

# MAINE STATE LEGISLATURE

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REVISION II.

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REPORT

OF THE

COMMISSIONER

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

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JUDICIAL COURTS AND OFFICERS CONNECTED.

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TITLE VIII.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

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1856.



# TITLE EIGHTH.

## JUDICIAL COURTS, COUNTY COMMISSIONERS, AND OFFICERS CONNECTED WITH THEM.

- Chap. 77.* Supreme Judicial Court. Attorney General. Reporter.  
78. County commissioners.  
79. Clerks. County attorneys. Attorneys at law.  
80. Sheriffs and their deputies. Coroners. Constables.

### Chapter 77.

#### SUPREME JUDICIAL COURT. ATTORNEY GENERAL. REPORTER.

##### SUPREME JUDICIAL COURT.

- Sect. 1.* Court consists of a chief justice and six associates.  
2. Its cognizance of civil action and criminal prosecutions.  
3. It has the jurisdiction of the former district court.  
4. May exercise its jurisdiction according to the common law.  
5. It superintends inferior tribunals.  
6. May issue all necessary writs.  
7. May punish contempts, administer oaths.  
8. Equity jurisdiction.  
9. Bill, how served.  
10. Writs of injunction, when and how issued.  
11. Writs and processes, how to be issued.  
12. It has control of records.  
13. May establish rules.  
14. Four or more justices constitute a court of law.  
15. Districts for courts of law, counties composing them.  
16. Clerks of the districts; cases entered on docket for the district.  
17. Jurisdiction of the court of law, entry of cases.  
18. Cases may be argued in writing without entry on docket for the district.  
19. Neglect to enter; judgment how obtained.  
20. Judgments by certificate, attachments how long valid.  
21. Terms of the court of law, when and where held.  
22. All other business transacted at terms holden by one judge. Service of justices distributed to each county. Terms for jury trials.  
23. Venires for grand jurors when issued.  
24. Venires for traverse jurors when issued.  
25. Judge decides cases by agreement without a jury.  
26. When a judge does not attend court to be adjourned; proceedings.  
27. Exceptions in civil causes and criminal cases.  
28. Trials to be closed when dilatory; pleas as overruled or exceptions filed.  
29. Interest allowed.

##### ATTORNEY GENERAL.

30. Attorney general attends law terms and capital trials.  
31. Gives instructions to county attorneys.  
32. Causes witnesses to be recognized.

- CHAP. 77. *Sect. 33.* May procure a witness resident without the state.  
 34. Makes an annual report of business.  
 35. Not to receive compensation from a prosecutor.

## REPORTER.

36. Reporter appointed, sworn, tenure of office.  
 37. His duties prescribed.  
 38. Reports how published, price of volumes.  
 39. Publishes cases argued while in office.

*Supreme judicial court.*

Court consists of  
 a chief justice,  
 &c.  
 R. S., c. 96, § 1, 6.  
 1847, c. 15, § 1.  
 1852, c. 246, § 5.  
 1855, c. 174, § 3.  
 1856, c. 272, § 2.

Its cognizance of  
 civil actions and  
 criminal  
 prosecutions.

*Idem*, § 2, 3.

It has the juris-  
 diction of the  
 former district  
 court.  
 1852, c. 246, § 1.

May exercise its  
 jurisdiction, &c.

R. S., c. 96, § 7.

Superintends  
 inferior  
 tribunals.

*Idem*, § 4.

May issue all  
 necessary writs.

*Idem*, § 5.

May punish  
 contempts and  
 administer oaths.

*Idem*, § 6.

Equity jurisdic-  
 tion defined.  
*Idem*, § 10.  
 1856, c. 209.

SECT. 1. The supreme judicial court shall consist of a  
 2 chief justice and six associate justices learned in the law  
 3 and of sobriety of manners, who are conservators of the  
 4 peace throughout the state.

SECT. 2. The court has cognizance of civil actions between  
 2 party and party and between the state and individuals legally  
 3 brought before it, and may render judgment and award ex-  
 4 ecution thereon according to law; and of all offenses and  
 5 misdemeanors, that are legally prosecuted before it.

SECT. 3. It has the jurisdiction civil criminal and appel-  
 2 late of the former district court and may exercise it, as that  
 3 court was authorized to do or as the laws prescribe.

SECT. 4. It may exercise its jurisdiction according to the  
 2 common law not inconsistent with the constitution or any  
 3 statute.

SECT. 5. It has the general superintendence of all courts  
 2 of inferior jurisdiction for the prevention and correction  
 3 of errors, where the laws do not expressly provide any  
 4 remedy.

SECT. 6. It may issue writs of error, certiorari, mandamus,  
 2 prohibition, quo warranto, and all writs and processes nec-  
 3 essary for the furtherance of justice or the execution of the  
 4 laws.

