actually received on the date of the ~~decree order~~ of divorce.

The clerk of courts shall be paid \$2.50 for each such abstract, \$1 of which he shall pay to the register and \$1.50 of which he shall retain as his fee and costs of registered mail, and an additional \$2 as filing fee of the authenticated copy of foreign divorce decree.

No such rights acquired under ~~the provisions of~~ said sections 63 and 65, after September 1, 1955, shall be effectual against the ~~libelee~~ defendant or any other person, unless said abstract of the ~~decree order~~ of divorce shall have been recorded, in the manner ~~hereinabove~~ provided, within one year from the date of said ~~decree order~~ of divorce.'

Sec. 557. R. S., c. 166, § 66, repealed. Section 66 of chapter 166 of the Revised Statutes is repealed as follows:

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'Sec. 66. New trial within 3 years granted. Within 3 years after judgment on a libel for divorce, a new trial may be granted as to the divorce when the parties have not cohabited nor either contracted a new marriage since the former trial.'

Sec. 558. R. S., c. 168, § 35, amended. Section 35 of chapter 168 of the Revised Statutes is amended to read as follows:

'Sec. 35. Deed lost before recording. If a deed, duly executed and delivered, is lost or destroyed before being recorded, the grantee or person claiming under him may file a copy of it in the registry of deeds in the county where the land lies; ~~and it.~~ It shall have the same effect as a record for 90 days; ~~and he.~~ He may thereupon proceed to have the depositions of the subscribing witnesses and others knowing the facts taken, as depositions are taken in perpetuum; but if any person supposed to have an adverse interest lives out of the State in an unknown place, a Justice of the Superior Court ~~in term time or vacation~~ may order notice of the taking of such depositions by publication as he deems proper; ~~and the.~~ The filing and recording of such depositions and copy within said 90 days shall have the same effect as if the deed itself had been recorded when said copy was first filed; ~~and certified.~~ Certified copies thereof are evidence when the original would be.'

Sec. 559. R. S., c. 168, § 37, amended. Section 37 of chapter 168 of the Revised Statutes is amended to read as follows:

'Sec. 37. Person holding unrecorded deed compelled to record. A person having an interest in real estate of which any prior grantee has an unrecorded deed or other evidence of title may give the latter personal notice in writing to have the same recorded; ~~and if.~~ If he neglects to have it so recorded for 30 days, a Justice of the Superior Court, ~~in term time or vacation~~ on complaint, may cause said grantee or his heirs to be brought before ~~him~~ it for examination and, unless sufficient cause is shown for such neglect, may order such deed or other evidence of title to be recorded, and the cost paid by the respondent, together with the legal fees of the register for recording such deed or other evidence of title.'

Sec. 560. R. S., c. 169, § 14, amended. Section 14 of chapter 169 of the Revised Statutes is amended to read as follows:

'Sec. 14. Cases of contribution, determination. All cases of contribution, arising under the provisions of this chapter, may be determined in ~~an~~ a civil action ~~at law if the case will allow it,~~ or in the probate court subject to appeal ~~or by a bill in equity.'~~

Sec. 561. R. S., c. 170, § 7, amended. Section 7 of chapter 170 of the Revised Statutes is amended to read as follows:

'Sec. 7. When heir indebted to estate, lien on his share created. When an estate is solvent and a person to whom a share of it descends is indebted to the intestate at the time of his death, such debt creates a lien on his share, having priority to any attachment of it; ~~and such.~~ Such lien may be enforced by ~~suit~~ a civil action and attachment of the share within 2 years after administration is granted, and by levy within 30 days after judgment. In such action, or in one brought by the heir, all claims between the intestate and heir may be set off and adjusted, and the balance due may be established.'

Sec. 562. R. S., c. 170, § 13, amended. The last 2 sentences of section 13 of chapter 170 of the Revised Statutes are amended to read as follows:

'Whenever the widow or widower is advised that the legal construction of the provisions of the will for her or him is doubtful or uncertain, the time for making such election shall be extended to 30 days after certificate is returned to the probate court in the county where the probate proceedings are had, of the final decision ~~upon a bill in equity in a civil action~~, commenced by said legatee or devisee within 30 days after the probate of the will, to obtain the decision of the court as to his or her rights under it, but in no case shall the time for election be less than 6 months after probate. The clerk of courts for the county in which ~~the proceedings in equity are civil action~~ is commenced, within 3 days after receipt of the decision therein, shall send notice of the same to the widow or widower, or her or his solicitor of record, and transmit a certified copy of the decree to the proper probate court, where it shall be recorded, with the time of its reception.'

Sec. 563. R. S., c. 171, § 15, amended. Section 15 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 15. When debt assigned, estate held in trust for assignee. When the debt has been previously assigned for a valuable consideration, the creditor named in the execution holds an estate levied on to satisfy it in trust for his assignee, who is entitled to a conveyance thereof, which may be enforced by a ~~bill in equity civil action.~~

Sec. 564. R. S., c. 171, § 21, amended. Section 21 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 21. Assignee may bring action in own name. In all cases where a judgment has been assigned as provided for in ~~the preceding~~ section 20 and is not discharged, the assignee may bring ~~an~~ a civil action of debt thereon in his own name; ~~and upon~~. Upon averment and proof of the facts aforesaid, the court may render judgment and execution thereon in his favor; ~~subject however~~ to any legal defense which the debtor might have if the action were instituted by the original creditor.'

