

MAINE STATE LEGISLATURE

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REPORT

OF THE

COMMISSIONERS

APPOINTED TO REVISE THE

PUBLIC LAWS

OF THE

STATE OF MAINE.

TITLE VIII.

Augusta:

WM. R. SMITH & Co., PRINTERS TO THE STATE.

1840.

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TITLE EIGHTH.

OF JUDICIAL COURTS AND COURTS OF COUNTY COMMISSIONERS, THEIR GENERAL JURISDICTION AND THE OFFICERS THEREWITH CONNECTED.

- Chap.* 96. Of the supreme judicial court and its jurisdiction and the reporter of its decisions.
- 97. Of district courts and their jurisdiction.
 - 98. Of the municipal courts and police court in this State.
 - 99. Of county commissioners.
 - 100. Of clerks of the judicial courts.
 - 101. Of the attorney general and his duties.
 - 102. Of county attorneys.
 - 103. Of attorneys at law.
 - 104. Of the powers and duties of sheriffs, deputy sheriffs, jailors, constables; and of coroners in civil actions.
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CHAPTER 96.

OF THE SUPREME JUDICIAL COURT AND ITS JURISDICTION, AND OF THE REPORTER OF ITS DECISIONS.

- Sect.*
- 1. Organization of the court.
 - 2. Powers in civil cases.
 - 3. Powers in capital cases and certain others.
 - 4. General supervision of other courts.
 - 5. Power to issue various writs.
 - 6. Justices to be conservators of the peace.
 - 7. Vested with same powers granted to it by the act of June twenty-fourth, eighteen hundred and twenty, except so far as altered since that time.
 - 8. All writs shall be in name of State.
 - 9. Court may establish rules.
 - 10. Chancery jurisdiction.
 - 11. Court may issue injunctions and one justice may do it.
 - 12. Establishes the court for decision of law questions.
 - 13. Establishes the court for jury trials.
 - 14. In certain cases one justice may open the court at a law term, and proceed to business until a majority of the justices may attend.
 - 15. When no justice by reason of sickness, &c. does not attend at the day, the sheriff or clerk may adjourn the court from day to day, &c.
 - 16. Supreme court, shall have concurrent jurisdiction, with district court in certain civil actions.
 - 17. When court is holden by one justice, aggrieved party may allege exceptions, &c.—and manner of doing it.
 - 18. When allowed, cause to be continued to law term.

- Sect.* 19. At such term, the questions of law, shall be heard and decided.
 20. Court may allow interest on the verdict, in case, &c.
 21. And the justice who may allow and sign them, may, if he deem them frivolous, order judgment to be rendered on the verdict.
 22. Describes what are law questions.
 23. In certain cases, one justice may decide law questions.
 24. At any court, judgment may be entered in cases which have been continued for advisement.
 25. Any one justice may hear and try jury causes, &c. at a law term, after the questions of law are disposed of.
 26. When actions have been continued nisi, for argument, advisement or other reason, the decision may be pronounced at any term, in any county, and judgment may be entered in vacation, as of the preceding term.
 27. Mode of proceeding in such case, and the effect.
 28. Justices to make arrangements for holding the issue terms.
 29. Sup. judicial court, shall be supreme court of probate.
 30. Court to inspect probate records.
 31. To inspect records of judicial courts.
 32. Mode of describing the time of holding courts.
 33. Office of reporter.
 34. When there is a vacancy, governor to fill it.
 35. Reporter's duty.
 36. How his salary shall be paid.
 37. Times and places of holding law terms.
 38. Times and places of holding issue terms.
 39. Suits not to be discontinued, by failure of court to meet, &c.
 40. No court shall be opened on the Lord's day, unless, &c.
 41. Provision for special terms.
 42.

SECT. 1. The supreme judicial court, shall consist of a justice
 2 and two associate justices, each of whom, shall be an inhabitant
 3 of this State, of sobriety of manners, and learned in the law,
 4 appointed and commissioned, as prescribed in the constitution.

1820, 54, § 1.

SECT. 2. They, or a majority of them, shall have cognizance
 2 of pleas real, personal and mixed, and all civil actions, between
 3 party and party, and between the State, and any of the citizens
 4 thereof, or other persons resident within it, which may be legally
 5 brought before them, by original writ, writ of error, or otherwise.

SECT. 3. They shall have cognizance of all capital crimes
 2 and all other offences, and misdemeanors, which shall be legally
 3 prosecuted before them.

SECT. 4. They shall have the general superintendence of all
 2 courts of inferior jurisdiction for the prevention and correction
 3 of errors and abuses, where the laws have not expressly provided
 4 any remedy.

SECT. 5. They shall have power to issue writs of error,
 2 certiorari, mandamus, prohibition, quo warranto, and all other
 3 processes and writs to courts of inferior jurisdiction, to corpora-
 4 tions and individuals, which may be necessary for the furtherance
 5 of justice and the due execution of the laws. 1820, 54, § 2.

SECT. 6. The said justices, shall be conservators of the peace
 2 throughout the State. 1820, 54, § 1.

SECT. 7. And said court, shall continue to be vested generally with all jurisdiction, power and authority which were conferred upon it, by the act made and passed on the twenty-fourth day of June, in the year one thousand eight hundred and twenty; and enjoined to perform all the duties by said act required, except so far as those powers or duties may have been enlarged, limited, or varied by acts, subsequently made and passed, and which are now in force. 1820, 54, § 1.

SECT. 8. All writs and processes of the court, shall be in the name of the State of Maine; bear test of the first justice who is not a party to, or interested in the suit—and shall be under the seal of the court, and signed by the court. 1820, 54, § 3.

SECT. 9. The court, shall from time to time, establish and record all such rules and regulations as may be necessary, respecting the admission of attorneys; the modes of trial and the conduct of business, not being repugnant to law, whether in relation to suits at law or in equity. 1820, 54, § 4.

SECT. 10. The said court, shall also have power to hear and determine, as a court of equity, all cases of the kinds hereafter mentioned, when the parties have not a plain and adequate remedy at law—that is—

5 *First*, all suits for the redemption of mortgaged estates.

1820, 39, § 2.

6 *Second*, all cases of forfeitures of recognizances in criminal cases.

1820, 50, § 2.

7 *Third*, all cases of forfeiture of penalties to the State.

8 *Fourth*, all suits to compel the specific performance of contracts in writing, made since February tenth one thousand eight hundred and eighteen.

1820, 50, § 1.

11 *Fifth*, all cases of fraud, trust, accident or mistake.

12 *Sixth*, all cases of nuisance and waste. 1830, 462.

13 *Seventh*, all cases of partnership.

14 *Eighth*, all suits or bills for discovery, relating to any of the above mentioned cases, when a discovery may lawfully be required, according to the course of chancery proceedings—and in all other cases where equity powers are specially given to said court. 1827, 301.

SECT. 11. And the court may issue writs of injunction in all cases of equity jurisdiction, when necessary to prevent injustice, and any justice of said court may issue such writs, in such cases to continue in force until the end of the then next term of said court, unless sooner dissolved. 1830, 462, § 2.

SECT. 12. The supreme judicial court, shall be annually holden by a majority of the justices thereof, in the several places, and on the several days, as mentioned in a subsequent section of this chapter. 1823, 219, § 2.

SECT. 13. The said court, shall be annually holden by any one justice thereof, in the several places, and at the several times mentioned, in a subsequent section, and if a majority of the justices should be in attendance at such court, they may

5 exercise all the powers, and have cognizance, of all matters of
6 which they would have cognizance, at a court holden by virtue
7 of the preceding section. 1823, 219, § 2.

SECT. 14. Whenever at any court to be holden by a majority
2 of the justices thereof, that number shall not attend on the day
3 appointed for its session, any one justice attending, may open
4 the court, and proceed to the transaction of such business, as
5 one justice of said court is, by this act, authorized to do, until
6 the arrival of a majority of the justices. 1823, 219, § 7.

SECT. 15. Whenever from sickness, accident, or any unfor-
2 seen cause, no justice of said court, shall attend on the day for
3 holding the court, pursuant to the thirteenth section of this
4 chapter, the sheriff of the county or the clerk of said court shall
5 by verbal proclamation in the court house, or by public notice,
6 posted on the door thereof, adjourn the court from day to day,
7 till a justice shall attend; and in case of necessity, may adjourn
8 the court without day; and when such court or any district
9 court, shall be so adjourned, on account of the non-attendance
10 of any judge authorized to hold the same all actions brought for
11 such term may be entered by the clerk and with all continued
12 actions on the docket, shall be continued to and have day at the
13 next term. 1820, 54, § 7. 1823, 219, § 8.

SECT. 16. The supreme judicial court, shall have concurrent
2 jurisdiction, with the district court, in all civil actions, in which
3 the debt or damage demanded, exceeds the sum of two hundred
4 dollars; and in actions of replevin, trespass on lands, real
5 actions, actions against towns, and plantations and writs of
6 dower; and also appellate jurisdiction in the last enumerated
7 cases. 1835, 165, § 1. 1839.

SECT. 17. When the court is holden by any one of the justi-
2 ces thereof, any party thinking himself aggrieved by any
3 opinion, direction or judgment, of said justice, in any action or
4 process, civil or criminal, may allege exceptions to the same,
5 and such exceptions, shall be reduced to writing, in a summary
6 manner, and signed by the party or his council, excepting; and
7 presented to the court before adjournment, without day, and
8 allowed and signed, by the justice who tried the cause. 1823, 219, § 4.

SECT. 18. But notwithstanding such exceptions, made and
2 overruled by the presiding justice, during the trial, the proceed-
3 ings shall not be stayed, but after the trial has been closed, and
4 a verdict returned, the action shall be continued to the next
5 court to be holden pursuant to the twelfth section of this chap-
6 ter, for decision on the exceptions allowed, subject to the
7 provisions of the twenty-first section. 1823, 219, § 4.

SECT. 19. And the court to which any action may be con-
2 tinued on exceptions as aforesaid, or upon a report of the
3 presiding judge in any trial, or upon a statement of facts agreed
4 upon and signed in such court, or signed in the district court,
5 and brought by appeal before the supreme judicial court, for

6 final decision, shall have cognizance thereof, and do therein,
7 what to law and justice appertain. 1823, 219, § 4.

SECT. 20. And the court may allow interest on the damages
2 given in the action, from the time the verdict was returned to the
3 time of rendering judgment thereon. 1823, 219, § 4.

SECT. 21. And the justice who may allow and sign excep-
2 tions as aforesaid, may, if he deem them frivolous, or intended
3 for delay, enter judgment on the verdict, subject to exception,
4 revision and correction as aforesaid by the full court. 1823, 219, § 4.

SECT. 22. Indictments in capital cases; and all motions for
2 new trials and petitions for review; all appeals from the decrees
3 of the judge of probate, except such as shall be tried by jury,
4 questions of law arising on special verdicts, and facts agreed or
5 reserved, as stated in the nineteenth section; and all questions
6 on demurrer, shall be heard and determined by the court, holden
7 pursuant to the twelfth section; subject, however, to the pro-
8 vision contained in the thirteenth section. 1823, 219, § 5.

SECT. 23. But in all cases where any two of the justices of
2 said court have been of counsel for either party, or are other-
3 wise interested in such actions, one justice who is not disqualified
4 as aforesaid, shall have the like power to hear and decide all
5 questions and matters of law, mentioned in the preceding sec-
6 tion; and all actions, processes and matters, other than those
7 mentioned in this, and the preceding sections, may be heard
8 and determined, by any one justice of said court, holding the
9 same pursuant to the thirteenth section of this chapter. 1820, 56. 1823, 219, § 5.

SECT. 24. And at any such court, judgments may be entered
2 in those cases, which have been continued for advisement, or
3 other reason from a preceding term. 1820, 56. 1823, 219, § 5.

SECT. 25. Any one of the justices of said court, when holden,
2 pursuant to the twelfth section of this chapter, may hear and try
3 any causes, cognizable by one justice of said court after the
4 questions of law have been decided. 1823, 219, § 7.

SECT. 26. When at any term of said court, an action has
2 been, or shall be continued *nisi*, for argument upon questions of
3 law, by consent of parties, or for advisement by the court, or for
4 acceptance of a report of referees, in the same, or in any other
5 county by consent, or for any other cause; it shall be lawful for
6 the court to pronounce their decision, at any term and in any
7 county, and judgment may be entered in such action in the
8 county where the cause is depending, by special order of court,
9 as of the preceding term. 1820, 24, § 8.