SECT. 7. It may punish contempts committed against its  
 2 authority by fine and imprisonment or either; and adminis-  
 3 ter oaths in civil and criminal cases.

SECT. 8. It has jurisdiction as a court of equity in the fol-  
 2 lowing cases:

- 3 *First*—For the redemption of estates mortgaged. (*a*)  
 4 *Second*—For relief from forfeiture of penalties to the state,  
 5 and from forfeitures in civil contracts and obligations and in  
 6 recognizances in criminal cases.

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(*a*) The words "and foreclosure" omitted as suited to mislead, the court having decided that it has no jurisdiction to foreclose a mortgage. 23, Mo. 174. 25, Me. 341.

7 *Third*—To compel the specific performance of written  
8 contracts.

9 *Fourth*—For relief in cases of fraud accident or mistake.

10 *Fifth*—In cases of nuisance and waste.

11 *Sixth*—In cases of partnership and between part owners  
12 of vessels *and of other real and personal estate* for adjust-  
13 ment of their interests in the property and accounts respect-  
14 ing it.

15 *Seventh*—*To determine the construction of wills and*  
16 *whether an executor not expressly appointed a trustee be-*  
17 *comes such from the provisions of a will; and in cases of*  
18 *doubt, the mode of executing a trust, and the expediency*  
19 *of making changes and investments of property held in*  
20 *trust. (a)*

21 *Eighth*—In cases where the power is specially given by  
22 statute, and for discovery in the cases before named accord-  
23 ing to the course of chancery proceedings.

SECT. 9. The bill may be inserted in a writ served as  
2 other writs, or it may be filed in court and served, as the  
3 rules of court prescribe. Bill, how  
served.  
Idem, § 10.

SECT. 10. Writs of injunction may be issued in cases of  
2 equity jurisdiction, and when specially authorized by statute. Writs of injunc-  
tion, when and  
how to be issued.  
3 A justice of the court may issue them in term time or in va-  
4 cation to continue in force until the end of the next term of  
5 the court, unless sooner dissolved, after notice to the adverse  
6 party or upon bond taken with sufficient sureties to pay all  
7 damages and costs. Idem, § 11,  
c. 129, § 14.  
1846, c. 188.

SECT. 11. All writs and processes shall issue in the name  
2 of the State of Maine under the seal of the court attested  
3 by any justice not a party or interested in the suit and signed  
4 by the clerk. Writs and  
processes, how  
to be issued.  
Idem, § 8, c. 114,  
§ 21.  
1842, c. 31, § 7.

SECT. 12. It has control of all records and documents in  
2 the custody of the several clerks including those of former  
3 courts, whose jurisdiction it now has, and the powers of its  
4 clerks are the same respecting all of them. It has control of  
all records.  
Idem, § 7.  
1852, c. 246, § 2.

SECT. 13. It may establish and cause to be recorded rules  
2 not repugnant to law respecting the modes of trial and con-  
3 duct of business in suits at law and in equity. May establish  
rules.  
Idem, § 9.

SECT. 14. When sitting as a court of law to determine  
2 questions of law arising in suits at law and in equity and in  
3 criminal trials and proceedings the court shall be composed  
4 of four or more of the justices, who may hear and determine Four or more  
sit as a court of  
law.

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(a) A new provision believed to be useful and desirable. 17, Me. 137. 34, Me. 372. 37, Me. 284.  
2 VIII

## CHAP. 77.

1852, c. 246, § 6, 20.  
1854, c. 56,  
1856, c. 272, § 3.

Western, Middle, and Eastern districts; counties composing them.

1852, c. 246,  
§ 4, 25.  
1853, c. 16, § 1, 2.  
1854, c. 70, § 6.

Clerks of the districts, &c.

1852, c. 246, § 7.

Jurisdiction of the court of law. Cases to be entered on the docket of the district.

R. S., c. 96, § 11.  
1852, c. 246, § 8.

Parties may argue in writing without entering on docket of the district.

1852, c. 246, § 21.

5 such questions by the concurrence of [four members] *a majority (a)* in such decision.

SECT. 15. For this purpose the state is divided into three districts denominated western, middle, and eastern. The western district is composed of the counties of Franklin, Oxford, Androscoggin, York, and Cumberland. The middle district of the counties of Somerset, Lincoln, Sagadahoc and Kennebec. The eastern district of the counties of Aroostook, Washington, Piscataquis, Hancock, Waldo, and Penobscot.

SECT. 16. The clerks of the counties of Cumberland, Kennebec and Penobscot shall be clerks of the districts including those counties. A docket for the district shall be kept, on which all cases pending on the dockets of the counties within it and marked law, and all other cases of which the court of law has jurisdiction, are to be entered and heard in the order of the counties as above named.