Sec. 565. R. S., c. 171, § 23, amended. Section 23 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 23. Levy made for too much valid, if not over 1%; remedy against officer or creditor. When, by an error of the officer, the amount for which the levy was made exceeds the amount of debt or damage, costs, interest and costs of levy, by a sum not greater than 1% thereof, it is valid if otherwise legally made; ~~and the~~. The debtor or owner of the estate may maintain ~~an~~ a civil action against such officer or his principal to recover all damages occasioned thereby, or a ~~bill in equity civil action~~ against the creditor to have such error corrected, and the court may correct it, in any just and equitable manner, or it may decree a pecuniary compensation for the injury.'

Sec. 566. R. S., c. 171, § 30, amended. Section 30 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 30. Redemption; debtor paying on mortgage after levy, and not redeeming, may recover of creditor. Levies made as provided in ~~the preceding~~

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section 29 may be redeemed within one year, as in other cases. When the debtor pays on the mortgage after the levy, and does not redeem, he may recover of the creditor the amount so paid, in ~~an~~ a civil action ~~for money had and received.~~'

Sec. 567. R. S., c. 172, § 9, amended. Section 9 of chapter 172 of the Revised Statutes is amended to read as follows:

'Sec. 9. Joinder of plaintiffs. Persons claiming as tenants in common or joint tenants may all, or any 2 or more, join in ~~a suit~~ an action for recovery of lands, or one may sue alone.'

Sec. 568. R. S., c. 172, § 47, amended. The last sentence of section 47 of chapter 172 of the Revised Statutes is amended to read as follows:

'If the court is of the opinion that the whole or any part or portion of such fees and expenses should be paid by the parties to the ~~suit~~ or action, or by either of such parties, then the court may fix and determine the amount to be paid by such parties, or by either of such parties, and the parties shall be liable to the surveyor in ~~an~~ a civil action ~~of money had and received~~ for the amount to be paid by them jointly, and each of the parties shall likewise be liable to the surveyor in the same kind of an action for the amount to be severally paid.'

Sec. 569. R. S., c. 172, § 52, amended. The last 2 sentences of section 52 of chapter 172 of the Revised Statutes are amended to read as follows:

'It shall not be necessary for the maintenance of such ~~suit~~ action that the defendants shall have a claim or the possibility of a claim resting upon an instrument, the cancellation or surrender of which would afford the relief desired; but it shall be sufficient that they claim or may claim by purchase, descent or otherwise, some right, title, interest or estate in the land which is the subject of the ~~suit~~ action and that their claim depends upon the construction of a written instrument or cannot be met by the plaintiffs without the production of evidence. Two or more persons who claim to own separate and distinct parcels of land in the same county by titles derived from a common source, or 2 or more persons who have separate and distinct interests in the same parcel, may join as plaintiffs in any ~~suit~~ action brought under ~~the provisions of~~ this section.'

Sec. 570. R. S., c. 172, § 54, amended. The 2nd sentence of section 54 of chapter 172 of the Revised Statutes is amended to read as follows:

'Such ~~suit~~ action shall be a proceeding in rem against the land, and a decree establishing or declaring the validity, nature or extent of the plaintiff's title may be entered, and shall operate directly on the land and shall have the force of a release made by or on behalf of all defendants of all claims inconsistent with the title established or declared thereby.'

Sec. 571. R. S., c. 173, § 3, amended. Section 3 of chapter 173 of the Revised Statutes is amended to read as follows:

'Sec. 3. State may maintain action; service. ~~The court shall issue a seire facias~~ State may maintain an action against the person stated as holding the lands under such grant, returnable to said court, which shall be served 30 days before the return day.'

Sec. 572. R. S., c. 173, § 14, amended. Section 14 of chapter 173 of the Revised Statutes is amended to read as follows:

'Sec. 14. Defendant may hold by title subsequently acquired. If it is found that the defendant was not the legal owner of such estate nor had any right as tenant or agent when the process was commenced against him, but afterward acquired a good title, or became tenant or agent, the Attorney General shall cease further to prosecute the ~~suit~~ action; but when the defendant proves no such title to the estate as owner or interest therein as tenant or agent, judgment shall be rendered that the State be seized thereof, and recover rents and profits as in ~~case of a writ of entry~~ a civil action between private persons.'

Sec. 573. R. S., c. 173, § 17, amended. Section 17 of chapter 173 of the Revised Statutes is amended to read as follows:

'Sec. 17. Betterments obtained. For the purpose of ascertaining the amount of such improvements, the Attorney General or the tenant or grantee of the estate may file a ~~bill in equity~~ complaint in the Supreme Judicial Court or in the Superior Court for recovering the same; ~~and proceedings.~~ Proceedings shall be had thereon as in other ~~cases in equity~~ civil actions to ascertain and adjust the amount.'

Sec. 574. R. S., c. 174, § 2, amended. Section 2 of chapter 174 of the Revised Statutes is amended to read as follows:

'Sec. 2. When right shall begin to run. If such right or title first accrued to an ancestor, predecessor or other person under whom the ~~demandant~~ plaintiff claims, said 20 years shall be computed from the time when the right or title first accrued to such ancestor, predecessor or other person.'