SECT. 27. And in such case the clerk of said court shall
2 enter the judgment, according to such order, and also the day
3 on which the same was entered; and all liens, created by
4 attachment on mesne process, and then in force, shall continue
5 to be in force, for and during thirty days, after the then next
6 term of said court notwithstanding any law to the contrary. 1820, 24, § 8.

SECT. 28. It shall be the duty of the court, from time to time, to make all necessary arrangements for holding said court, pursuant to said thirteenth section of this chapter, so as to enable them to complete all the business pending in the several counties. 1820, 24, § 8.

SECT. 29. The supreme judicial court shall be the supreme court of probate, and shall have appellate jurisdiction of all matters determinable by judges of probate in their respective counties; and all appeals from any order or decree of a judge of probate, shall be to said supreme court of probate. 1820, 51, § 6.

SECT. 30. The justices of the supreme court of probate, shall examine or cause to be examined, the records of the registers of probate in the several counties; and if they are found deficient, shall give notice thereof to the treasurer of the county, in which such deficient register resides that his official bond may be put in suit. 1826, 343, § 6.

SECT. 31. The justices of the judicial courts, shall inspect the conduct of their clerks, with respect to their records; and if they are found deficient, they shall in writing certify the fact to the treasurer of the county, who has the possession of such clerk's official bond, that the same be put in suit by him. 1820, 108, § 3.

SECT. 32. In all writs, processes, and judicial proceeding, civil and criminal, the day on which any term is to commence, may be designated, as the first, second or other Tuesday (as the case may be) of the month in which the same shall happen. 1820, 54, § 5.

SECT. 33. The office of reporter of decisions of the supreme judicial court, as it has been established by law, and now exists, shall be continued. 1820, 54, § 9.

SECT. 34. Whenever there shall be a vacancy in said office, it shall be the duty of the governor, with advice of the council, to appoint some suitable person, learned in the law, to be a reporter of the decisions of said court who shall be duly sworn, and removable at the pleasure of the executive. 1820, 54, § 9.

SECT. 35. It shall be his duty personally to attend at each law term of the court, annually, to obtain true and authentic reports of such decisions, as may be hereafter made; and when he is not present at any term, he shall by other means obtain such decisions; and shall publish the same, when they will comprise a suitable volume. 1820, 54, § 9.

SECT. 36. The money paid by persons admitted to practice, as attorney's in said court, shall be a fund for the payment of the salary of the reporter; and if insufficient, the residue shall be paid out of other monies in the treasury, not otherwise appropriated. 1820, 54, § 9.

SECT. 37. That pursuant to the provision contained in the twelfth section of this chapter, the court shall be holden at the several places and times as follows:

- 4 In and for the county of Cumberland, at Portland, on the
- 5 Tuesday next but one, preceding the last Tuesday of April.
- 6 In and for the county of York, at Alfred on the last Tuesday
- 7 of April.
- 8 In and for the county of Oxford, at Paris, on the third Tuesday
- 9 of May.
- 10 In and for the county of Lincoln, at Wiscasset, on the fourth
- 11 Tuesday in May.
- 12 In and for the county of Kennebec, at Augusta, on the first
- 13 Tuesday, next after the fourth Tuesday of May.
- 14 In and for the county of Franklin, at Farmington, on the
- 15 second Tuesday, next after the fourth Tuesday of May.
- 16 In and for the county of Somerset, at Norridgewock on the
- 17 third Tuesday, next after the fourth Tuesday of May.
- 18 In and for the county of Piscataquis, at Dover, on the fourth
- 19 Tuesday next after the fourth Tuesday of May.
- 20 In and for the county of Penobscot, at Bangor on the fifth
- 21 Tuesday, next after the fourth Tuesday of May.
- 22 In and for the county of Washington, at Machias, on the sixth
- 23 Tuesday, next after the fourth Tuesday of May.
- 24 In and for the county of Hancock, at Ellsworth, on the seventh
- 25 Tuesday next after the fourth Tuesday of May.
- 26 In and for the county of Waldo, at Belfast, on the eighth
- 27 Tuesday, next after the fourth Tuesday of May.

SECT. 38. That pursuant to the provision contained in the
2 thirteenth section of this chapter, the court shall be holden at
3 the several places and times as follows.

- 4 In and for the county of Cumberland, at Portland, on the
- 5 second Tuesday of November.
- 6 In and for the county of York, at Alfred, on the third Tuesday
- 7 of September.
- 8 In and for the county of Oxford, at Paris, on the second Tues-
- 9 day of October.
- 10 In and for the county of Lincoln, at Wiscasset, on Wednesday
- 11 next after the second Tuesday of September.
- 12 In and for the county of Kennebec, at Augusta, on the first
- 13 Tuesday of October.
- 14 In and for the county of Somerset, at Norridgewock, on the
- 15 last Tuesday of September.
- 16 In and for the county of Penobscot, at Bangor, on the fourth
- 17 Tuesday of October.
- 18 In and for the county of Waldo, at Belfast, on the second
- 19 Tuesday of December.

SECT. 39. No suit, process or proceedings, pending in any
2 court shall be discontinued by reason of such court, not having
3 been held at any stated term or at any adjournment thereof, but
4 they shall be respectively returned to, and have day in, the term
5 or session which shall be held next after such failure.

M. R. S. 89, § 1.

SECT. 40. No court shall be opened on the Lord's day, unless for the purpose of instructing or discharging a jury or receiving a verdict; but this shall not prevent any magistrate when necessary in a criminal case, from preserving the peace, or arresting offenders. 13 Mass. 347.

SECT. 41. In certain cases a special term of the supreme judicial court, may be notified and held, as provided in the twentieth and twenty-first sections of chapter ———

SECT. 42. Whenever a surveyor shall be appointed in any pending action, in the supreme judicial court or district court, to run the lines of the premises in question, and shall make return that he has been prevented by force menaces, or fear from performing the duty assigned him, such court may, at discretion, issue a warrant to the sheriff of the county, commanding him with suitable aid, to cause such opposition to such surveyor in executing the said duties to be suppressed; and the powers of the sheriff under such warrant, and the duties and the liabilities of all required to aid him, shall be the same as in executing any legal process mentioned in this chapter.

1826, 340.

NOTES.

SECT. 20. This section merely declares to be law what has been the practice ever since the *nisi prius* system was introduced; and it was introduced to do justice to the party recovering damages by allowing him interest on the verdict while he was delayed, and during the time the cause was pending for argument and the advisement of the court.

SECT. 26. In this section some additional reasons for a continuance *nisi* are introduced, which have, since the existing act was passed, been found necessary for preserving attachments, where judgment is entered by order of court in vacation.

SECT. 39. This section is a provision which recent events have shewn necessary, to preserve rights.

SECT. 40. This is a new section which may be useful.

CHAPTER 97.

OF DISTRICT COURTS AND THEIR JURISDICTION.

- Sect. 1. State divided into three districts.
 2. Western districts—what.
 3. Middle districts—what.
 4. Eastern districts—what.
 5. Appointment of judges in the district.
 6. Jurisdiction of court—exclusive.

Sect. 7. Jurisdiction of court—concurrent.

8. Jurisdiction of offences.

9. Court may administer oaths, &c.

10. In case of judge being interested—provision made.

11. If no justice appears, sheriff or clerk may adjourn.

12. Form of process.

13. Party may appeal in certain cases.

14. Must recognize.

15. When plaintiff appeals—what costs.

16. When defendant appeals—what costs.

17. Consequence of not entering appeal.

18. Party may file exceptions in matter of law.

19. Party excepting to enter the action, &c.

20. Consequence of neglect, &c.

21. Appeal in criminal cases, &c.

22. If not entered—consequences.

23. May grant new trials—

24. At same term, or a subsequent one.

25. Four restrictions as to them.

26. May make necessary rules.

27. Time and places of holding court.

28. Further power given.

SECT. 1. The State is hereby divided into three districts
2 which shall be denominated the western, the middle, and the
3 eastern districts. 1839, 2.

SECT. 2. The western district shall be composed of the coun-
2 ties of York, Cumberland, Oxford and Franklin.

SECT. 3. The middle district, shall be composed of the coun-
2 ties of Lincoln, Kennebec and Somerset.

SECT. 4. The eastern district shall be composed of the coun-
2 ties of Waldo, Piscataquis, Penobscot, Hancock, Washington
3 and Aroostook. 1839, 2.

SECT. 4. There shall continue to be one justice of the district
2 court in and for the said western district ; and one other justice
3 of said court, in and for the said middle district ; and two other
4 justices of said court, in and for the said eastern district ; and
5 the justices of said court, who are now in office, shall continue
6 to hold their said offices according to the tenor of their respec-
7 tive commissions ; and when a vacancy shall occur in the office
8 of either of said justices, it shall be the duty of the governor,
9 with advice of council, to appoint some person learned in the
10 law, to supply the said vacancy, who shall be commissioned,
11 qualified and sworn in the manner required by the constitution,
12 to perform the duties appertaining to said office.

SECT. 6. The district court held in any district by one justice
2 thereof, shall have original and exclusive jurisdiction of all civil
3 actions, where the debt or damage demanded does not exceed
4 two hundred dollars, excepting the following—that is to say :
5 *First*, actions of which a municipal court }
6 *Secondly*, those of which a police court—and } have jurisdiction.
7 *Thirdly*, those of which justices of the peace }
8 *Fourthly*, actions of replevin.

- 9 *Fifthly*, actions of trespass on land.
10 *Sixthly*, writs of entry.
11 *Seventhly*, actions against towns and plantations.
12 *Eighthly*, writs of dower.

SECT. 7. And such district court, shall have original and current jurisdiction with the supreme judicial court in all actions above described (except those triable in a municipal or police court, or by justices of the peace) and also of all civil actions in which the debt or damage demanded exceeds the sum of two hundred dollars. 1839, 6.

SECT. 8. Such district court shall have jurisdiction of all such offences, crimes and misdemeanors, as are by law, made or shall be made, cognizable by said court, and appellate jurisdiction of all civil actions and of all crimes and offences, which may, by existing or future provisions of law, be carried by appeal to the said court.

SECT. 9. The said district court may administer all necessary oaths, render judgment and award execution, and do and perform whatever by the constitution and laws, it shall be their duty to do, and whatever the said court of common pleas could lawfully do—on the day the same was abolished. 1839, 1.

SECT. 10. Whenever the justice in the western or middle district, or both the justices in the eastern district, shall be interested or otherwise disqualified to preside in the trial of any cause pending in his or their district, the same shall be transferred to the supreme judicial court, next to be held in the county in which the action is pending, if any term of the supreme judicial court shall be held therein, by law, and if not, then the cause shall be transferred to the court in that county in the district, having appellate jurisdiction of the same cause. 1839, 2.

SECT. 11. When no justice shall attend at the time and place, when and where by law or adjournment a court ought to be held, the sheriff or in his absence, the clerk of the court, may adjourn from day to day, or to such time as the justice of the district shall attend; and shall post notice of such adjournment, in writing on the door of the court house. 1839, 2.

SECT. 12. All writs and processes issuing from such court, shall be in the form long since established by law, and now in use, and shall be so authenticated, signed, sealed, served, returned and obeyed. 1839, 3.

SECT. 13. Any party aggrieved at the judgment of any district court, in any personal action, wherein issue has been joined, and a verdict given, in which the debt or damage demanded, exceeds two hundred dollars, or in any action of replevin or action of trespass on lands, writ of entry or of dower, or action against a town, may appeal therefrom to the next supreme judicial court, to be held within the same county.

SECT. 14. The party appealing, before such appeal shall be allowed, shall recognize with sufficient surety or sureties to the

3 adverse party, to prosecute his appeal and pay all costs accruing
4 after such appeal. 1839, 4.

SECT. 15. When any such appeal shall be made in any
2 action, except actions of trespass on land, replevin, actions
3 against towns, writs of entry or writs of dower, by any plaintiff,
4 and he shall not recover more than two hundred dollars debt or
5 damage; he shall not recover any costs after such appeal, but
6 the defendant shall recover his costs on such appeal against the
7 plaintiff, and have a separate execution for the same. 1839, 4.

SECT. 16. When such appeal is made by the defendant, and
2 the debt or damages are not reduced, the plaintiff shall be
3 entitled to recover double costs on the appeal, unless the justice,
4 trying the cause in the district court, shall certify that there was
5 just and reasonable cause for such appeal. 1839, 4.