SECT. 17. The following cases only come before the court as a court of law. Cases in which there are motions for new trials upon evidence reported by the judge; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases civil or criminal presenting a question of law; cases in equity presented on demurrer to the bill or when prepared for a final hearing; *motions to dissolve injunctions issued after notice and hearing or continued after a hearing*; questions arising on writs of habeas corpus, mandamus, and certiorari, when the facts have been agreed, or have been ascertained and reported by a judge. They are to be marked law on the docket of the county where pending, and there continued, until their determination is certified by the clerk of the district to the clerk of the county.

SECT. 18. When parties enter an agreement on the docket of a county under cases named in the preceding section and transmit arguments in writing to the court *before or at its next session for the district*, such cases need not be entered on the docket of the district; and the court may pronounce judgment in any county and cause it to be certified and entered in the county where pending as of the preceding term.

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(a) If in a court composed of four members all are required to unite in a decision, the result may be, that the opinion of one may determine the law opposed to the opinion of the other three. For when one in a trial instructs a jury or orders a nonsuit, that opinion determines the right of a party till reversed, and if he is one of the four and adheres to that opinion the other three can not reverse it.

SECT. 19. When cases named in the seventeenth section  
 2 are not entered on the docket of the district as required by  
 3 the provisions of this chapter at the next term for the dis-  
 4 trict, the justice presiding in a court for the county may at  
 5 the next or second term thereafter enter an appropriate  
 6 decree or judgment on verdict nonsuit or default, (a) or the  
 7 court of law may on complaint enter such decree or judg-  
 8 ment and cause it to be certified.

CHAP. 77.

When cases not  
 entered on  
 docket of  
 district, &c.

1852, c. 246, § 10

SECT. 20. The clerk of a county shall enter judgment by  
 2 virtue of a certificate provided for in this chapter, stating the  
 3 day of its reception, as of the preceding term, and execution  
 4 may issue as of that term: but all attachments then in force  
 5 continue to be valid until thirty days after the next term in  
 6 that county.

Clerks enter  
 judgments on  
 certificates, &c.

R. S., c. 96,  
 § 26, 27.

SECT. 21. There shall be annual sessions of the court as  
 2 a court of law for the western district at Portland on the  
 3 second Tuesday of May; for the middle district at Augusta  
 4 on the first Tuesday of January and second Tuesday of June;  
 5 for the eastern district at Bangor on the second Tuesday of  
 6 July. At the term to be holden in January any cause, of  
 7 which it has jurisdiction, pending in any county may by con-  
 8 sent of parties or their counsel be entered and heard, but  
 9 without such consent no party is required to attend.

Terms of the  
 court of law,  
 when and where  
 holden.

1852, c. 246, § 6.  
 1855, c. 174, § 1.  
 1856, c. 272, § 1.

SECT. 22. For the trial of civil actions and of persons  
 2 accused of offenses and for the transaction of all other busi-  
 3 ness, except cases named in the seventeenth section, the  
 4 court shall be holden annually by one of the justices at the  
 5 following places and times.

All other busi-  
 ness transacted  
 at terms holden  
 by one judge.  
 1852, c. 246, § 15.  
 1854, c. 56.

6 In the county of York at Alfred on the first Tuesdays of  
 7 January and April and third Tuesday of September.

County of York.  
 1852, c. 258, § 1.

8 In the county of Cumberland on the third Tuesdays of Jan-  
 9 uary and April and second Tuesday of October for the trans-  
 10 action of civil business, and on the first Tuesday of March  
 11 and the last Tuesdays of July and November for the trans-  
 12 action of criminal business.

Cumberland.

13 In the county of Oxford at Paris on the second Tuesdays of  
 14 March August and November.

Oxford.  
 Idem, § 15.

15 In the county of Franklin at Farmington on the third Tues-  
 16 days of April and October.

Franklin.  
 1855, c. 111, § 1.

17 In the county of Somerset at Norridgewock on the third  
 18 Tuesdays of March September and December.

Somerset.  
 1853, c. 1, § 1.