Sec. 575. R. S., c. 174, § 11, amended. Section 11 of chapter 174 of the Revised Statutes is amended to read as follows:

'Sec. 11. Limitation not to take effect in certain cases, when first action fails. If ~~a writ~~ the summons and complaint in a real or mixed action fails of sufficient service or return by unavoidable cause, or if by the default or negligence of any officer to whom it was delivered or directed for service, the ~~writ~~ action is ~~abated~~ dismissed; or if the action is defeated for any matter of form or by the death or other disability of either party, or if the ~~demandant's~~ plaintiff's judgment is reversed on ~~writ of error~~ appeal, the ~~demandant~~ plaintiff may commence a new action at any time within 6 months after the abatement or determination of the first ~~suit~~ action or the reversal of the judgment.'

Sec. 576. R. S., c. 175, § 1, amended. Section 1 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 1. Widow may sue for dower. When a woman is entitled to dower and it is not lawfully set out to her by the heir or tenant of the freehold, she may recover it by a ~~writ of dower as herein provided~~ civil action for dower.'

Sec. 577. R. S., c. 175, § 2, amended. Section 2 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 2. Demand and time of bringing action. She must demand her dower of the person who is at the time, seized of the freehold if in the State, otherwise

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of the tenant in possession, and shall not commence her action ~~of dower~~ before one month nor after one year from the time of demand; but she may make a new demand and commence an action thereon if an action is not brought within one year after the first demand.'

Sec. 578. R. S., c. 175, § 3, amended. Section 3 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 3. Demand on corporation. When a corporation is the tenant of the freehold, she must demand her dower in writing of any officer ~~thereof on whom a writ in a civil action against it may be served~~, director or general agent; and the time between the demand and the ~~suit~~ action shall be 60 days; but a second demand may be made as aforesaid.'

Sec. 579. R. S., c. 175, § 5, amended. Section 5 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 5. Damages for detaining dower. If the ~~demandant~~ plaintiff recovers judgment for her dower, she may, at the same time, recover damages for its detention to the time when the action was commenced, and subsequent damages in a separate action.'

Sec. 580. R. S., c. 175, § 6, amended. Section 6 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 6. Action against tenant of freehold, but prior tenant liable for damages. The action shall be brought against the person who is at the time tenant of the freehold; but if he is not the person of whom demand was made, he shall be liable for damages only for the time that he held the possession; ~~and if~~. If the ~~demandant~~ plaintiff recovers her dower and damages, she may afterwards maintain ~~an~~ a civil action ~~on the case~~ against the prior tenant of whom her demand was made, for the rents and profits while he held the premises after the demand.'

Sec. 581. R. S., c. 175, § 7, amended. Section 7 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 7. Plaintiff dying, pending action, executor or administrator may prosecute. If the ~~demandant~~ plaintiff dies during the pendency of an action ~~of~~ for dower, her executor or administrator may prosecute the action to final judgment and recover therein the damages to which she would be entitled up to the time of her decease. He may commence an action, or prosecute one commenced by her under ~~the provisions of the preceding~~ section 6, and recover the damages to which she would be entitled, if any.'

Sec. 582. R. S., c. 175, § 9, amended. Section 9 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 9. Assignments of rents and profits. When the estate, out of which the dower is to be assigned, consists of a mill or other tenement which cannot be divided without damage to the whole, the dower may be assigned of the rents and profits thereof, to be received by the ~~demandant~~ plaintiff as tenant in common with the other owners of the estate.'

Sec. 583. R. S., c. 175, § 10, amended. Section 10 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 10. Costs apportioned. In actions ~~of~~ for dower, when it appears to the court that there has been no refusal to set out dower, the costs accruing on the assignment of dower shall be apportioned according to the interests of the parties.'

Sec. 584. R. S., c. 175, § 11, amended. Section 11 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 11. Waste. If any woman endowed of lands commits or suffers any waste thereon, she forfeits the place wasted and the amount of the damages done to the premises, to be recovered in an action ~~of~~ for waste by the person having the next immediate estate of inheritance therein; but the taking of fuel necessary for her own use and materials for the repair of buildings and for fences thereon from any woodlands of which she is endowed is not waste.'

Sec. 585. R. S., c. 176, § 24, amended. Section 24 of chapter 176 of the Revised Statutes is amended to read as follows:

'Sec. 24. Person not party claiming share assigned or left. When a person, not a party to the proceedings, claims a share assigned to or left for a part owner, he is concluded so far as it respects the assignment of the share, but he is not prevented from maintaining an action within the time in which it might have been brought if no judgment for partition had been rendered, for the share claimed, against the tenant in possession, the same as if the ~~demandant~~ plaintiff had claimed the piece demanded, instead of an undivided part of the whole.'