SECT. 17. If appellant shall not enter his appeal in the
2 supreme judicial court, they may, on complaint render judgment
3 in such action, according to the provisions in this chapter. 1839, 5.

SECT. 18. Any party aggrieved by any opinion, direction or
2 judgment of the district court in any matter of law, in a cause
3 not otherwise appealable, may allege exceptions to the same;
4 and when reduced to writing in a summary way, and being
5 found correct shall be allowed and signed by the presiding judge
6 of the court, before the adjournment thereof without day, all
7 further proceedings in said court shall be stayed. 1839, 5.

SECT. 19. In such case the party alleging the exceptions,
2 shall enter the action in the supreme judicial court, at the next
3 term thereof in the same county, and produce all the papers, as
4 in case of appeal; and the supreme judicial court, shall have
5 cognizance of the cause and determine the same, as they may
6 actions originally commenced in that court, and render judg-
7 ment or grant a new trial, as in such cases. 1839, 5.

SECT. 20. When the party alleging exceptions, shall fail to
2 enter the action at the supreme judicial court, at the next term,
3 and the adverse party shall enter his complaint; or when the
4 court shall determine the exceptions, frivolous or alleged for
5 delay, the court shall award double costs—against the excepting
6 party and legal interest thereon. 1839, § 5.

SECT. 21. Any person convicted of an offence, in the district
2 court may allege exceptions to any opinion, direction or judg-
3 ment of said court, which shall be allowed and signed by the
4 presiding judge in the same manner above mentioned; and the
5 person alleging the exceptions, shall recognize with sureties as
6 the court shall direct to enter his appeal as aforesaid, in the
7 supreme judicial court, which shall have cognizance thereof,
8 and may grant a new trial and enter judgment or remand the
9 cause to the district court. 1839, § 5.

SECT. 22. If he shall fail to enter and prosecute his appeal,
2 the court may sentence him to such punishment as the district

3 court might have inflicted, or adjudge the recognizance forfeited
4 or both, as the case may require.

SECT. 23. The district court shall have power to grant a new
2 trial of any action, and for any cause for which, by the common
3 law a new trial, may be granted, or when in the opinion of the
4 court, justice has not been done between the parties, on such
5 conditions as the court may think proper to impose.

1839, § 7.

SECT. 24. Such new trial may be granted at the same term
2 at which the judgment was rendered, or at a subsequent term.

1839, § 7.

SECT. 25. But no such new trial shall be granted, except
2 when the judgment of the district court is final, nor without due
3 notice has been given to the adverse party; nor where there
4 have been two verdicts in the cause against the applicant; nor
5 after the lapse of one year after the judgment was rendered.

1839, § 7.

SECT. 26. The court shall have power from time to time to
2 establish rules as to entry of actions, filing pleas in abatement
3 and demurrers to declarations and the conduct of business as
4 they may think proper, not repugnant to the laws of the State.

1839, § 7.

SECT. 27. The district court shall be held annually, in the
2 several counties in the State, at the places and times hereinafter
3 mentioned; that is to say:

4 At Alfred, in and for the county of York, on the second Mon-
5 day of February; the last Monday of May and the third Monday
6 of October.

7 At Portland, in and for the county of Cumberland on the first
8 Tuesday of March, the third Tuesday of June and the first Tues-
9 day of October.

10 At Warren, in and for the county of Lincoln, on the first Tues-
11 day of April; at Topsham, on the fourth Tuesday of August and
12 at Wiscasset on the fourth Tuesday of December.

13 At Augusta, in and for the county of Kennebec, on the first
14 Tuesdays of April, August and December; at Norridgewock in
15 and for the county of Somerset, on the second Tuesday of March;
16 the last Tuesday in June, and the first Tuesday of November.

17 At Ellsworth, in and for the county of Hancock on the fourth
18 Tuesday of April, and the third Tuesday of October.

19 At Machias, in and for the county of Washington, on the last
20 Tuesday in February and third Tuesday in September.

21 At Paris, in and for the county of Oxford, on the second Tues-
22 days of June and November.

23 At Bangor, in and for the county of Penobscot, on the first
24 Tuesday of January, the first Tuesday in October, and the fourth
25 Tuesday in May.

26 At Belfast, in and for the county of Waldo on the fourth Tues-
27 days of March and September.

28 At Farmington, in and for the county of Franklin, on the first
29 Thesdays of March and September.

- 30 At Dover, in and for the county of Piscataquis on the fourth
 31 Tuesday of March, and third Tuesday in September.
 32 At Houlton, in and for the county of Aroostook, on the third
 33 Tuesday of January and the first Tuesday of July.

SECT. 28. The district court shall have the like power as is
 2 given to the supreme judicial court in section forty-two of chap-
 3 ter ninety-six.

CHAPTER 98.

OF THE MUNICIPAL COURTS AND POLICE COURTS IN THE STATE.

IN PORTLAND.

- Sect. 1. Municipal court to continue—expenses how defrayed.
 2. When a vacancy in office happens, to be filled.
 3. Jurisdiction of the court—in civil cases.
 4. Keeping of the records.
 5. Judge not to act as counsellor.
 6. Jurisdiction in criminal cases.
 7. Aggrieved party may appeal.
 8. Fines to be accounted for.
 9. Court shall have jurisdiction, though penalty accrues to the city.
 10. Time of holding courts.
 11. Recorder to be appointed by judge.
 12. Provision in case of sickness or absence of judge, &c.
 13. Provision when judge and recorder are both absent, &c.
 14. Provision in case of vacancy in the office.
 15. Justices of the city, their jurisdiction taken away, penalty, &c.
 16. Exception to the preceding section.
 17. Certain cases in which recorder may issue warrants, &c.

IN BATH.

18. Court and officers to be continued.
 19. In case of vacancy, governor to appoint.
 20. Time and place of holding courts.
 21. Court may exercise the same jurisdiction in Bath and Lincoln county,
 as the municipal court in Portland does in that city and Cumberland
 county.
 22. Aggrieved party may appeal, &c.
 23. Judge may appoint a recorder, &c.
 24. Provision in case of vacancy, &c.
 25. Judge shall not act as counsellor.
 26. Fines to be accounted for.
 27. Justices in Bath, not to exercise power.

POLICE COURT IN BANGOR.

28. Present court to be continued, and its powers.
 29. Jurisdiction of the court.
 30. Same subject.
 31. Same subject.
 32. Same subject.
 33. Persons aggrieved may appeal.
 34. Judge's duty as to keeping his records.
 35. Times and places of holding court.

- Sect. 36. Provision in case of death, sickness, &c.
 37. City shall raise money to defray expenses of court.
 38. Judge shall not act as counsellor.
 39. Repealing clause of certain parts of the charter of Bangor.

SECT. 1. The municipal court established in the city of Portland and county of Cumberland, clothed with its present jurisdiction and powers, shall continue until altered by law, and the judge thereof continue to hold his office according to the tenor of his commission; and the city may raise money for defraying the expenses of said court and its accommodations.

1828, 381, § 4.

SECT. 2. Whenever a vacancy in the office shall occur, it shall be the duty of the governor by advice of council to appoint a judge thereof, who shall be duly sworn; and said court shall always consist of one judge.

1825, 304—294, § 1.

SECT. 3. He shall exercise jurisdiction over all such matters and things, within said county, as justices of the peace may exercise, and under similar restrictions and limitations, also concurrent jurisdiction with justices of the peace and quorum, in cases of forcible entry and detainer in said county; and exclusive jurisdiction, where both parties interested, or the plaintiff and a person sued as trustee, are inhabitants of said Portland, except when said judge is interested.

1826, 324, § 1.

SECT. 4. He shall keep fair records of his proceedings, and deliver copies when required, and being certified by him shall be legal evidence.

1826, 324, § 1.

SECT. 5. He shall not in any case, act as counsellor or attorney in any court.

1823, 324, § 4.

SECT. 6. The said court may take cognizance of simple larcenies when the property alleged to be stolen, shall not exceed in value twenty dollars, and on conviction, award such sentence as is by law provided for such offences; and have exclusive jurisdiction of all offences against the by-laws of said city; and in prosecutions on such by-laws, they need not be recited in the complaint, nor the allegations therein, be more particular than in prosecutions on a public statute, and the same proceedings may be had in the same manner, against persons keeping houses of ill fame, for the purposes of lewdness or prostitution, on complaint of the overseers of the poor, or any other person.

1826, 324, § 3. 1826, 324, § 2.

SECT. 7. Any person may appeal from a sentence or judgment against him, to the then next district court, holden in said county, in the same manner as from a sentence or judgment of a justice of the peace.

1825, 294, § 3.

SECT. 8. All fines and penalties awarded by said judge, shall be accounted for and paid over, as in case of those awarded by a justice of the peace.

1825, 294, § 5.

SECT. 9. The court shall have jurisdiction, though the penalty
2 demanded in any action or prosecution accrues to the city of
3 Portland. 1826, 324, § 2.

SECT. 10. The municipal court shall be held on Monday and
2 Thursday of each week, at nine of the clock in the forenoon,
3 and no civil process shall be returnable at any other time.
1828, 381, § 1.

SECT. 11. There shall be a recorder of the court, who shall
2 always be a justice of the peace and duly qualified as such, and
3 he shall be appointed by the judge of the court; and he shall
4 be duly sworn as recorder. 1828, 381, § 2, 3. 1837, 266, § 1.

SECT. 12. When the judge is sick or necessarily absent, it
2 shall be the duty of the recorder, and he shall have authority to
3 exercise all the powers of the judge, excepting the trial of issues
4 in civil actions. 1828, 381, § 2.

SECT. 13. If the judge and recorder are both sick or absent,
2 the judge may designate some justice of the peace duly qualified
3 to perform the duties of his office; or if the judge should not
4 so designate a justice of the peace, the recorder may do it.
1837, 266, § 1.

SECT. 14. When the office of judge shall be vacant, the
2 recorder shall finish the business pending before the court; and
3 during the continuance of such vacancy, the justices of the peace
4 residing in the city of Portland, may perform all acts and duties
5 appertaining to the office of justice of the peace.
1837, 266, § 2.

SECT. 15. No justice of the peace residing in the city of
2 Portland, except during the vacancy in the office of the judge
3 of said court, as mentioned in the preceding section, shall in
4 any manner take cognizance of or exercise jurisdiction over any
5 crime or offence or in any civil action, wherein the judge is not
6 a party or interested; nor accept or receive any fee or reward
7 therefor; and any such justice of the peace, by violating this
8 section, shall forfeit twenty dollars to be recovered on indictment.
1825, 294, § 2.

SECT. 16. But nothing in the preceding section shall be con-
2 strued as prohibiting the justices of the peace, residing in
3 Portland, from exercising at all times all the power and juris-
4 diction given them by any laws of the United States.
1826, 294, § 2.

SECT. 17. When the judge is occasionally absent from the
2 room or office, in which the court is held, the recorder shall
3 have power, on proper complaint, to issue warrants for the
4 apprehension of persons charged with any criminal offence or
5 breach of the peace—and they shall have the same authority as
6 if issued by the judge. 1829, 523.

In Bath.

SECT. 18. The municipal court in the town of Bath, in the
2 county of Lincoln, shall continue in possession of its present
3 powers, and jurisdiction until the same shall be altered, and the

4 judge thereof shall continue to hold his office according to the
5 tenor of his commission. 1834, 134.

SECT. 19. When a vacancy shall happen in the office of judge,
2 the governor with advice of council, shall appoint a suitable
3 person to be judge of said court, who shall be duly sworn.

1834, 134, § 7.
SECT. 20. The court shall be held at such time and place in
2 Bath as the judge thereof, shall direct; and said town may raise
3 money to furnish a room and pay such expenses of the court as
4 may be necessary. 1834, 134, § 3.

SECT. 21. The court shall continue to have and may exercise
2 the same jurisdiction in Bath and in the county of Lincoln, as
3 the municipal court in the city of Portland, may lawfully exercise
4 in that city and in the county of Cumberland; and in addition
5 thereto, he may sentence any person convicted before him to the
6 house of correction or jail of said county on such terms as may
7 be agreed upon between the town of Bath and the overseers of
8 the house of correction, and the county of Lincoln.

1834, 134, § 1, 4.

SECT. 22. Any person aggrieved by any sentence or judg-
2 ment of said court, may appeal to the next district court in the
3 county as provided in the seventh section. 1834, 134, § 5.