- CHAP. 77.** 19 In the county of Kennebec at Augusta on the first Tuesday  
 Kennebec, 20 of March third Tuesday of August and fourth Tuesday of  
 1853, c. 38, § 1. 21 November.
- Lincoln, 22 In the county of Lincoln at Wiscasset on the third Tues-  
 1852, c. 246, § 15. 23 day of May for the transaction of civil business, and on the  
 1853, c. 8, § 1, 2. 24 fourth Tuesday of January and first Tuesday of October for  
 1853, c. 51, § 1. 25 the transaction of civil and criminal business.  
 1856, c. 276, § 1.
- Androscoggin, 26 In the county of Androscoggin at Auburn on the fourth  
 1854, c. 60, § 2. 27 Tuesdays of January April and August.  
 c. 87, § 3.
- Sagadahoc, 28 In the county of Sagadahoc at Bath on the third Tuesday  
 29 of December for the transaction of civil business, and on  
 1854, c. 70, § 2. 30 the first Tuesday of April and third Tuesday of August for  
 31 the transaction of civil and criminal business.
- Waldo, 32 In the county of Waldo at Belfast on the first Tuesday of  
 33 January for the transaction of civil business, and on the first  
 1852, c. 246, § 15. 34 Tuesday of May and October for the transaction of civil  
 1855, c. 165, § 1. 35 and criminal business.
- Penobscot, 36 In the county of Penobscot at Bangor on the first Tuesdays  
 37 of January April and October for the transaction of civil  
 Idem, § 15. 38 business, and on the first Tuesdays of February and August  
 1855, c. 158, § 1. 39 for the transaction of criminal business.
- Washington, 40 In the county of Washington at Machias on the first Tues-  
 41 days of January and October and the fourth Tuesday of  
 Idem, § 15. 42 April.  
 1854, c. 59, § 1.
- Hancock, 43 In the county of Hancock at Ellsworth on the fourth Tues-  
 Idem, § 15. 44 days of April and October.  
 1854, c. 76, § 1.
- Aroostook, 45 In the county of Aroostook at Houlton on the second Tues-  
 Idem, § 15. 46 day of March and third Tuesday of September.
- Piscataquis, 47 In the county of Piscataquis at Dover on the last Tuesday  
 Idem, § 15. 48 of February and the second Tuesday of September.
- Days when court 49 No court shall be held on the fourth day of July, second  
 not holden. 50 Monday of September, or any day designated for the choice  
 51 of president and vice president of the United States or for  
 52 the annual fast or thanksgiving. The justices shall so hold  
 53 the courts under the direction of the chief justice, that their  
 54 respective services shall be divided to each county as nearly  
 55 equal as may be.
- R. S., c. 115, 56  
 § 108.  
 1849, c. 120.
- Venires for 2  
 grand jurors, 3  
 when issued. 4
- Idem, § 17, 18. 5
- Venires for 2  
 traverse jurors. 3

**SECT. 23.** Venires for grand jurors shall be issued not less than forty days before the second Monday of September annually. The jurors returned shall serve at every term during the year, when criminal business may be transacted.

**SECT. 24.** Venires are to be issued in due season, before each term holden for a county, or at such other times as the

3 court orders, for traverse jurors to attend on the first day  
4 of the term, or on such day as the court orders.

CHAP. 77.

Idem, § 19.

SECT. 25. The justice presiding at such terms shall decide  
2 any cause without the aid of a jury, when the parties enter  
3 upon the docket an agreement authorizing it.

Judge without a jury decides, &c. Idem, § 12.

SECT. 26. When no justice attends on the day for holding  
2 a court, the sheriff or in his absence the clerk shall by oral  
3 proclamation in the court house and by notice posted on the  
4 door thereof adjourn the court from day to day till a justice  
5 attends, and in case of necessity without day, and when so  
6 adjourned actions brought for that term shall be entered by  
7 the clerk and they with all actions on the docket shall be  
8 continued to the next term.

When judge does not attend, court to be adjourned; proceedings.

R. S., c. 96, § 15.

SECT. 27. When the court is held by one justice a party  
2 aggrieved by any of his opinions, directions, or judgments,  
3 in any civil or criminal proceeding may during the term  
4 present written exceptions in a summary manner signed by  
5 himself or counsel, and when found to be true they shall be  
6 allowed and signed by such judge.

Exceptions in civil causes and criminal cases.

Idem, § 17.

SECT. 28. When a dilatory plea is overruled and exceptions  
2 taken, the court is to proceed and close the trial, and the  
3 action shall then be continued and marked law, but if the  
4 justice allowing the exceptions deems them frivolous or  
5 intended for delay, he may impose such terms and condi-  
6 tions, as he thinks reasonable, and if not accepted he may  
7 enter judgment subject to revision by the court of law.

Trials to be closed when dilatory pleas overruled or exceptions filed.

Idem, § 18, 21. 1852, § 8.

SECT. 29. Interest is to be allowed on verdicts *and*  
2 *amounts reported by referees to be due (a)* from the time of  
3 finding or acceptance to the time of judgment.

Interest allowed. Idem, § 20.