Sec. 586. R. S., c. 177, § 10, amended. Section 10 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 10. Form of conditional judgment. The conditional judgment shall be that if the mortgagor, his heirs, executor or administrator pays the sum that the court adjudges to be due and payable, with interest, within 2 months from the time of judgment, and ~~also~~ pays such other sums as the court adjudges to be thereafter payable, within 2 months from the time that they fall due, no writ of possession shall issue and the mortgage shall be void; ~~otherwise~~. ~~Other-~~wise it shall issue in due form of law, upon the first failure to pay according to said judgment; ~~and if~~. If, after 3 years from the rendition of the judgment, the writ of possession has not been served or the judgment wholly satisfied, another conditional judgment may, on ~~scire facias sued out~~ motion filed in the name of the mortgagee or assignee, be rendered, and a writ of possession issued as before provided. When the condition is for doing some other act than the payment of money, the court may vary the conditional judgment as the circumstances require; ~~and the~~. The writ of possession shall issue if the terms of the conditional judgment are not complied with within the 2 months.'

Sec. 587. R. S., c. 177, § 15, amended. Section 15 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 15. To redeem mortgage. Any mortgagor or other person having a right to redeem lands mortgaged may demand of the mortgagee or person claiming under him a true account of the sum due on the mortgage, and of the rents and profits, and money expended in repairs and improvements, if any; ~~and if~~. If he unreasonably refuses or neglects to render such account in writing, or in any other way by his default prevents the plaintiff from performing or tendering performance of the condition of the mortgage, he may bring ~~his bill in equity~~

a civil action for the redemption of the mortgaged premises within the time limited in section 7, and therein offer to pay the sum found to be equitably due, or to perform any other condition, as the case may require; ~~and such~~. Such offer has the same force as a tender of payment or performance before the commencement of the ~~suit; and the bill~~ action. The action shall be sustained without such tender, and thereupon he shall be entitled to judgment for redemption and costs.'

Sec. 588. R. S., c. 177, § 16, amended. Section 16 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 16. Amount due on mortgage paid or tendered; when not. When the amount due on a mortgage has been paid or tendered to the mortgagee, or person claiming under him, by the mortgagor or the person claiming under him, within the time so limited, he may ~~have a bill in equity~~ bring a civil action for the redemption of the mortgaged premises, and compel the mortgagee, or person claiming under him, by a decree of the Supreme Judicial Court or of the Superior Court, to release to him all his right and title therein; although such mortgagee or his assignee has never had actual possession of the premises for breach of the condition; or, without having made a tender before the commencement of the ~~suit~~ action, he may ~~have his bill~~ bring a civil action in the manner prescribed in ~~the preceding~~ section 15, and the cause shall be tried in the same manner.'

Sec. 589. R. S., c. 177, § 17, amended. Section 17 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 17. Civil action brought before entry, notice to mortgagee if out of State; fraudulent mortgage. When a ~~bill to redeem~~ civil action for redemption is brought before an actual entry for breach of the condition, and before payment or tender, if the mortgagee or person claiming under him is out of the State and has not had actual notice, the court shall order proper notice to be given him and continue the cause as long as necessary. When a mortgage is alleged and proved to be fraudulent, in whole or in part, an innocent assignee of the mortgagor, for a valuable consideration, may ~~file his bill~~ bring his action within the time allowed to redeem and be allowed to redeem without a tender.'

Sec. 590. R. S., c. 177, § 18, amended. Section 18 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 18. Redemption, when mortgagee is out of State. When a mortgagee or person claiming under him residing out of the State, or whose residence is unknown to the party entitled to redeem, has commenced proceedings under ~~the provisions~~ of section 5, or when such mortgagee or claimant having no tenant, agent or attorney in possession on whom service can be made has commenced proceedings under ~~the provisions~~ of section 3, in either case the party entitled to redeem may ~~file his bill~~ bring the civil action, as prescribed in section 15, and pay at the same time to the clerk of the court the sum due, which payment shall have the same effect as a tender before the ~~suit; and the~~ action. The court shall order such notice to be given of the pendency of the ~~suit~~ action, as it judges proper.'

Sec. 591. R. S., c. 177, § 19, amended. Section 19 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 19. Redemption after payment or tender, and before foreclosure, when mortgagee is out of State; notice published; discharge. When an amount due on a mortgage has been paid or tendered to the mortgagee or person claiming under him before foreclosure of the mortgage, and the mortgagee or his assignee is out of the State and the mortgage is undischarged on the record, the mortgagor or person claiming under him may ~~have his bill in equity maintain a civil action~~ for the redemption of the mortgaged premises, as provided in section 16, or for the discharge of the mortgage; ~~and on~~. On notice of the pendency of the ~~bill action~~, given by publication in some newspaper in the county where said premises are situated for 3 weeks successively, the last publication being 30 days before the time of hearing, or in such other way as ~~the Supreme Judicial Court or the Superior Court or a justice of either of said courts in vacation orders~~, said court may decree a discharge of such mortgage; ~~and the~~. The record of such decree in the registry of deeds where said mortgage is recorded is evidence of such discharge.'

Sec. 592. R. S., c. 177, § 20, amended. Section 20 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 20. Limitation of civil action. No ~~bill in equity~~ civil action shall be brought for redemption of mortgaged premises, founded on a tender of payment or performance of the condition made before commencement of the ~~suit~~ action, unless within one year after such tender.'

Sec. 593. R. S., c. 177, § 21, amended. Section 21 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 21. Court may order other persons joined as defendants and notified. In any ~~suit~~ action brought for the redemption of mortgaged premises, when it is necessary to the attainment of justice that any other person besides the defendant, claiming an interest in the premises, should be made a party with the original defendant, the court on motion may order him to be served with an attested copy of the ~~bill complaint~~ amended in such manner as it directs, and on his appearance, the cause shall proceed as though he had been originally joined.'