SECT. 23. The judge may appoint a recorder, (who shall be
2 a justice of the peace for said county duly qualified) at his own
3 expense, and during his pleasure, who shall be duly sworn; and
4 in case of absence or sickness of the judge, shall have all the
5 powers of the judge except the trial of issues in civil actions.
1837, 266. 1834, 134, § 6.

SECT. 24. In case of the death of the judge, such recorder
2 shall have all the powers, be liable to all the duties and entitled
3 to the salary of the judge, until a judge shall be commissioned
4 and sworn. 1837, 266. 1834, 134, § 6.

SECT. 25. The judge shall not act as counsellor or attorney
2 in any case which may come before the court. 1834, 134, § 7.

SECT. 26. All fines and penalties, awarded by the judge shall
2 be accounted for in manner before provided in case of those
3 awarded by a justice of the peace. 1834, 134, § 7.

SECT. 27. No justice of the peace in Bath, shall exercise
2 any civil or criminal jurisdiction (except under the authority of
3 the United States) in any civil or criminal process, wherein the
4 judge is not a party, or interested, under the penalty of twenty
5 dollars to be recovered on indictment. 1834, 134, § 2.

Police Court in Bangor.

SECT. 28. The police court for the city of Bangor, in the
2 county of Penobscot, established by an act of the Legislature
3 and approved March, twenty-third, eighteen hundred and thirty-
4 nine, shall continue to possess its present powers, until changed
5 by law; and the judge thereof shall continue to hold his office,
6 according to the tenure thereof. 1839.

SECT. 29. The judge of the court shall have concurrent jurisdiction with justices of the peace in all matters, civil and criminal, under twenty dollars, within the county of Penobscot.

SECT. 30. He shall have original and exclusive jurisdiction in all civil actions if otherwise cognizable by a justice of the peace, in which both parties interested, or in which the plaintiff and the person or persons summoned as trustee or trustees, shall be inhabitants of or residents in said city, excepting all actions in which such judge may be interested.

SECT. 31. Such court shall also have concurrent jurisdiction with justices of the peace and quorum in all cases of forcible entry and detainer arising in said county, and exclusive jurisdiction, in all such cases arising in said city.

SECT. 32. He shall have original and exclusive jurisdiction of all offences against the by-laws of the city.

SECT. 33. Any person aggrieved by any judgment or sentence awarded by said court, may appeal therefrom to the district court, in like manner as from a judgment or sentence awarded by a justice of the peace or by a justice of the peace and quorum.

SECT. 34. It shall be the duty of said court to make and keep his records and perform all the duties which are usually exercised by justices of the peace. The price of blank writs signed by the judge shall be no more than four cents each; and copies of the records of such court duly certified, shall be legal evidence in all courts.

SECT. 35. The court shall be held weekly, on Monday at nine of the clock in the forenoon, at such place as shall be provided by the city; and all civil processes, shall be made returnable accordingly. The fees in all cases shall be the same as are taxable by justices of the peace, and all fines shall be accounted for and paid over by said judge as if awarded by a justice of the peace.

SECT. 36. In case of the death, sickness, or inability of the judge to attend at the place appointed on any court day, to transact business, such court shall stand adjourned to the succeeding Monday; and so from week to week until the judge is able to attend; and in the cases before mentioned, the criminal jurisdiction shall devolve on the justices of the peace for the county during the continuance of such disability, and until such proceedings as are instituted during its continuance, shall have the final adjudication of such justices.

SECT. 37. The city of Bangor shall raise and assess monies for defraying the expenses of such court and providing a suitable place for holding the same.

SECT. 38. The judge shall not act as counsel or attorney in any case within the jurisdiction of the court, nor in any cause or matter or thing which may depend on or relate to any cause cognizable by said court.

SECT. 39. All parts of the act entitled "an act to incorporate the city of Bangor," inconsistent with the provisions of this chapter, are hereby repealed.

CHAPTER 99.

OF COUNTY COMMISSIONERS.

- Sect.* 1. Constitution of the board and tenure office.
 2. Same subject.
 3. Their general powers and duties.
 4. To provide fire proof buildings for preservation of records.
 5. To cause jails to be erected, and kept in repair.
 6. Prisoners for debt to be kept separate from criminals.
 7. State of the prisons to be examined into, &c.
 8. Times and places for stated meetings.
 9. Clerk of the board.
 10. Mode of keeping records by a temporary clerk.
 11. Of a quorum and of adjournments without a quorum.
 12. Petitioners to pay expenses, if prayer not granted.
 13. Compensation of the commissioners.
 14. Of the settlement of their accounts for services.
 15. The same to be published and sent to the secretary of state.
 16. Commissioners not to be agents in certain cases.
 17. Of changing the location of county buildings.
 18. Same subject.
 19. Officers to obey the precepts of the board.
 20. Of warrants of distress.
 21. Debt and scire facias on judgments.
 22. Remedies for inhabitants of towns in certain cases.
 23. Commissioners' duty respecting defective roads.

SECT. 1. The county commissioners in the respective counties shall continue in office, until the expiration of four years from the time of their appointment, unless before removed by the governor and council. The board shall consist of a chairman and two other members in each county, and citizens of and resident in their respective counties. 1831, 500, § 1.

SECT. 2. Whenever vacancies shall occur in the office aforesaid, there shall be appointed by the governor and council, suitable persons to fill the same, citizens and residents as aforesaid, in the county for which they shall be appointed who shall also hold their offices for the said term of four years unless sooner removed by the governor and council. The chairman, in each county shall be designated as such by his commission. 1831, 500, § 1.

SECT. 3. The county commissioners, for their respective counties shall have power to provide for the erecting and repair-

3 ing of court houses, jails and other necessary public buildings
4 within and for the use of the county; to make estimates to be
5 laid before the Legislature of the sums, which may from time to
6 time be necessary to be assessed for defraying county charges,
7 and to take the necessary and legal measures for apportioning
8 and assessing the same; to examine, allow and settle all accounts
9 of the receipts and expenditures of the monies of the county;
10 to represent their respective counties and to have the care of
11 the county property and the management of the business and the
12 concerns of the county, and by their order of record, appoint
13 an agent to sell and dispose of any real estate of said county
14 for and on behalf of the inhabitants of said county; to lay out,
15 alter or discontinue highways or other ways, to award damages
16 occasioned thereby, and do any thing else, which by the laws of
17 th's State, now in force, is authorized to be done by the county
18 commissioners or by a court of sessions.

1831, 500, § 1. 1821, 73, § 1. 1821, 46, § 3.

SECT. 4. The commissioners in each county, shall provide
2 suitable fire proof buildings of brick or stone, for the safe keep-
3 ing of records, files, papers and documents, pertaining to the
4 offices of the register of deeds, register of probate and clerk of
5 the judicial courts; with separate fire proof rooms for said
6 offices, with suitable alcoves, cases or boxes. 1821, 109, § 1.

SECT. 5. The commissioners shall assess such sums as the
2 Legislature may from time to time require on the polls and
3 estates in their respective counties, to erect and keep in repair
4 a good and sufficient jail in each town, where the supreme judi-
5 cial court is by law required to be holden, if no other provision
6 is made by law; and they shall at their discretion order and
7 direct respecting the building and repairing the same.

1821, 110, § 1.

SECT. 6. The said commissioners shall also provide at the
2 expense of their respective counties, sufficient and convenient
3 apartments in said jails for receiving and lodging prisoners for
4 debt separate from criminals. 1821, 110, § 1.

SECT. 7. The commissioners shall also at the beginning of
2 each of their stated sessions inquire into the state of the respec-
3 tive prisons in their counties, and take necessary precautions as
4 to their security from escape, infection or other sickness, and as
5 to the condition and accommodation of all the prisoners.

1821, 110, § 1.

SECT. 8. The county commissioners shall statedly meet in
2 and for their respective counties for the discharge of the duties
3 of their office at the time and places following, to wit:

Vol. 3, 500, § 2—306, § 2.

4 In the county of York at Alfred, on the Tuesday next preced-
5 ing the last Monday of May, and on the second Tuesday of
6 October. 1833, 55, § 1.

7 In the county of Cumberland, at Portland, on the first Tuesday
8 of June and third Tuesday of December. Vol. 3, 348.

9 In the county of Lincoln at Wiscasset on the second Tuesday
10 of January, at Warren, on the second Tuesday of May and at
11 Topsham on the first Monday of September.

Vol. 3, 493—1832, 26.

12 In the county of Kennebec, at Augusta on the last Tuesdays
13 of April and December.

Vol. 3, 500, § 2.

14 In the county of Somerset, at Norridgewock on the third
15 Tuesday of March and the first Tuesday of October.

Vol. 3, 500, § 2.

16 In the county of Hancock, at Ellsworth, on the last Tuesday
17 of April, and on the Thursday following the third Tuesday of
18 October.

Vol. 3, 258, § 1—374.

19 In the county of Washington, at Machias, on the first Wednes-
20 day next after the first Tuesday of March, and on the first Wed-
21 nesday, next after the third Tuesday of September

Vol. 3, 306, § 2.

22 In the county of Oxford, at Paris, on the third Tuesday of
23 June, and the last Tuesday of October.

Vol. 3, 371.

24 In the county of Penobscot, at Bangor, on the first Tuesdays
25 of April and August, and on the second Tuesday of December.

1832, 12.

26 In the county of Waldo, at Belfast, on the third Tuesdays of
27 April and August.

1832, 500, § 2—354 and 372.

28 In the county of Franklin, at Farmington on the last Tuesdays
29 of April and December.

1838, 328, § 2.

30 In the county of Piscataquis, at Dover, on the first Tuesdays
31 of April and December.

1838, 355, § 3.

SECT. 9. The clerk of the judicial courts in each county shall
2 be the clerk of the commissioners; but whenever the supreme
3 judicial court, or the district court, shall be in session at the
4 same time, with the county commissioners, the said clerk may
5 appoint some suitable person to act as clerk pro tempore to the
6 commissioners, who shall be sworn to the faithful discharge of
7 his duties, and for whom he shall be accountable.

1838, Vol. 3, 306, § 3, 4.

SECT. 10. The clerk pro tempore appointed as aforesaid shall
2 make a daily record of the doings of said commissioners, which
3 record they shall examine and certify, if correct, and when thus
4 certified, the same shall be by the stated clerk, copied into the
5 records of said commissioners.

1838, 306, § 14.

SECT. 11. At any meeting of the commissioners of any county,
2 any two of the board shall be a quorum for the transaction of
3 business; but if only one member be present, he shall have
4 power to adjourn the meeting to any convenient time or place.
5 If no commissioner shall attend at any place and time of meet-
6 ing duly appointed, the clerk shall have the same authority to
7 adjourn the court, as is provided in like case, of the supreme
8 judicial court.

1838, 306, § 6. 1832, 42, § 4.

SECT. 12. Whenever the county commissioners shall decide
2 against the prayer of any petition, they shall order the petition-

3 ers to pay into the county treasury all expenses incurred by the
4 county by reason of said petition and the proceedings thereon,
5 and fix a reasonable time for such payment; and if the same be
6 not paid as aforesaid, they shall issue a warrant of distress
7 against the petitioners. 1832, 42, § 5.

SECT. 13. The compensation of each county commissioner
2 shall be three dollars a day and in that proportion for any part
3 of a day actually employed in the service of the county, includ-
4 ing time necessarily spent in making drafts or other labor, and
5 exclusive of time spent in travelling for which they shall be
6 allowed ten cents a mile for the distance actually travelled;
7 and no additional charges shall be allowed for trouble or
8 expenses of any kind, neither shall they be allowed for services
9 or travel on more than one petition, or one case at the same
10 time. 1833, 79, § 5. M. R. S. 84, § 4.

SECT. 14. Each commissioner shall keep an accurate account
2 of his time spent and actual travel, as aforesaid, specifying the
3 places from and to which he travelled; and he shall not be
4 allowed for any services not so specified. Such account shall
5 be audited and examined by the county attorney and clerk, who
6 shall certify the amount allowed, one of them, having first sworn
7 such commissioner to the truth of his account, and no further
8 sum shall be paid on such account by the county, than is thus
9 certified. 1833, 79, § 5.

SECT. 15. The clerk shall cause a copy of such account to be
2 published in some newspaper printed in the county, if any there
3 be; and he shall also return a copy thereof to the secretary of
4 the State, on or before the first day of January in each year.

1833, 79, § 5.