### *Attorney general.*

SECT. 30. The attorney general shall attend, when prac-  
2 ticable, all the terms of the court holden as a court of law;  
3 and at all capital trials on being notified thereof by the  
4 clerk.

Attorney general attends law terms, &c. 1852, c. 289, § 1.

SECT. 31. He shall give all proper instructions to county  
2 attorneys when necessarily absent as well as at other times.

Gives instructions to county attorneys. R. S., c. 101, § 3.

SECT. 32. When a criminal prosecution, in which he ap-  
2 pears is continued, he shall cause the witnesses on the part  
3 of the state to recognize for their appearance at the term,  
4 to which it is continued, unless otherwise directed by the  
5 court.

Causes witnesses to be recognized.

Idem, § 5.

## CHAP. 77.

May procure  
attendance of a  
witness out of  
the state.

1845, c. 146.

Makes an annual  
report, in  
December.

R. S., c. 101, § 6.  
1855, c. 173.  
1852, c. 273, § 2.

Not to receive  
compensation  
from a  
prosecutor.

R. S., c. 101, § 4.

SECT. 33. When he deems the testimony of a witness residing out of the state to be material in procuring an indictment or conviction, he may procure his attendance, and the court shall allow him a reasonable compensation beyond his legal fees.

SECT. 34. He shall annually in the month of December make a report to the governor and council of the amount and kind of official business done by him and the several county attorneys during the year preceding, stating the number of persons prosecuted, their alleged offenses, the results, and the punishments awarded, with such suggestions as are deemed useful.

SECT. 35. He shall not receive any fee or reward from or in behalf of any prosecutor for official services, or during the pendency of a prosecution be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts.

*Reporter.*

Reporter  
appointed,  
sworn, tenure  
of office.

R. S., c. 96, § 33.  
1850, c. 173,  
§ 1, 2.

His duties  
prescribed.

1850, c. 173, § 3.

How reports are  
to be published,  
price fixed.

Idem, § 4.

Publish cases  
argued while in  
office.  
Idem, § 5.

SECT. 36. The governor with advice of counsel in case of a vacancy shall appoint a person learned in the law to be reporter of the decisions of the court as a court of law, who shall be sworn and hold his office during the pleasure of the executive.

SECT. 37. He shall by his personal attendance, when practicable, or by the best other means in his power, prepare correct reports of all legal questions argued, and publish the same annually, reporting the cases more or less at large according to his judgment of their importance, so as not unnecessarily to increase the size or number of volumes of reports.

SECT. 38. The volumes shall be of the average size of Metcalf's reports and equal to them in paper, printing, binding, general finish, and quantity of printed matter. He shall be entitled to the profits of the work and shall publish at least one volume yearly, and furnish the usual number of copies to the state at the price of two dollars and fifty cents each, and furnish them for two years after publication for use in the state at the same price, if he does not relinquish his title to the profits thereof to the state.

SECT. 39. He shall be bound to prepare and publish the cases argued during his continuance in office after his retirement, if not done while in office.

## Chapter 78.

## CHAP. 78.

## COUNTY COMMISSIONERS.

- Sect.* 1. County commissioners elected or appointed, designate their chairman.  
 2. Vacancies occurring by expiration of term filled by election; tenure of office.  
 3. Vacancies occurring otherwise are filled by appointment.  
 4. Mode of election.  
 5. Mode of determining who is elected; when enters on discharge of duties.  
 6. General powers and duties prescribed.  
 7. Fire proof buildings for records and offices.  
 8. Jails erected and examined; debtors kept separate.  
 9. Times and places of sessions.  
 10. Clerk pro tempore to them may be appointed by clerk.  
 11. Two transact business; one adjourns; clerk may.  
 12. Compensation at rate of two dollars per day, and ten cents a mile for travel.  
 13. Accounts for services how kept and settled.  
 14. Copy of accounts to be published and returned to secretary of state.  
 15. Commissioner not to be agent to expend money.  
 16. Give notice to towns of intention to change site of a county building.  
 17. Towns by their votes to decide upon it.  
 18. Officers to execute precepts of the board.  
 19. Warrants of distress when and how issued.  
 20. Action of debt maintainable on their judgments.  
 21. Commissioners may obtain loans of money.

SECT. 1. There shall be a board of commissioners for  
 2 each county consisting of a chairman and two other citizens  
 3 resident in the county elected or in case of a vacancy ap-  
 4 pointed by the governor with advice of council. The chair-  
 5 man shall be designated by them at their first meeting on  
 6 or after the first Monday of January annually to act for one  
 7 year.

County com-  
missioners  
elected or  
appointed, &c.