Sec. 594. R. S., c. 177, § 23, amended. Section 23 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 23. Deduction of rents and profits from sum brought into court for redemption; statement of amount due. When money is brought into court in ~~a suit~~ an action for redemption of mortgaged premises, the court may deduct therefrom such sum as the defendant is chargeable with on account of rents and profits by him received or costs awarded against him; ~~and the~~. The person to whom money is tendered to redeem such lands, if he receives a larger sum than he is entitled to retain, shall refund the excess. Any mortgagee or person holding under him when requested by an assignee in insolvency or trustee in bankruptcy to render a statement of the amount due on a mortgage given by the insolvent where there is an equity of redemption shall render a true statement to the assignee or trustee of the amount due on such mortgage; ~~and for~~. For any loss resulting to the insolvent estate from any misrepresentation of the amount due, the assignee or trustee shall have a right of action ~~on the case~~ against such person to recover such loss.'

Sec. 595. R. S., c. 177, § 24, amended. The first sentence of section 24 of chapter 177 of the Revised Statutes is amended to read as follows:

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'When proceedings for the foreclosure of any prior mortgage of real estate have been instituted by any method provided by law, the owner of any subsequent mortgage of the same real estate or of any part of the same real estate may, at any time before the right of redemption from such prior mortgage has expired, in writing, request the owner of such prior mortgage to assign the same and the debt thereby secured to him, upon his paying to the owner of such prior mortgage, the full amount, including all interest, costs of foreclosure and such other sums as the mortgagor or person redeeming would be required to pay in order to redeem; ~~if~~. If the owner of such prior mortgage neglects or refuses to make such assignment within a reasonable time after such written request, the owner of such subsequent mortgage may bring a ~~bill in equity civil action in the Supreme Judicial Court or~~ in the Superior Court for the purpose of compelling the owner of such prior mortgage to assign the same and the debt thereby secured, to him, the owner of such subsequent mortgage, upon making payment as aforesaid.'

Sec. 596. R. S., c. 177, § 26, amended. Section 26 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 26. Civil action for redemption filed against State. If the Treasurer of State and the person applying to redeem any lands mortgaged to the State disagree as to the sum due thereon, such person may bring a ~~bill in equity civil action against the State for the redemption thereof in the Supreme Judicial Court or~~ in the Superior Court.'

Sec. 597. R. S., c. 177, § 28, amended. Section 28 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 28. On death of person entitled to redeem, administrator or heir may redeem; tender in behalf of nonresident. If a person entitled to redeem a mortgaged estate, or an equity of redemption which has been sold on execution, or the right to redeem such right, or the right to redeem lands set off on execution, dies without having made a tender for that purpose, a tender may be made and ~~a bill an action~~ for redemption commenced and prosecuted by his executor or administrator, heirs or devisees; ~~and if~~. If the plaintiff in such ~~bill in equity action~~ dies pending the ~~suit action~~, it may be prosecuted to final judgment by his heirs, devisees or his executor or administrator. When a mortgagor resides out of the State, any person may, in his behalf, tender to the holder of the mortgage the amount due thereon; ~~and the~~. The tender shall be as effectual as if made by the mortgagor.'

Sec. 598. R. S., c. 177, § 30, amended. Section 30 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 30. Claimant of mortgagor's interest may file complaint to have facts determined and damages assessed. In all cases where a debtor has mortgaged real and personal estate to secure the performance of a collateral agreement or undertaking, other than the payment of money, and proceedings have been commenced to foreclose said mortgage for alleged breach of the conditions thereof, but the time of redemption has not expired, any person having any claim against the mortgagor and having attached said mortgagor's interest in said estate on said claim may file a ~~bill in equity complaint in the Supreme Judicial Court or~~ in the Superior Court in the county where such agreement has to be performed, where the owner of such mortgage resides or where the property mortgaged is situated, alleging such facts and praying for relief; ~~and said~~.

Said court may examine into the facts and ascertain whether there has been a breach of the conditions of said mortgage, and if such is found to be the fact, may assess the damages arising therefrom, and may make such orders and decrees in the premises as will secure the rights of said mortgagee or his assignee, so far as the same can be reasonably accomplished, and enable the creditor, by fulfilling such requirements as the court may impose, to hold said property, or such right or interest as may remain therein by virtue of such attachment, for the satisfaction of his claim. Such claim may include possession of the property by the mortgagee for such time as the court deems just and equitable. Pending such proceedings, the right of redemption shall not expire by any attempted foreclosure of such mortgage.'