SECT. 16. No county commissioner, shall be appointed on any
2 agency to lay out and expend for any purpose any sum or sums
3 of money assessed, or raised by warrant of distress or otherwise,
4 under the authority of the board of which he is a member.

1836, 198, § 1.

SECT. 17. The commissioners in their respective counties
2 shall not have power to remove any county building in the shire-
3 town of such county, nor to erect a new building as a substitute
4 for any such building, to or at a distance exceeding one half of
5 a mile from the former location, of such building, without giving
6 notice of their intention, and the place where such building is
7 proposed to be removed or erected, to the selectmen of each
8 town, and the assessors of each organized plantation, in such
9 county, and obtaining the consent of the inhabitants of the
10 county in the manner provided in the next section.

Vol. 3, 202, § 1.

SECT. 18. The selectmen and assessors aforesaid, shall lay
2 the said notice before such towns and plantations, respectively,
3 at a meeting to be held on the day of their next annual meeting
4 for the choice of State, town or plantation officers, and at such
5 meeting, shall receive, sort and count the votes, that shall be

6 given by the inhabitants qualified to vote in town or plantation
 7 affairs, in favor of or against such proposed removal or erection.
 8 Return of such votes, certified by the said selectmen, or assess-
 9 sors and the town or plantation clerks, respectively, shall be
 10 made by such clerks, within thirty days after such votes shall
 11 have been received as aforesaid, to the office of the clerk of the
 12 county commissioners, and the said commissioners shall examine
 13 the returns aforesaid, and shall carry such removal or erection
 14 into effect, or not, according to the decision of the majority of
 15 such voters, ascertained from the returns made, as aforesaid.

Vol. 3, 202, § 1.

SECT. 19. All sheriffs, deputy sheriffs, coroners and consta-
 2 bles, shall serve and execute all legal warrants and processes to
 3 them directed by said commissioners. M. R. S. 84, § 3.

SECT. 20. All warrants of distress, under the authority of any
 2 court of county commissioners, shall be originally issued within
 3 two years after the rendition of judgment, and made returnable
 4 to the clerk's office, in ninety days from the date thereof. If
 5 returned unsatisfied in whole or in part, new warrants may be
 6 issued from time to time, for the sums remaining due; but no
 7 alias or pluries warrants of distress shall be thus issued, after the
 8 expiration of two years from the return day of the warrant last
 9 preceding; provided that no warrant of distress shall be origin-
 10 ally granted on any judgment of such commissioners, against
 11 any town or plantation, until twenty days after a certificate of
 12 the rendition of such judgment, shall have been transmitted by
 13 the clerk of the commissioners to the assessors of such town or
 14 plantation. The interest on damages recovered in such judg-
 15 ment, shall be included and provided for in such warrants, as in
 16 case of executions under chapter one hundred and fourteen.

1833, 64, § 1. 1834, 133, § 5. 1836, 250, § 1.

SECT. 21. The party for whose benefit any judgment shall
 2 shall have been rendered, by the commissioners of any county,
 3 shall have like remedy for the same and interest, by an action
 4 of debt upon such judgment or scire facias, as is provided for
 5 judgments recovered before the judicial courts.

1833, 64, § 2.

SECT. 22. On all judgments rendered, or warrants of distress
 2 issued, by county commissioners against the inhabitants of any
 3 town or plantation, in their respective counties, any such inhab-
 4 itant who shall voluntarily pay or be disposed to pay his due
 5 proportion of the same, or who shall have been compelled to
 6 satisfy the same in whole or in part, shall be entitled to the like
 7 remedies and processes as is provided in chapter one hundred
 8 seventeen in relation to judgments or executions from the judi-
 9 cial courts. 1833, 64, § 3, 4. 1834, 133, § 1, 2, 3, 4.

SECT. 23. It shall be the duty of the commissioners in their
 2 respective counties, whenever they shall have knowledge that
 3 any way or other way laid out under their authority or that of
 4 any court heretofore authorized to lay out highways, shall be

5 out of repair, and not safe and convenient for travellers, to give
6 notice to the attorney of the State for the county; and such
7 attorney shall thereupon file an information against the town or
8 plantation in which the same may be; pursuant to the provisions
9 of the fifty-seventh section of chapter ninety-nine—on ways.

CHAPTER 100.

OF CLERKS OF THE JUDICIAL COURTS.

- Sect.* 1. Present clerks to continue in office, &c.
2. Vacancies to be filled.
3. To be appointed for four years—subject, &c.
4. Person appointed to be clerk of all judicial courts in the county.
5. Must be sworn and give bond.
6. Must keep an account of all monies received, and account, &c.
7. Money to be paid county treasurer in thirty days.
8. In certain cases court may appoint clerk.
9. He shall be duly sworn, &c.
10. To certify fines to assessors of towns fined.
11. He shall record marriages, &c.
12. Shall receive fines, forfeitures and costs, &c.
13. Shall in twenty days after adjournment of court, transmit to secretary of State an account of them.
14. His duty, with county attorney, to examine account of county commissioners for services, &c.
15. And return copy of it to secretary, &c.
16. Must carefully keep the record, &c.

SECT. 1. The clerks now in office shall continue to hold their
2 offices, according to the tenor of their respective commissions.

SECT. 2. Whenever a vacancy in the office in any county
2 shall occur, the governor, with advice of council, shall fill the
3 vacancy, by the appointment of a successor.

SECT. 3. All clerks shall be appointed for the term of four
2 years and no longer; but shall be removable at any time within
3 that period, at the pleasure of the governor and council.

1821, 90, § 1. 1829, 422, § 1.

SECT. 4. The person appointed clerk, as aforesaid, shall be
2 clerk of all the judicial courts in the county for which he is
3 appointed, and shall perform all the duties which, as clerk, he
4 is by law bound to perform. 1821, 90, § 1. 1829, 422, § 1.

SECT. 5. Every clerk, before entering on the duties of his
2 office, shall be duly sworn, and shall give bond to the State, to
3 the acceptance of the governor and council, in the penal sum of
4 eight thousand dollars, with two or more sureties, conditioned
5 that he shall faithfully perform all the duties, and pay over all
6 the monies he is required to do and perform, and for the safe
7 keeping and immediate delivery of all records, files, papers and

muniments in said office; and such bond shall be lodged in the office of the state treasurer. 1829, 422, § 3.

SECT. 6. Each clerk shall keep a true and exact account of all the monies he shall receive by virtue of his office, and shall annually on the first Wednesday of January render to the treasurer of his county under oath, a true account of the whole sum thus received, and after deducting one thousand dollars (if he shall have received so much) which he shall hold for his own use, he shall pay one half of all the residue to the treasurer of his county, for the use of the county. 1829, 422, § 2.

SECT. 7. All sums which he is thus bound to pay over to the county treasurer, shall be paid within thirty days after the adjournment of the court at which he may have received the same. 1839, 422, § 4.

SECT. 8. Whenever a vacancy may happen in the office of clerk in any county, and an existing or immediate session of any court of which he is clerk, renders an appointment of a clerk necessary, such court may make an appointment of a clerk to supply the vacancy, until an appointment of one shall be made by the governor and council. 1829, 422, § 5.

SECT. 9. Such temporary clerk shall be duly sworn but shall be held to give bonds in such penalty only as the court shall order.

SECT. 10. Whenever a fine shall be imposed on any town or plantation by any court, for the repair of any highway or town way, the clerk of such court shall forthwith certify the same to the assessors of such town or plantation. 1825, 300, § 4.

SECT. 11. Every clerk shall record all marriages certified to him by any minister of the gospel, commissioned and qualified according to law to solemnize marriages, stating the names and places of abode of the persons by such minister joined in marriage. 1828, 391, § 2.

SECT. 12. Every clerk shall receive all fines, forfeitures and bills of costs, arising or imposed to the use of the State by any judicial court, and which shall be paid or tendered to such clerk, before the issuing of a warrant of distress or other process to enforce the order or sentence of the court, and when he gives discharges therefor, he shall enter them on record, and pay over the same to the county treasurer within twenty days. 1830, 464, § 1.

SECT. 13. Each clerk shall within twenty days after the adjournment of any court, at which any fine, forfeiture or bill of costs has accrued to the State, transmit to the secretary of the state, to be laid before the governor and council, a certificate of all fines, forfeitures and bills of costs, naming the court and term thereof when the same accrued, the names of those against whom they were awarded, and the names of the officers accountable for them to the State. 1830, 464, § 3.

SECT. 14. It shall be the duty of the clerk and of the county attorney to examine and audit the account of each county com-

3 missioner, for such county of his services as such, after he shall
4 have made oath before such clerk or attorney, to the accuracy of
5 such account. 1833, 79, § 5.

SECT. 15. And such clerk shall return a copy of such account
2 to the secretary of state, on or before the day appointed for the
3 meeting of the Legislature annually and shall also cause a copy
4 thereof to be published in some newspaper printed in the
5 county. 1833, 79, § 5.

SECT. 16. It shall be the duty of the clerk in each county to
2 receive and carefully to keep the records and papers of all
3 justices of the peace and notaries public appointed for his
4 county and which have been deposited in his office by such
5 justices or notaries, or their executors or administrators; and he
6 may attest and give copies of the same which shall be as valid
7 as if given by such justices or notaries while in office.

1829, 320, § 2. 1821, 101, § 7.

CHAPTER 101.

OF THE ATTORNEY GENERAL AND HIS DUTIES.

- Sect.* 1. To be appointed by governor and council and duly sworn.
2. Must attend all sessions of the supreme judicial court, (except where they interfere) for discharge of their duties.
3. When necessarily absent, must give necessary instructions to county attorneys.
4. Shall receive no fee or reward on behalf of any prosecutor, or be engaged in a civil action, as counsel depending on same facts.
5. Shall cause witnesses to be recognized.

SECT. 1. The attorney general shall be appointed by the
2 governor and council, and take and subscribe the oaths required
3 by the constitution, and be sworn faithfully to perform the duties
4 of his office.

SECT. 2. It shall be the duty of the attorney general to attend
2 at the sessions of the supreme judicial court, in the several
3 counties in each successive year, (except in those cases, where
4 the terms of said court now are or may be so established, and
5 so far interfere with each other as to prevent a compliance with
6 the above requirement) for the discharge of the duties of his
7 office according to law. 1821, 100, § 1.

SECT. 3. When he is necessarily absent from any session of
2 said court, he shall give all needful instructions to the state's
3 attorney for the county, in which such court shall be then sit-
4 ting, as well as all proper instructions to said attorneys at other
5 times. 1821, 100, § 1.

SECT. 4. He shall not receive any fee or reward from or on behalf of any prosecutor, for any of his official services; or during the pending of such prosecution, be engaged as counsel or attorney, for either party, in any civil action, depending essentially on the same facts. 1821, 100, § 2.

SECT. 5. It shall be his duty when criminal prosecutions shall be continued, to cause the witnesses on the part of the State, to be recognized, to appear on the third day of the term of the court, where he is bound to appear, unless otherwise directed by the court. 1831, 500.

SECT. 6. It shall also be his duty annually, in the month of December, to make to the governor and council a report of the amount and kind of official business by him done in the year preceding; the number of persons prosecuted, the offences, for which such prosecutions were had, the results thereof—and the punishment awarded in each case, with such other particular statements or suggestions, as he may deem interesting. 1839, 409, § 2.

CHAPTER 102.

OF COUNTY ATTORNEYS.

- Sect.* 1. Each county attorney shall be sworn.
2. Shall attend all the terms of district court, in his county.
 3. Shall not take fees of prosecutor.
 4. Shall collect moneys due county for fines, costs, &c. and compel officers to do their duty.
 5. Shall attend to examination of sheriff's sureties, as to sufficiency.
 6. When attorney general's office is vacant, or he absent the county attorney must attend to the business.
 7. Shall make report, annually, in November to the attorney general of business, &c. of preceding year.
 8. Attorneys now in office to remain, &c.
-

SECT. 1. There shall be appointed in each county by the governor and council, an attorney for the State, in such county, who shall take the oaths required by law to qualify him to discharge the duties of his office.

SECT. 2. He shall attend all the several terms of the district court, in such county, and act for the State and for such county, in all cases in which the State, or the county may be a party; and in the absence of the attorney general, shall act for the State, in the supreme judicial court, in the county for which he is attorney under such directions as may be given him by the attorney general. 1821, 100, § 1.

SECT. 3. Each county attorney shall be under the same restrictions, as are imposed on the attorney general, in the fourth section of chapter one hundred and one. 1821, 100, § 1.