R. S., c. 99, § 1, 2.  
1842, c. 3, § 34.

SECT. 2. Vacancies to occur by expiration of the term  
 2 of office shall be filled by election on the second Monday of  
 3 September preceding. If one be elected he holds office for  
 4 three years; if two, the one having the highest number of  
 5 votes holds for three years, and the next highest for two  
 6 years; if three, two hold as last provided and the other for  
 7 one year. If two have an equal number of votes the gov-  
 8 ernor with advice of council shall designate, who shall hold  
 9 for the longer, and who for the shorter term.

Vacancies occur-  
ring by expira-  
tion of term, &c.

1844, c. 87, § 1, 2.  
1852, c. 267.

SECT. 3. When no choice is effected or a vacancy happens  
 2 by death, resignation, or removal from the county, the gov-  
 3 ernor with advice of council shall appoint a person to fill  
 4 the vacancy, who shall hold office, until the first day of Jan-  
 5 uary after another has been chosen to fill the place.

Vacancies hap-  
pening otherwise  
are filled by  
appointment.

1842, c. 3, § 3.  
1844, c. 87, § 1, 3.

SECT. 4. County commissioners shall be elected on the  
 2 second Monday of September by the written votes of elec-  
 3 tors qualified to vote for representatives. The votes shall

Mode of election.

CHAP. 78.

1842, c. 3, § 1, 2.  
1847, c. 23, § 2.

Mode of deter-  
mining who is  
elected, &c.

1842, c. 3, § 2.  
1847, c. 23, § 1.  
1856, c. 258.

General powers  
and duties  
prescribed.

R. S., c. 99, § 3.

Fire proof  
buildings for  
records and  
offices.

Idem, § 4.

Jails erected and  
examined, &c.

4 be received, sorted, counted, and declared, as votes for rep-  
5 resentatives are; the names of the persons voted for, the  
6 number of votes for each, and the whole number of ballots  
7 received, shall be recorded by the clerk in the town records,  
8 and true copies thereof sealed and attested as returns of  
9 votes for senators shall be transmitted to the secretary of  
10 state within thirty days.

SECT. 5. The governor and council on or before the first  
2 day of December in each year shall open and compare the  
3 votes so returned, and may receive testimony on oath to  
4 prove, that the return from any town does not agree with  
5 the record of the vote of such town in the number of votes  
6 or the names of the persons voted for, and to prove which  
7 of them is correct; and the return when found to be erro-  
8 neous may be corrected by the record. No such correction  
9 can be made without application within twenty-four days after  
10 the returns have been opened stating the error alledged, and  
11 reasonable notice thereof must be given to the person to be  
12 affected by such correction. The persons having the high-  
13 est number of votes not exceeding the number to be chosen  
14 shall be declared elected; and shall be notified thereof by  
15 the secretary of state, be sworn, and enter upon the dis-  
16 charge of official duties on the first day of January there-  
17 after. If a number of persons exceeding the number to be  
18 chosen receive an equal number of votes, no one is elected.

SECT. 6. The commissioners shall provide for the erection  
2 and repair of court houses, jails, and other necessary build-  
3 ings for the county; make estimates and cause assessments  
4 of taxes as provided in the chapter respecting the assess-  
5 ment and collection of taxes; examine allow and settle  
6 accounts of the receipts and expenditures of moneys of the  
7 county; represent it, have the care of its property and the  
8 management of its business and concerns. They may by an  
9 order entered of record appoint an agent to sell and con-  
10 vey its real estate; may lay out alter and discontinue ways  
11 as provided in the chapter respecting them, and perform all  
12 other duties prescribed by law.

SECT. 7. They shall provide fire proof buildings of brick  
2 or stone for the safe keeping of records and papers pertain-  
3 ing to the offices of register of deeds, register of probate,  
4 clerk of the courts, with separate fire proof rooms for such  
5 offices with suitable alcoves cases or boxes.

SECT. 8. When wanting in each town where the supreme  
2 judicial court is holden they shall provide jails and separate

## CHAP. 78.

3 apartments in them for lodging prisoners for debt separate  
4 from criminals. At the commencement of each session  
5 required by law they shall examine the prison, take neces-  
6 sary precaution for the security of prisoners, for the preven-  
7 tion of infection and sickness, and for their accommodation.

Idem, § 5, 6, 7.

SECT. 9. They shall hold sessions at the times and places  
2 following:

Times, &c., of  
sessions.  
Idem, § 8.

3 In the county of York at Alfred on the Tuesday next pre-  
4 ceding the last Monday of May and on the second Tuesday  
5 of October.

6 In the county of Cumberland at Portland on the first Tues-  
7 day of June and the third Tuesday of December.

8 In the county of Lincoln at Wiscasset on the second Tues-  
9 days of January and May and first Monday of September.

1847, c. 30, § 1.