Sec. 599. R. S., c. 177, § 31, amended. The last sentence of section 31 of chapter 177 of the Revised Statutes is amended to read as follows:

'If a mortgagee or his executor, administrator or assignee, after full performance of the condition of his mortgage whether before or after breach of such condition, refuses or neglects for 7 days after being thereto requested to make such discharge or to execute and acknowledge a deed of release of the mortgage, he shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 600. R. S., c. 178, § 3, amended. Section 3 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 3. Redemption after breach of condition.** When the condition of a mortgage of personal property is broken, the mortgagor or person lawfully claiming under him may redeem it at any time before it is sold by virtue of a contract between the parties or on execution against the mortgagor, or before the right of redemption is foreclosed, ~~as hereinafter provided~~ by paying or tendering to the mortgagee or the person holding the mortgage by assignment thereof, recorded where the mortgage is recorded, the sum due thereon, or by performing or offering to perform the conditions thereof, when not for the payment of money, with all reasonable charges incurred, ~~and the~~. The property, if not immediately restored, may be replevied, or damages for withholding it recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 601. R. S., c. 178, § 11, amended. The last sentence of section 11 of chapter 178 of the Revised Statutes is amended to read as follows:

'If such person or his executor, administrator or assignee, after full payment of the money or performance of the obligation ~~aforsaid~~, whether before or after breach, refuses or neglects for 7 days after thereto requested to make such discharge, he shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 602. R. S., c. 178, § 25, amended. Section 25 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 25. Court may order vessel sold and proceeds paid into court.** When judgment is recovered in any ~~suit~~ action on which a vessel was attached, the court may issue an order to the attaching officer to sell it at auction, and to pay the proceeds thereof into court after deducting the expenses of sale and for taking care of the vessel while under attachment. Such officer shall sell it as

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other personal property is sold on execution; ~~and the~~. The purchaser shall hold it free from any prior claim.'

Sec. 603. R. S., c. 178, § 26, amended. Section 26 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 26. Distribution of proceeds and of any surplus.** If such proceeds are more than all the judgments recovered against such vessel and the amounts claimed in the undecided ~~suits~~ actions, the court may order the judgments, as fast as they are recovered against said vessel, to be paid from said fund until all such ~~suits~~ actions are terminated and all judgments satisfied. The court may, on ~~petition~~ complaint, order the balance, if any, to be paid to the persons legally entitled thereto.'

Sec. 604. R. S., c. 178, § 27, amended. Section 27 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 27. When proceeds not enough distributed pro rata, and double liens prevented.** If such proceeds are not enough to pay in full the judgments recovered and the claims still undecided, the court may order the money to remain until all the ~~suits~~ actions are terminated, and then divide pro rata; or it may direct a sufficient amount to be retained to pay on the undecided claims their proportion and divide the residue ratably among the judgments recovered, and if, after all the ~~suits~~ actions are terminated, and the judgments recovered subsequent to the first division have received the same proportion as prior judgments, there is any sum remaining, it shall be divided among the judgments pro rata, and in such division the court shall make such orders as will prevent the enforcement of a double lien and will secure the just rights of all.'

Sec. 605. R. S., c. 178, § 29, amended. Section 29 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 29. If attached for lien, how attached for non-lien claims.** A vessel attached for a lien claim may be attached by the same officer in the ordinary manner in a ~~suit~~ an action against the owners thereof, and such attachment shall be valid, subject to the legal priorities of the lien attachments.'

Sec. 606. R. S., c. 178, § 42, amended. Section 42 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 42. Court may decree that property be sold; redemption; lienors to share pro rata.** If it is determined that the parties or any of them, claiming a lien, have a lien upon said building and land or upon said wharf, pier, building and land, the court may decree that said property, or such interest in it as is subject to the liens or any of them, shall be sold, and shall prescribe the place, time, terms, manner and conditions of such sale; ~~any justice, in term time or vacation~~. The court may order an adjournment of such sale from time to time, or the manner and conditions of any adjournment of such sale may be prescribed in the decree; ~~and a~~. A deed of the officer of the court, appointed to make such sale, recorded in the registry of deeds where the land lies, within 3 months after the sale, shall convey all the title of the debtor and the owner in the property ordered to be sold. If justice requires, the court may provide in the order of sale that the owner shall have a right to redeem the property from such sale within a time fixed in the order of sale. If the court shall determine that the whole of the land on which the lien exists is not necessary therefor, it shall

describe in the order of sale a suitable lot therefor; and only so much shall be sold. The lienors shall share pro rata, provided their ~~bills or petitions~~ **complaints or motions** therefor are filed with the clerk of courts prior to the order of sale and within the time mentioned in sections 38, 39 and 40. The court may make such decree in regard to costs as is equitable.'

Sec. 607. R. S., c. 178, § 48, amended. The first sentence of section 48 of chapter 178 of the Revised Statutes is amended to read as follows:

'When a judgment is rendered in any ~~suit~~ **action** authorized by this chapter against any house, building or appurtenances, wharf, pier or building thereon, and the land on which it stands, or any interest that the owner of such house, building or appurtenances, wharf or pier has in such land, said property shall be taken and sold on execution in the same manner that rights of redeeming mortgaged real estate may be taken and sold.'

Sec. 608. R. S., c. 178, § 53, amended. The last sentence of section 53 of chapter 178 of the Revised Statutes is amended to read as follows:

'Such notice of the ~~suit~~ **action** as the court orders shall be given to the owner of the logs or lumber, and he may be admitted to defend it.'

Sec. 609. R. S., c. 178, § 74, amended. Section 74 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 74. Appearance of owner.** In all lien actions, when the labor or materials were not furnished by a contract with the owner of the property affected, such owner may voluntarily appear and become a party to the ~~suit~~ **action**. If he does not so appear, such notice of the ~~suit~~ **action** as the court orders shall be given him and he shall then become a party to the ~~suit~~ **action**.'