SECT. 4. It shall be his duty to enforce the collection and payment to the treasurer of the same county, of all fines, forfeitures, and bills of costs, that shall have accrued to the State, and enforce on sheriffs, coroners and constables, a faithful performance of the duties of their respective offices; and to give information to the court of all defaults and failures, to pay into the treasury, such fines and forfeitures as shall accrue to the county; for which services the district court may make him a reasonable allowance, for his services, to be paid from the county treasury. 1830, 464, § 4.

SECT. 5. He shall annually move the county commissioners at their meeting next following the third Tuesday of June, to consider and examine the sufficiency of the security given by the sheriffs for the faithful discharge of their duties, and accountability for the neglect and misdoings of their deputies; and if he shall neglect to perform such duty—he shall forfeit and pay a sum not exceeding one hundred dollars for the use of the State, to be recovered in the name of the state treasurer. 1821, 91, § 2.

SECT. 6. When the office of attorney for the State, in any county, may happen to be vacant, at any session of the district court, in such county, or such attorney for the county, is detained from court by sickness, or other satisfactory reason, the said court may appoint some proper person of the same county, to perform during the session, the duties of the office, so far as they respect the criminal business of the court.

SECT. 7. And it shall be the duty of the several county attorneys, annually, in the month of November to make to the attorney general, a report of the amount and kind of official business by them done respectively in the preceding year, the number of persons prosecuted, the offences for which such prosecutions were had, the results thereof, and the punishment awarded in each case, with such particular statements and suggestions as he may deem interesting. 1839, 408, § 2.

SECT. 8. The county attorneys now in office shall continue to hold their offices, according to the tenor of their respective commissions.

CHAPTER 103.

OF ATTORNEYS AT LAW.

- Sect. 1. S. J. court to appoint examiners.
 2. To be sworn.
 3. Their duty.
 4. Persons admitted to pay duty.
 5. To be sworn—and how.

Sect. 6. Parties may manage their own causes, &c.

7. No attorney to be admitted to practice, unless qualified and sworn—or recover fees.

8. Any person of good moral character, may appear by special power.

9. No justice shall try a cause commenced by himself.

10. Sheriff or deputy shall not act as attorney.

11. Attorneys admitted in highest court in another State.

SECT. 1. It shall be the duty of the justices of the supreme judicial court, some time in the month of April annually, to appoint for and within each county, a committee of three judicious men, learned in the law, each of whom shall be a counsellor of said court, whose duty it shall be to examine all applicants for admission to practice law, who may be residents of the county for which the committee was appointed.

1837, 279, § 2. 1838, 304.

SECT. 2. Such committees, shall, prior to entering upon the duties of their office, in open court, take and subscribe an oath or affirmation that they will faithfully and impartially perform the duties of said office according to their best skill and judgment; and they shall continue in office until they shall be notified by the clerk that others have been appointed and sworn in their stead.

1838, 279, § 3.

SECT. 3. It shall be the duty of such committee, if on examination, it shall appear to them that the applicant is of a good moral character and is well affected to the government and constitution of this State, and of the age of twenty-one years and of adequate legal and literary acquirements to commence the practice of law as aforesaid, to give him a certificate in writing by them signed, certifying these facts.

SECT. 4. When the person so holding such certificate, shall present the same to the district court of the county where such person resides, on complying with the requisitions specified in the following section, he shall be admitted to practice law in said court, and in the supreme judicial court, in all cases of law and fact.

1838, 318.

SECT. 5. No person shall be admitted to practice as an attorney in any court of justice in this State until he shall have paid the duty by law required, and shall in open court have taken and subscribed the oath to support the constitution of the United States, and also taken the following oath, viz:

“You solemnly swear, that you will do no falsehood, nor consent to the doing of any in court, and if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of them, that it may be prevented; you will not wittingly or willingly promote or sue any false, groundless or unlawful suit, nor give aid or consent to the same; you will delay no man for lucre or malice; but you will conduct yourself in the office of an attorney within the courts, according to the best of your knowledge and discretion, and with all good

15 fidelity as well to the courts as your clients." "So help you
16 God." 1821, 89, § 1.

SECT. 6. The parties may plead and manage their own causes
2 personally, or by the assistance of such counsel as they shall see
3 fit to engage; but the plaintiff or plaintiffs in any suit, shall not
4 be allowed to manage their cause by more than two attorneys,
5 nor shall any defendant be allowed to employ a greater number.

SECT. 7. No person who shall hereafter commence practice
2 as an attorney or counsellor at law in any other State or place,
3 or in any court in this State, without such previous qualifica-
4 tions and course of studies, or taking such oaths as aforesaid, or
5 without paying such excise duty, shall be entitled to demand or
6 recover any remuneration for his professional services.

1821, 89, § 1.

SECT. 8. Any citizen of a good moral character may appear
2 in behalf of either party in a suit by virtue of a letter of attorney
3 for that purpose, produced by him in court, as fully as a sworn
4 attorney may do. 1821, 89, § 3.

SECT. 9. No justice of the peace shall hear or determine any
2 civil action commenced by himself or his order, and every such
3 action shall abate; or be employed as council or attorney in
4 any cause tried before himself. 1821, 89, § 4.

SECT. 10. No sheriff, deputy sheriff, coroner or constable,
2 shall be suffered to appear as attorney in any court, assisting or
3 advising either party; nor make or fill up any writ or process or
4 any plea in any action. 1821, 89, § 5.

SECT. 11. Any person who has been admitted to practice law
2 in the highest court in any other State, when the qualifications
3 for admission are equal to those required in this State, may be
4 admitted to practice in this State, provided he otherwise con-
5 forms to the rules and regulations adopted for admission of
6 attorneys, though he may not have pursued his professional
7 studies two years in this State, any foregoing provision in this
8 chapter to the contrary notwithstanding. 1825, 308.

CHAPTER 104.

OF THE POWERS AND DUTIES OF SHERIFFS, DEPUTY SHERIFFS, JAILERS, CONSTABLES, AND CORONERS IN CIVIL ACTIONS.

- Sect. 1. All sheriffs, coroners, &c. now in office, to continue—and give bond.
2. Bond to be presented to county commissioners for approval.
3. Sufficiency of sureties to be annually examined.
4. If not sufficient new bond to be given.
5. Consequence of not giving one.
6. Same subject.
7. When money is in a sheriff's hands, due to the State, governor and council may demand new sureties, if not given, sheriff to be removed.

Sect. 8. Coroners to give bond, and be sworn, &c.

9. When vacancy in the office, governor with advice of council to fill it—jailer to continue during vacancy.
10. Sheriff to appoint his deputies, &c.
11. Sheriff, when appointed shall notify all coroners, &c.
12. When coroner's surety prays to be discharged, what proceedings are to be had.
13. Person injured by misconduct of sheriff, may avail himself of his official bond by suit on it.
14. But he must first obtain judgment against sheriff.
15. How judgment to be rendered in favor of defendant, when bond is sued in treasurer's name.
16. How when in favor of the treasurer.
17. Treasurer shall deliver a copy of the bond.
18. Surviving of actions against his executors, &c.
19. Sheriff and deputy may serve all writs, &c.
20. May on certain corporations, though a member.
21. All sheriffs, if removed, may serve all precepts then in their hands.
22. Same may be done by deputies.
23. Sheriffs shall have custody of jails.
24. While jailer holds his office, as mentioned in the ninth section, sheriff's sureties shall be answerable for his conduct.
25. County commissioners may appoint jailer in a certain case.
26. Defaults of deputy after sheriff's death or resignation are covered by his bond.
27. Sheriff neglecting to pay over moneys, shall pay thirty per cent. interest.
28. No sheriff to be arrested in civil suits.
29. Execution shall run against his estate—only.
30. Proceedings when sheriff neglects to pay an execution against him.
31. When he is removed from office, execution may issue against body and estate.
32. May require aid, penalty for refusal.
33. Shall deliver the body of a prisoner, who dies in jail, to his friends.
34. Constable may serve writs in certain cases.
35. Must first give bond, &c.
36. Persons suffering by his misconduct, may have remedy on bond.
37. May convey prisoners to jail or house of correction.
38. Sheriffs and deputies not to act as attorneys.
39. Sheriff shall keep a calender of prisoners.
40. Shall deliver over to his successor all prisoners in his custody.
41. Warrants and processes, to be filed and safely kept.
42. Sheriff shall keep jail clean and white wash the walls.
43. Jailer answerable for escape, by insufficiency of jail.
44. Commissioners may assess amount due the creditor, and order payment to sheriff.
45. If no such assessment be made, sheriff may sue and recover same of county.
46. Commissioners may appoint agent for county.
47. Amount of judgment in such action, may be collected of any inhabitant of county.
48. Jailer to present list of prisoners in his custody, at the opening of court.
49. Manner in which he shall keep prisoners.
50. Penalty for violating his duties.
51. A negligent escape—how punished.
52. Jailers shall receive and keep persons committed under authority of the United States.
53. Disposition of fines, for any preceding offences.
54. Sheriff may serve a warrant from a justice in a bastardy case in any county.
55. May convey a prisoner to jail, though crossing the line of his county.
56. No sheriff shall receive any portion of fees from his deputies, for collecting justice executions, &c.

- Sect.* 57. Each deputy shall keep a true account of fees, and in December annually return the same, under oath to sheriff.
58. Each sheriff shall annually in December, state an account of all fees, &c., and pay balance to county treasurer.
59. Limitation of sheriff's fees—in all the counties.
60. Every coroner may serve writs when sheriff or any of his deputies is a party—including precepts against the town, &c.—of which such officer is an inhabitant or member.
61. When sheriff's office is vacant—coroners may serve all such precepts which a sheriff can—until a sheriff shall be appointed.
62. Every sheriff's duty, as to collection of taxes.
63. Enlarged powers given to constables in Robbinston and Perry.
64. Limitation of such power.
65. Every jail keeper to reside in jail houses, &c.—when.
66. Power of constables in Calais.

SECT. 1. All sheriffs and coroners now in office shall continue
 2 to hold their offices according to the tenor of their respective
 3 commissions; and every person hereafter appointed to the office
 4 of sheriff, shall take and subscribe the oaths and declaration by
 5 law required; and if appointed sheriff of either of the counties
 6 of York, Cumberland, Lincoln, Kennebec and Penobscot, shall,
 7 within sixty days after having received his commission, give
 8 bond to the treasurer of the State, and his successors in said
 9 office, with at least three sufficient sureties in a sum not less
 10 than twenty-five thousand dollars; and every person appointed
 11 sheriff of either of the other counties, shall give bond as afore-
 12 said in a sum not less than fifteen thousand dollars; which bonds
 13 shall be conditioned for the faithful performance of the duties
 14 of their respective offices, and to answer for all neglects and
 15 misdoings of their respective deputies. 1821, 91, § 1.

SECT. 2. Every sheriff having executed such bond, shall,
 2 within said term, file the same in the office of the clerk of the
 3 county commissioners in the county of which he is appointed
 4 sheriff, and it shall be presented to said commissioners, at their
 5 then next meeting for approval, and after being so approved and
 6 adjudged sufficient, the clerk shall record the same, and certify
 7 the fact on said bond; and the clerk shall thereupon deliver
 8 said bond to said sheriff (retaining a copy thereof) who shall
 9 deliver the original to the treasurer of the State, within twenty
 10 days after its approval, to be filed in his office. 1821, 91, § 1.

SECT. 3. The county commissioners in each county, at their
 2 first meeting, after the third Tuesday of June, shall, on motion
 3 of the county attorney, annually consider and examine as to the
 4 sufficiency of the security given by the sheriff in their respec-
 5 tive counties, and cause a record made of their determination
 6 by their clerk, who shall certify the same to the state treasurer
 7 within thirty days. 1821, 91, § 3.

SECT. 4. If security of any sheriff shall be adjudged insuffi-
 2 cient, said clerk shall within ten days certify the same to such
 3 sheriff, who shall within twenty days after such notice give a

4 new bond with sufficient sureties, to be filed and approved as
5 aforesaid, and then filed in the office of treasurer of the State.

1821, 91, § 3.

SECT. 5. Any sheriff neglecting to give the security required
2 by the first or fourth section of this chapter, shall forfeit the
3 sum of one hundred and fifty dollars for each month's neglect to
4 the use of the State, to be recovered by the treasurer in an
5 action of debt; and it shall be the duty of the attorney general
6 to prosecute for the same.

1821, 91, § 3.