10 In the county of Kennebec at Augusta on the last Tuesdays  
11 of April and December and second Tuesday of August.

1846, c. 170, § 1.

12 In the county of Somerset at Norridgewock on the first  
13 Tuesdays of March and August and second Tuesday of De-  
14 cember.

1845, c. 132, § 1.  
1852, c. 255.  
1853, c. 15, § 1.

15 In the county of Hancock at Ellsworth on the fourth Tues-  
16 days of January April and October.

1852, c. 251, § 1.

17 In the county of Washington at Machias on the first Wed-  
18 nesdays next after the first Tuesdays of January and Octo-  
19 ber and the first Wednesday next after the fourth Tuesday  
20 of April.

1853, c. 11, § 1.  
1854, c. 53, § 1.

21 In the county of Oxford at Paris on the second Tuesday of  
22 May and the first Tuesday of September.

1842, c. 6.

23 In the county of Androscoggin at Auburn on the first Tues-  
24 days of April and October.

1854, c. 60, § 2.

25 In the county of Sagadahoc at Bath on the first Tuesdays  
26 of March July and November.

1854, c. 70, § 2.

27 In the county of Penobscot at Bangor on the first Tuesdays  
28 of April and August and on the second Tuesday of Decem-  
29 ber.

30 In the county of Waldo at Belfast on the third Tuesdays  
31 of April and August.

32 In the county of Franklin at Farmington on the last Tues-  
33 days of April and December.

34 In the county of Piscataquis at Dover on the first Tuesdays  
35 of April and December.

36 In the county of Aroostook at Houlton on the third Tues-  
37 day of January and on the first Tuesdays of June and July.

1842, c. 33, § 1.

SECT. 10. The clerk of the judicial courts in each county  
2 is clerk of the commissioners; and when the supreme judi-

Clerk pro  
tempore may be  
appointed, &c.

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3 cial court and the commissioners are in session at the same  
 4 time, he may appoint a clerk pro tempore to the commis-  
 5 sioners, for whose doings he is responsible. Such clerk  
 6 shall be sworn and make a daily record of their doings, and  
 7 they shall examine it, and when correct certify it, and it shall  
 8 be copied into their records by the stated clerk.

R. S., c. 99, § 10.

Two transact  
 business—one  
 may adjourn—  
 clerk may.

SECT. 11. Two commissioners shall constitute a quorum  
 2 for the transaction of business at any meeting. When one  
 3 only attends, he may adjourn the meeting to a convenient  
 4 time and place. If no one attends, the clerk may adjourn as  
 5 is provided in chapter seventy-seven and section twenty-  
 6 seven.

Idem, § 11.

Compensation at  
 the rate of \$2  
 per day, and ten  
 cents a mile for  
 travel.

SECT. 12. Each commissioner shall receive two dollars  
 2 per day and in that proportion for part of a day while actu-  
 3 ally employed in the service of the county including the time  
 4 necessarily spent in making drafts or other labor and exclus-  
 5 ive of time spent in traveling, for which he shall be allowed  
 6 ten cents a mile for the distance actually traveled. His  
 7 account shall specify the kind of service performed each day  
 8 or part of a day. They are not to be allowed for service or  
 9 travel on more than one petition or case at the same time,  
 10 or for any additional trouble or expense of any kind.

1850, c. 204, § 1.

Accounts for  
 services, how  
 kept and settled.

SECT. 13. Each shall keep an accurate account of his time  
 2 and travel specifying the places from and to which he trav-  
 3 eled each day, and he shall not be allowed for services not  
 4 so specified. His account shall be audited and examined by  
 5 the county attorney and clerk, to the truth of which he shall  
 6 be sworn before one of them; and they shall certify the  
 7 amount allowed, and no further sum shall be paid. If a  
 8 commissioner charges in his account any miles not actually  
 9 traveled, or time not spent, he forfeits ten dollars for each  
 10 such charge to be recovered in an action of debt in the name  
 11 of the county one half to the complainant the other to the  
 12 county.

Idem, § 2.

Copy of accounts  
 to be published  
 and returned to  
 secretary of  
 state.

R. S., c. 99, § 15.

SECT. 14. The clerk shall cause a copy of such account to  
 2 be published in a newspaper printed in the county, if any,  
 3 and return a copy of it to the secretary of state on or before  
 4 the first day of January in each year.

No commissioner  
 to be agent to  
 expend money.

Idem, § 16.

SECT. 15. No commissioner shall be appointed to expend  
 2 money assessed or raised for any purpose under authority  
 3 of the board, of which he is a member.

Give notice to  
 towns of inten-  
 tion to change  
 site of a county  
 building.