Sec. 610. R. S., c. 178, § 83, amended. Section 83 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 83. Disposal of proceeds.** Money paid into court may be paid over to the person legally entitled to it, on ~~petition motion~~ and order of the court. If it is not called for at the first term after it is paid into court, it shall be paid into the county treasury; ~~and if~~. If afterwards the person entitled to it ~~petitions~~ **and upon motion** establishes his claim to it, the court may order the county treasurer to pay it to him.'

Sec. 611. R. S., c. 179, § 4, amended. Section 4 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 4. Inventory and appraisal, if no claimant.** If no person claims the property after such seizure, the party seizing shall cause an inventory and appraisal thereof to be made by 3 disinterested persons, under oath, appointed by a justice of the peace in the county; which shall be the rule for deciding in what court the ~~libel~~ **complaint** shall be filed.'

Sec. 612. R. S., c. 179, § 5, amended. Section 5 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 5. If value exceeds \$20, complaint filed in Superior Court; notice.** If the value of the property seized exceeds \$20, the party seizing, within 20 days,

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shall file a ~~libel~~ complaint in the clerk's office of the Superior Court in the county where the offense was committed, stating the cause of seizure and praying for ~~a decree~~ an order of forfeiture. The clerk shall thereupon make out a notice to all persons to appear at such court at the time appointed to show cause why such ~~decree~~ order should not be passed, which notice shall be published in some newspaper printed in the county, if any, if not, in the state paper, at least 14 days before the time of trial.'

Sec. 613. R. S., c. 179, § 7, amended. Section 7 of chapter 179 of the Revised Statutes is amended to read as follows:

'Sec. 7. If complaint not supported, property restored with damages. If the ~~libel~~ complaint is not supported or is discontinued, the court shall decree a restoration of the property, with costs. If the jury or court finds the seizure without probable cause, reasonable damages shall be decreed for the claimant.'

Sec. 614. R. S., c. 179, § 8, amended. Section 8 of chapter 179 of the Revised Statutes is amended to read as follows:

'Sec. 8. If value less than \$20, complaint filed before trial justice. When the value of the property seized does not exceed \$20, the ~~libel~~ complaint shall be filed before a trial justice or municipal court of the county where the offense was committed; ~~and after~~. After notice as aforesaid has been posted at 2 or more public places in the county, 7 days at least before the day of trial, such justice or the judge of such court shall try and decide the cause and make such decree therein as law requires.'

Sec. 615. R. S., c. 179, § 19, amended. Section 19 of chapter 179 of the Revised Statutes is amended to read as follows:

'Sec. 19. Damages recovered by sufferers; beasts taken up; lien. Any person injured in his land by sheep, swine, horses, asses, mules, goats or neat cattle, in a common or general field, or in a close by itself, may recover his damages by taking up any of the beasts doing it, and giving the notice provided in section 11, or in ~~an~~ a civil action of trespass against the person owning or having possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond to the judgment as in other cases, whether owned by the defendant or only in his possession. If the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor.'

Sec. 616. R. S., c. 180, § 6, amended. Section 6 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 6. Complaint. The complaint shall contain such a description of the land flowed or injured, and such a statement of the damage, that the record of the case shall show the matter heard and determined in the ~~suit~~ action.'

Sec. 617. R. S., c. 180, § 17, amended. Section 17 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 17. Security required for yearly damages. When any person whose lands are so flowed or from whose lands the water is so diverted files his com-

plaint for ascertaining or increasing his damages, or brings ~~his~~ a civil action ~~of debt~~ as provided in ~~the following~~ section 18, and moves the court to direct the owner or occupant of such mill or canal to give security for the payment of the annual damages, and the court so orders, the owner or occupant refusing or neglecting to give such security shall have no benefit of ~~the provisions of~~ this chapter; but is liable to be sued for the damages occasioned by such flowing in ~~an~~ a civil action ~~at common law.~~'

Sec. 618. R. S., c. 180, § 18, amended. Section 18 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 18. Plaintiff may sue for damages, if unpaid; lien upon mill and land. The party entitled to such annual compensation may maintain ~~an~~ a civil action ~~of debt or assumpsit~~ therefor against any person who owns or occupies said mill, or canal and mills supplied thereby, when the action is brought; and shall therein recover the whole sum due and unpaid, with costs; and shall have a lien for such compensation, from the time of the institution of the original complaint, on the mill and milldam, or on the canal and the mill supplied thereby, with the appurtenances and the land under and adjoining them and used therewith, for any sum due not more than 3 years before the commencement of the complaint.'

Sec. 619. R. S., c. 180, § 27, amended. Section 27 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 27. Double damages, if restrictions violated. If, after judgment, the restrictions imposed by the report of the commissioners or finding of the jury respecting the flowing or diverting of the waters are violated, the party injured thereby may recover of the wrongdoers double damages for his injury in ~~an~~ a civil action ~~at common law.~~'