SECT. 6. And the name of such sheriff neglecting to give
2 security as aforesaid, shall be certified by the county commis-
3 sioners of the same county to the governor and council and to
4 the attorney general; and thereupon the governor with advice of
5 council shall remove such sheriff from office unless reasonable
6 cause for such neglect shall be shown to the governor and
7 council, or unless within twenty days after the certificate shall
8 be made, he shall give or renew his security to the satisfaction
9 of the governor and council.

1821, 91, § 3.

SECT. 7. Whenever it shall appear from a statement made by
2 the state treasurer that monies due to the State on warrants or
3 any other sums or balances, are in the hands of any sheriff, and
4 the names of the sureties of such sheriff are also certified by
5 the treasurer; and it shall appear to the governor and council,
6 that any such sureties have become insufficient, or have removed
7 from the State, they or any of them, may require such sheriff to
8 give a new bond with sufficient sureties, within sixty days after
9 notice given to him for the purpose to be filed as aforesaid, and
10 on his neglecting so to do, the office of such sheriff shall become
11 vacant, and some other person shall be appointed to fill the
12 office.

1821, 92, § 4.

SECT. 8. Every person who shall be hereafter appointed a
2 coroner, shall, before proceeding to execute the duties of his
3 office, take and subscribe the oaths and declaration, by law
4 required; and shall also give bond to the treasurer of the State,
5 with sufficient sureties to the satisfaction of the county commis-
6 sioner, in their respective counties, for the faithful performance
7 of the duties of his office but any coroner's bond given with
8 sureties as by law required which shall be approved as sufficient
9 by the certificate of two of the county commissioners of the
10 same county—and filed with the clerk of the judicial courts of
11 the county, shall be deemed good and sufficient, to authorize
12 such coroner to discharge the duties of his office, until a new
13 bond is approved by said commissioners, at their next meeting
14 after the filing of the bond.

1821, 92, § 5. 1829, 435.

SECT. 9. Whenever a vacancy in the office of sheriff shall
2 exist, the governor with advice and consent of the council shall
3 appoint and commission some proper person to fill the vacancy;
4 and during such vacancy any jailor duly appointed shall con-
5 tinue in office as such, and retain the custody and charge of the
6 jail of which he had the rule and custody under the sheriff; and

7 of all prisoners in such jail, or who may be committed to his
8 custody, until a new sheriff shall be appointed, and duly quali-
9 fied, or until the governor and council, shall remove such jailer
10 and appoint another person, which removal and appointment,
11 the governor by advice of council is authorized to make; and
12 the jailer so appointed, shall give bond in the same manner as
13 is required of a sheriff for the faithful discharge of the duties
14 of his office. 1821, 92, § 1.

SECT. 10. Every sheriff may appoint his own deputies and
2 jailer, who shall be duly sworn; and such appointment shall be
3 in writing under the hand of the sheriff appointing him, and
4 recorded in the office of the clerk of the judicial courts in the
5 county, for which such deputy sheriff or jailer is appointed, and
6 no appointment or discharge of either of said officers, shall be
7 valid until so lodged or recorded, except by operation of law or
8 vacancy in the office of sheriff—and every discharge of either
9 of such officers shall be in writing and worded as aforesaid, for
10 recording which appointment or discharge the sheriff shall pay
11 the clerk twenty-five cents, and the sheriff shall be answerable
12 for the misconduct, and all misfeasances of his said deputies or
13 jailer while in office. 1829, 445, § 7.

SECT. 11. Every person appointed sheriff of any county, shall
2 give notice thereof immediately to the several coroners of the
3 same county. M. R. S. 14, § 60.

SECT. 12. Whenever any surety upon the official bond of any
2 sheriff or coroner, or the heirs, executors, or administrators of
3 such surety shall petition the district court, in the county of such
4 sheriff or coroner to be discharged from such bond, the court
5 shall cause such sheriff or coroner to be served with an attested
6 copy of the petition, and may require him to give a new bond
7 to their satisfaction; and upon such new security being given,
8 such surety or his legal representatives, shall be free from any
9 further responsibility on such bond. M. R. S. § 61.

SECT. 13. When the condition of the official bond of any
2 sheriff or coroner shall be broken to the injury of any person,
3 such person may at his own expense, institute an action in the
4 name of the treasurer, and prosecute the same to final judgment
5 and execution; and in such case the writ shall be endorsed by
6 the name and place of residence of the person for whose ben-
7 efit the suit is commenced, or with the name of his attorney;
8 which endorser shall be alone answerable for all costs.

1821, 91, § 6.

SECT. 14. But no such action on such official bond shall be
2 instituted, until the party commencing it, shall have recovered
3 judgment against such sheriff or coroner, his executors or admin-
4 istrators, for the injury complained of and sustained by such
5 person, or obtained a decree of the judge of probate allowing
6 a claim for the cause aforesaid; and such judgment or decree
7 or so much of the same as shall be unsatisfied, with the interest
8 thereon, shall be the amount of damages thereon, for which
9 execution shall issue. 1821, 91, § 6.

SECT. 15. If in such action on the official bond of a sheriff
2 or coroner, judgment shall be rendered in favor of the defendant,
3 it shall be so rendered against the party for whose benefit the
4 action was brought. 1821, 91, § 6.

SECT. 16. When judgment is rendered, in such action on the
2 bond, in favor of the treasurer, the name of the person for whose
3 use the action was commenced, shall be expressed and set forth
4 in the execution issuing on such judgment. 1821, 91, § 7.

SECT. 17. The treasurer shall deliver an attested copy of any
2 sheriff's or coroner's bond to any one applying and paying for
3 it; and such copy shall be received as competent evidence in
4 in any case relating to the same, unless when the execution of
5 the bond shall be disputed, in which case the court may order
6 the treasurer to produce the same in court for the purposes of
7 such trial. 1821, 92, § 3.

SECT. 18. Any actions for the neglect or misdoings of a
2 sheriff or any of his deputies, may be sued against the executors
3 or administrators of such sheriff in like manner, as if the action
4 survived at common law. 1821, 91, § 2.

SECT. 19. Every sheriff and each of his deputies, shall serve
2 and execute, within his county, all writs and precepts to him
3 directed and committed, and issued by lawful authority. 1821, 92, § 1.

SECT. 20. Such deputy may serve any writs or precepts men-
2 tioned in the preceding section, in cases where a town, planta-
3 tion, parish, religious society or school district, is a party or
4 interested, though he may at the time be a member of the cor-
5 poration interested. 1821, 92, § 1.

SECT. 21. All sheriff's and their deputies may execute all
2 precepts in their hands, at the time of their removal from office.
1821, 92, § 1.

SECT. 22. And in every vacancy in the office of sheriff in any
2 county, every deputy under him, having any writ or precept in
3 his hands, at the time such vacancy may happen, shall have the
4 same authority, and be under the same obligation to serve the
5 same and return it, as if such sheriff had continued in office. 1821, 92, § 1.

SECT. 23. The sheriff of each county, shall have the custody
2 and charge of the jail or jails therein, and shall keep the same
3 personally or by his deputy, for whose conduct in such office,
4 the sheriff shall be answerable. 1821, 92, § 1.

SECT. 24. And while any jailer shall continue to hold his
2 office in virtue of the ninth section of this chapter, his defaults
3 and misdoings shall be adjudged a breach of the official bond
4 of such sheriff. 1830, 461, § 1.

SECT. 25. If the office of jailer become vacant, while the
2 office of sheriff is vacant, the county commissioners, in the same
3 county, are empowered to appoint a jailor, who shall give bond
4 in like manner as a sheriff is required to do, and shall continue
5 in office, if his appointment shall be confirmed at their next

6 meeting, during the vacancy in the office of sheriff; and
7 until such jailer shall be removed, and a new jailer shall be
8 appointed by the governor and council. 1830, 461, § 2.

SECT. 26. The defaults or misfeasances in office of any dep-
2 uty sheriff, after the death, resignation or removal from office
3 of the sheriff who appointed him, shall be adjudged a breach
4 of the condition of the sheriff's official bond. 1821, 92, § 2.

SECT. 27. Any sheriff or his deputy who shall unreasonably
2 refuse or neglect to pay to any person monies received by him
3 upon execution to the use of such person upon demand made
4 therefor, shall pay five times the lawful interest of such money,
5 so long as he shall unreasonably detain it. 1821, 92, § 3.

SECT. 28. No sheriff shall be arrested on mesne process, or
2 execution in a civil action. 1821, 92, § 4.

SECT. 29. When judgment shall be rendered against any
2 sheriff either in his official or private capacity, the execution
3 on such judgment, shall be issued against his goods, chattels
4 and lands, but not against his body. 1821, 92, § 4.

SECT. 30. When such execution shall be returned not satis-
2 fied, the creditor may file before the governor and council an
3 attested copy of such execution, and the return thereon, and
4 also serve such sheriff with a copy of such copy filed, attested
5 by the secretary, with notice under the hand of the secretary of
6 the day on which such copy was filed, and if such sheriff shall
7 not, within forty days next after being served with such copy
8 and notice, pay the creditor his full debt, with reasonable cost
9 for copies and service of them, the governor with advice of coun-
10 cil, shall remove such sheriff from office and appoint some
11 other person to the same.

SECT. 31. When a sheriff shall be removed from his office,
2 the clerk of the court, from which executions have been issued,
3 and returned not satisfied, shall be empowered, as soon as
4 another sheriff shall be appointed and legally qualified to issue
5 alias executions in common form, against the body, as well as
6 the goods, chattels and lands, of such person so removed. 1821, 92, § 4.

SECT. 32. Any sheriff, deputy sheriff, coroner or constable,
2 being in the execution of the duties of his office, in any crimi-
3 nal cases, or for the preservation of the peace, or for appre-
4 hending or securing any person for the breach of the same,
5 shall have authority to require suitable aid therein; and may
6 require like aid in case of escape or rescue of persons arrested
7 on civil process; and any person being so required to aid either
8 of said officers, who shall neglect or refuse so to do, on due con-
9 viction thereof, shall pay to the use of the county, not less than
10 three nor more than fifty dollars; and if the offender be unable,
11 or shall not forthwith pay such fine, the court may punish him
12 by imprisonment, not exceeding thirty days. 1821, 92, § 7.

SECT. 33. When any person shall die in prison in any county in this State, it shall be the duty of the jailer or sheriff, to deliver the body of the deceased to his friends if requested; and if not requested, to bury the same in the common burying ground, and the expenses thereof shall be paid by the town in which the deceased had a legal settlement, if he had been an inhabitant of the State, and if not the expenses shall be paid out of the state treasury. 1821, 92, § 5.

SECT. 34. Any constable is hereby authorized to serve upon any person, in the town to which he belongs, any writ or precept in any personal action, where the damage sued for and demanded, shall not exceed one hundred dollars, including all precepts in actions, in which the town in which he may reside, is a party or interested; and he shall make due return thereof, according to the mandate thereof. 1821, 92, § 9.

SECT. 35. But every constable before he shall serve any writ or execution, shall give bond to the treasurer of his town in the sum of two hundred dollars, with two sureties, sufficient in the opinion of the selectmen of the town, (who shall endorse their approval on said bond, and in their own hands) for the faithful performance of the duties of his office; and for every process he shall serve before giving such bond, he shall forfeit and pay not less than twenty nor more than fifty dollars, to the use of 9 recoverable by any person who shall sue for the same. 1821, 92, § 7.

SECT. 36. All persons suffering by the faults or misdoings of any constable, shall have remedy on his bond, as provided in case of sheriff's bonds, and similar proceedings shall be had in both cases, such change being made, as to render the process effectual. 1821, 92, § 7.

SECT. 37. Every constable, shall have authority in the execution of any precept to him directed from lawful authority to convey any prisoner, and things which they shall have taken into their custody, to the justice who issued the precept, or to the common jail or house of correction, of the county where such constable is an inhabitant. 1821, 92, § 10.

SECT. 38. No sheriff, or deputy sheriff, or constable, shall be suffered to appear before any court, or justice of the peace, as attorney to or in behalf of, or assisting or advising any party in a suit—nor be allowed to draw any writ, plaint, declaration or process, or plea for any other person; and all such acts done by either of them shall be void. 1821, 89, § 5.