Sec. 620. R. S., c. 180, § 42, amended. Section 42 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 42. If decision in favor of plaintiffs. If the decision is in favor of the ~~petitioners~~ plaintiffs, said commissioners shall direct the town, in writing, to make the alterations prescribed and fix the time within which the same shall be done, and if not done within the time fixed, the same may be done by the ~~petitioners~~ plaintiffs; ~~and whether~~ plaintiffs. Whether by the town or by the ~~petitioners~~ plaintiffs, it shall be done in a faithful manner and to the acceptance of the commissioners; ~~and whichever.~~ Whichever party makes said alterations has a claim upon the other for the proportion fixed by the commissioners for said other party to pay, and if it is not paid within 30 days after its approval by said commissioners and a demand therefor, it may be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 621. R. S., c. 180, § 48, amended. Section 48 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 48. Compensation of engineer. Said engineer shall receive, as full compensation for his services, \$5 a day while actually employed in such service, together with his actual traveling expenses to be audited, allowed and paid from the State Treasury, in cases where such dam or reservoir is by him adjudged safe and sufficient; and by the owners, occupants or lessees of said dam or reservoir, in cases where said dam or reservoir is by him adjudged unsafe and insufficient, to be recovered by said engineer in ~~an~~ a civil action ~~on the case.~~'

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Sec. 622. R. S., c. 180, § 52, amended. Section 52 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 52. **If part owner minor, or otherwise disqualified.** Where any part of such mill or dam at the time of meeting and notice is owned by minors, tenants by ~~courtesy~~ curtesy, in tail, for life or years, or by mortgagor or mortgagee, the guardians of such minors, such tenant, mortgagor or mortgagee shall be deemed, for the purposes of sections 49 to 54, the proprietors thereof, and shall be notified, vote and contribute accordingly; ~~and all.~~ All advances so made by them, if not paid, may be recovered in a ~~special civil action on the case,~~ with interest.'

Sec. 623. R. S., c. 181, § 24, amended. Section 24 of chapter 181 of the Revised Statutes is amended to read as follows:

'Sec. 24. **Prosecution of actions relating to partnership business.** ~~Suits~~ **Actions** respecting the business of such partnership shall be commenced and prosecuted by and against the general partners only, except in those cases in which provision is hereinbefore made, that special partners shall be deemed general partners, and special partnerships, general partnerships; in which cases all the partners deemed general partners may join or be joined in such ~~suits~~ **actions.**'

Sec. 624. R. S., c. 181, § 26, amended. Section 26 of chapter 181 of the Revised Statutes is amended to read as follows:

'Sec. 26. **Limited partners same as general.** In all cases not otherwise provided for herein, the members of limited partnerships are subject to the liabilities and entitled to the immunities incident to general partnerships, and the ~~Supreme Judicial Court and the Superior Court~~ may hear and determine ~~in equity~~ in civil actions all questions between copartners in any partnership formed by virtue of this chapter, and between said copartners and any creditors of the firm.'

Sec. 625. R. S., c. 182, § 3, amended. Section 3 of chapter 182 of the Revised Statutes is amended to read as follows:

'Sec. 3. **Damages.** Whoever violates ~~the provisions of the preceding~~ section 2 is liable to any party aggrieved thereby for all damages actually incurred, to be recovered in ~~an a civil action on the case.~~

Sec. 626. R. S., c. 183, § 2, amended. Section 2 of chapter 183 of the Revised Statutes is amended to read as follows:

'Sec. 2. **Unfair competition defined.** Willfully and knowingly advertising, offering for sale, selling or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to ~~the provisions of~~ section 1, whether the person so advertising, offering for sale, selling or disposing of is or is not a party to such contract, is unfair competition and is actionable ~~at the suit of~~ by any person injured thereby.'

Sec. 627. R. S., c. 184, § 4, sub-§ I, amended. Subsection I of section 4 of chapter 184 of the Revised Statutes is amended to read as follows:

I. Injunctive relief; damages and costs. Any person damaged or who is threatened with loss or injury by reason of a violation or threatened violation

of the provisions of this chapter may bring a bill in equity civil action in the supreme judicial court or the Superior Court in term time or vacation in the county where he resides, to prevent, restrain or enjoin such violation or threatened violation. If in such action a violation or threatened violation of the provisions of this chapter shall be established, the court may enjoin and restrain or otherwise prohibit such violation or threatened violation. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant 3 times the amount of actual damages by him sustained and the costs of ~~suit~~ the action including reasonable attorneys' fees.'

Effective September 16, 1961

Chapter 318

AN ACT Relating to Maintenance of Cemeteries in Unorganized Territory.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 58, § 5, amended. The last sentence of section 5 of chapter 58 of the Revised Statutes is amended to read as follows:

'All expenses and costs incurred in ~~Discataquis County~~ any county while carrying out the provisions of this section shall annually be assessed, by the county commissioners of ~~Discataquis County~~, against the estates of said county.'

Effective September 16, 1961

Chapter 319

AN ACT Establishing Educational Requirements for Insurance Agents and Brokers.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 60, § 273-D, sub-§ VII-A, additional. Section 273-D of chapter 60 of the Revised Statutes, as enacted by section 13 of chapter 346 of the public laws of 1959, is amended by adding a new subsection VII-A, to read as follows:

'VII-A. Educational requirement. An applicant who is required to take a written examination must have completed the educational requirement prescribed by either paragraph A or B within the 2 years next prior to the date his application for a license is filed with the commissioner.

A. Required courses of instruction. He must have completed successfully such courses of instruction in insurance as may be required and approved by the commissioner. Such courses may be either in attendance at or under the supervision and direction of or by correspondence with an educational institution or insurance company approved by the commissioner.