SECT. 39. Every sheriff, shall keep in a large bound book, provided and kept for that purpose, a true and exact calender or register of all prisoners, committed to the prison under his care, containing distinctly and fairly registered, the names of all prisoners, who shall from time to time, be committed to such prison, their places of abode, additions, time of their commitment, for what cause, and by what authority; and a particular

8 description of the persons of those committed for criminal
9 offences; and also from time to time, as any prisoner shall be
10 discharged, he shall register in said book the name and descrip-
11 tion of the person aforesaid, the time when and the authority by
12 which he was discharged; and the time and manner of any
13 prisoner's escape. 1821, 110, § 2.

SECT. 40. Every sheriff shall be held answerable for the
2 delivery over to his successor, of all prisoners which may be in
3 his custody at the time of his removal; and for that purpose
4 shall retain the keeping of the jail in his county, and the pris-
5 oners therein, until his successor shall be appointed and quali-
6 fied as the law directs. 1821, 92, § 4.

SECT. 41. All warrants, mittimus, processes, and other
2 official papers, or attested copies of them, by which any pris-
3 oner shall have been committed or liberated, shall be regularly
4 filed in order of time; and with the callender before mentioned,
5 shall be safely kept in a suitable box, and on expiration of his
6 commission, or on his death, resignation or removal, be delivered
7 over to his successor, on penalty of forfeiting for his neglect,
8 two hundred dollars, to the use of the county. 1821, 110, § 3.

SECT. 42. Every sheriff shall see that the jail in his county
2 shall be kept as clean and healthy as may be; and cause the
3 walls thereof to be white washed in April or May, annually and
4 as often as the county commissioners shall order, at the expense
5 of the county; and pay strict attention to the personal cleanli-
6 ness of the prisoners. 1821, 110, § 6.

SECT. 43. When any prisoner shall escape through the insuffi-
2 ciency of the jail, or the negligence of the sheriff or jailor the
3 sheriff shall stand chargeable to the creditor or other person at
4 whose suit he was committed, or to whose use any forfeiture was
5 adjudged against such prisoner. 1821, 110, § 4.

SECT. 44. When such escape shall happen through the insuf-
2 ficiency of the jail, the county commissioners shall have power
3 to assess the amount due such creditor, on the polls and estates
4 of the county, and order the county treasurer to pay the same,
5 over to the sheriff of the county. 1821, 110, § 4.

SECT. 45. If the county commissioners shall not make such
2 assessment, or if so made, the treasurer shall not pay the same
3 sum within six months after the demand shall be laid before the
4 commissioners, the sheriff may bring his action on the case,
5 against the inhabitants of such county, to be tried in the same
6 county, or one of the next adjoining counties; an attested copy
7 of the writ being left with the county treasurer thirty days
8 before the sitting of the court to which it shall be returnable,
9 shall be a sufficient service. 1821, 110, § 4.

SECT. 46. The county commissioners may appoint an agent
2 to appear and defend the action; and when there shall be no
3 meeting of said commissioners between the time of the service
4 and the return day of the writ, the action shall be continued to

5 the next term of the court, saving all advantages to the defend-
6 ants. 1821, 110, § 4.

SECT. 47. If in such action judgment be rendered against the
2 county, the debt may be levied by execution upon the estate of
3 any inhabitant, who shall have like remedy against the county,
4 to recover the monies so levied of his estate. 1821, 110, § 4.

SECT. 48. Every jailer shall, at the opening of the supreme
2 judicial court, and district court, in his county, return a list of
3 prisoners in his custody, certifying the cause for which and the
4 person by whom committed; and the names of all persons who
5 shall be committed, during the sitting of either of said courts,
6 and the cause of commitment; and shall have the callender of
7 prisoners in court, for its inspection; and for neglecting so to
8 do, he shall be fined at the discretion of the court.

1821, 110, § 4.

SECT. 49. Every jailor or prison keeper, shall keep prisoners
2 committed for debt, separate and apart from felons, convicts
3 and prisoners charged with felony or infamous crimes; and
4 also all minors, so committed, and all prisoners upon a first
5 charge with or without conviction of any crime, separate from
6 those who are notorious offenders, or have been convicted more
7 than once of any felony or infamous crime, as the construction
8 or state of the prison will admit. 1821, 110, § 7.

SECT. 50. If any prison keeper shall violate any of the provi-
2 sions of the preceding section; or shall voluntarily or negligently
3 suffer any prisoner in his custody, charged with or convicted of
4 any crime, to have any spiritous liquors or in part spiritous, unless
5 the physician authorized to attend the sick in such prison, shall,
6 in writing certify that such prisoners health requires it, and pre-
7 scribe the quantity, shall in each case, for the first offence, forfeit
8 twenty-five dollars to be recovered by indictment for the use of
9 the county, or by any person who shall sue for the same, to his
10 own use; and for a second offence, he shall forfeit fifty dollars,
11 to be recovered as aforesaid; and shall be removed from office,
12 and be rendered incapable of holding the office of sheriff, deputy
13 sheriff or jailer, for the term of five years; and if the keeper of
14 any jail or other person, shall give, sell or deliver to any person
15 committed to jail on mesne process or execution, or to any
16 other person for whose use, any spiritous liquors, without the
17 consent in writing of the overseers of the poor of the town where
18 the jail is situated, shall forfeit not less than five, nor more than
19 ten dollars, to be recovered on complaint before a justice of the
20 peace—one half to the use of said town, and the other to the
21 prosecutor. 1821, 110, § 3.

SECT. 51. If any jailer or prison keeper, shall, through negli-
2 gence, suffer any prisoner charged with any crime, to escape,
3 he shall pay such fine as the court before which he may be con-
4 victed, shall, in their discretion inflict, according to the nature
5 of the offence, charged against the escaped prisoner; but if the

6 sheriff or jail keeper, shall, within three months, next after the
7 escape, recover the prisoner and return him to the prison, then
8 the sheriff shall be liable to no more than the costs of any action
9 which may have been commenced against him for the escape.

1821, 110, § 12.

SECT. 52. The keeper of the several jails in this State, shall
2 take the custody of, and safely keep all prisoners committed
3 under authority of the United States, until discharged by law,
4 under the penalties provided by law for the safe keeping of pris-
5 oners committed under the laws of this State. 1821, 90, § 15.

SECT. 53. All fines arising from the breaches of any of the
2 preceding sections of this chapter, except those otherwise appro-
3 priated, shall be applied to the use of building and repairing the
4 jail or jails, in the county where the offence was committed, and
5 shall be paid to the treasurer for that purpose. 1821, 90, § 12.

SECT. 54. A warrant duly issued by a justice of the peace for
2 any supposed offence committed in his county, or under the act
3 for the maintenance of bastard children, may be executed by
4 the sheriff to whom it may be directed, or his deputy, though
5 the person charged shall have removed or gone into another
6 county, before or after the warrant was issued; and such sheriff,
7 may pursue and arrest such person in any county, and carry him
8 to the county in which the act complained of was committed,
9 that proceeding may there be had according to law.

1824, 244, § 1.

SECT. 55. Whenever any sheriff, deputy sheriff, coroner or
2 constable, shall have arrested any person, by virtue of any law-
3 ful precept, for the purpose of committing him to the prison of
4 his county, it shall be lawful for him to convey such person by
5 the most convenient and suitable road or route though the
6 same may pass through a part of one or more counties, other
7 than that in which the prison is situated. 1832, 44, § 5.

SECT. 56. No sheriff shall receive from any of his deputies
2 any portion of the fees, for levying and collecting executions
3 issued by a justice of the peace, wherein the debt or damage
4 does not exceed twenty dollars, nor more than at the rate of
5 twelve per cent. on the amount of fees for travel, and service,
6 and other emoluments of office. 1829, 445, § 2.

SECT. 57. Each deputy sheriff, shall keep a true account with
2 the items thereof, of all fees for travel and service, and other
3 emoluments of office which have accrued or may be due to him,
4 by virtue of the same, and he shall within twenty days next,
5 after the first day of December, annually return under oath to
6 the sheriff, a true copy of such account up to the time of said
7 return. 1829, 445, § 3.

SECT. 58. Each sheriff shall, within ten days after the twentieth
2 day of December annually, from the accounts returned to him
3 by his deputies, as required in the preceding section, state a true
4 account of the amount of the fees for travel, services and other
5 emoluments of office, specifying the different classes of items

6 which have accrued, or shall accrue from his deputies, and also
7 of the amount of said fees and other emoluments specified as
8 aforesaid, which have accrued or shall be due to him in his
9 office, besides the amount due from his deputies, within one
10 year next before the making up of the same, and including the
11 whole of the accounts of the deputies after the said account of
12 the sheriff was so made up in the year preceding, and such
13 sheriff shall, within said ten days make a true return under oath
14 of said account to the treasurer of the county of which he is
15 sheriff, after deducting from the sum total the sum limited in
16 the following section for the sheriff in each county, and shall
17 pay over the residue of said sum total to the treasurer of his
18 county for the use thereof. 1829, 445, § 4.

SECT. 59. The sheriffs for the counties of York, Cumber-
2 land, Lincoln and Kennebec, shall be limited to seven hundred
3 dollars. The sheriff of Penobscot to six hundred dollars. The
4 sheriffs of Oxford and Somerset to five hundred dollars each,
5 and the sheriffs of Hancock, Washington and Waldo to four
6 hundred dollars each. 1825, 445, § 8.

SECT. 60. Every coroner within the county for which he is
2 appointed, shall serve and return all writs and precepts, when
3 the sheriff of the same county or any of his deputies shall be a
4 party to the same, including those precepts in cases where a
5 town, plantation, parish, religious society or school district is a
6 party or interested, though such coroner, may at the time, be a
7 member of the corporation interested. 1821, 93, § 1.

SECT. 61. When the office of sheriff in any county may be
2 vacant, any coroner of such county, shall have power to execute
3 and return all writs and precepts, which are by law, appointed
4 to be served and returned by the sheriff or his deputies, until
5 another sheriff shall be appointed and legally qualified. 1821, 93, § 1.

SECT. 62. Every sheriff shall faithfully perform the duties
2 required of him in chapter sixth relating to elections, and in
3 chapter fourteenth relating to the assessment, and collection of
4 taxes.

SECT. 63. Any constable who may be chosen in either of the
2 towns of Robbinston or Perry, in the county of Washington,
3 having given bond to the treasurer of the town for which he is
4 chosen in the sum of two thousand five hundred dollars, with
5 sufficient sureties, to be approved by the selectmen, and having
6 been duly sworn, shall be authorized to serve on any person,
7 residing in the town to which such constable belongs, any writ,
8 summons, or execution in any personal action when the damage
9 sued for, or the amount due on such execution, shall not exceed
10 six hundred dollars, including all processes in which such town
11 may be interested. 1831, 496, § 1.

SECT. 64. But when the sheriff of said county shall appoint
2 a deputy, or he or any of his deputies shall remove into either
3 of said towns, he shall give notice of it in all the newspapers

4 published in the county, and after the expiration of seven days
5 from the time of such appointment, or removal and notice, the
6 powers given to such constable in such town shall cease.

1831, 496, § 2.

SECT. 65. Every keeper of a county jail or his deputy, shall
2 reside constantly, with his family, if he have any, within the
3 house provided for such keeper or his deputy, where good and
4 sufficient buildings are provided for that purpose, in the opinion
5 of the county commissioners in the county where the buildings
6 are located; and in case of his neglect so to do, he shall forfeit
7 and pay a sum not exceeding three hundred dollars, nor less
8 than one hundred to be recovered by action of debt, one half
9 to the use of the county, and the other to the use of the person
10 who shall sue for the same. 1824, 277.

SECT. 66. Any constable in the town of Calais, in the county
2 of Washington, is empowered to serve within that town any writ
3 or summons, or execution to him directed, in any personal action,
4 where the damage sued for or recovered shall not exceed five
5 hundred dollars, including such precepts in which such town
6 may be interested—having first given bond to the treasurer of
7 said town in the sum of two thousand dollars, with sufficient
8 sureties to be approved by the selectmen, which approval shall
9 be endorsed on the bond; and such constable shall forfeit and
10 pay not less than one hundred dollars nor more than five hundred
11 dollars for every process served by him, under the authority of
12 this section, before giving such bond; to be recovered by any
13 person who shall sue therefor; and all persons suffering by
14 the neglect or default of such constable, shall have like remedy
15 on such constable's bond, as are provided in respect to sheriffs
16 and their bonds. 1835, 173.

NOTES.

SECT. 11. This is taken from Mass. code, as being a useful provision.

SECT. 12. So also is this section, which is founded on a statute of the Commonwealth passed in 1822—and is proposed as a salutary guard.