SECT. 16. They shall not remove a county building, or  
 2 erect a new one as a substitute for it, in the shire town of  
 3 the county at a distance exceeding half a mile from the for-

mer location without giving notice of their intention and of the place, on which it is proposed to have it erected or removed, to the municipal officers of each town in the county and obtaining the consent of the county as provided in the following section. CHAP. 78.  
Idem, § 17.

SECT. 17. The municipal officers shall present such notice to their town at its next annual meeting for the choice of state or town officers and receive, sort, and count, the votes given by persons qualified to vote in town affairs in favor or against such proposed erection or removal; and they and the clerk shall certify and return them to the office of the clerk of the commissioners, who shall examine them and carry such removal or erection into effect or not according to the decision of a majority of such votes. Towns by their votes to decide upon it.  
Idem, § 18.

SECT. 18. Sheriffs and their deputies, coroners, and constables, shall execute all legal processes to them directed by the commissioners. Officers to execute precepts of the board.  
Idem, § 19.

SECT. 19. Warrants of distress may be originally issued within two years after judgment and made returnable to the clerk's office within ninety days from their date. New warrants may be issued within two years from the return day of the last preceding warrant for sums remaining unsatisfied. No warrant shall be originally issued against a town until twenty days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages is to be included and collected by such warrants as in executions. Warrants of distress, when and how issued.  
Idem, § 20.  
R. S., c. 117, § 41.

SECT. 20. A party, for whose benefit a judgment is rendered by them, may recover the amount in an action of debt founded on such judgment. Action of debt on a judgment.  
Idem, § 21, 41.

SECT. 21. *County commissioners have power to obtain loans of money for the use of their county and to cause notes, or obligations with coupons, for lawful interest to be issued for payment thereof at such times as may be deemed expedient. (a)* Commissioners authorized to obtain loans.  
New.

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(a) This power they have been accustomed to exercise, and I think rightfully, but it may be expedient to confer it in express terms, so that any doubt about it may be removed, and they thereby be enabled to obtain money on more favorable terms.



## CHAP. 79.

## Chapter 79.

## CLERKS OF COURTS, COUNTY ATTORNEYS, ATTORNEYS AT LAW.

## CLERKS OF COURTS.

- Sect. 1.* Mode of election, tenure of office, duties, sworn.
2. Give bond, condition of it.
  3. Annual account rendered to treasurer of the county, balance paid.
  4. Pay all other money due to treasurer of the county within thirty days after received.
  5. Receive and give discharges for sums voluntarily paid.
  6. Transmit certificates of fines, &c., to secretary of state.
  7. Copies of cases of law furnished to attorney general.
  8. Complete records of clerks deceased under direction of court.
  9. Penalty for taking more than legal fees.
  10. Court may appoint clerk, when office vacant or clerk absent.
  11. Records of clerks to be examined, when found deficient made or corrected.
  12. Disposition of money collected by suit on clerk's bond.

## COUNTY ATTORNEYS.

13. Mode of election, tenure of office.
14. Duties prescribed.
15. Duties prescribed continued.
16. Duties respecting sheriff's bond, penalty for neglect.
17. Annual report to attorney general.
18. Court may appoint one in case of vacancy or absence.
19. Restrictions respecting compensation and employment.

## ATTORNEYS AT LAW.

20. Who may be admitted as attorneys at law.
21. Pays duty and oath, form of oath.
22. Parties may manage their own causes personally or by attorneys.
23. If not admitted not entitled to recover for professional services.

*Clerks of the judicial courts.*

Clerks, mode of election, &c.

- SECT. 1. Clerks of the judicial courts shall be elected
- 2 and notified, their elections determined and vacancies filled;
  - 3 and they shall enter upon the discharge of their duties at
  - 4 the time, and hold them for the term of three years, as is
  - 5 provided respecting county commissioners by chapter sev-
  - 6 enty-eight. They shall be sworn and perform all the duties
  - 7 required by law.

R. S., 100, § 4.  
1842, c. 3, § 1, 2, 3.  
1844, c. 87,  
§ 1, 2, 3.  
1847, c. 23, § 1.  
1855, c. 139, § 1.  
1856, c. 258.

Give bond, condition of it.

- SECT. 2. Before entering upon the discharge of official
- 2 duty each clerk shall give bond to the state to be lodged
  - 3 in the office of its treasurer approved by the governor and
  - 4 council in the sum of eight thousand dollars with two or
  - 5 more sureties conditioned, that he will faithfully perform all
  - 6 the duties of his office, pay over all moneys, and safely keep
  - 7 and immediately deliver all records files papers muniments
  - 8 in said office *and property of the county* as required by law.

Idem, § 5.  
1846, c. 209, § 1.

Annual account rendered to the treasurer of the county, and balance paid.

- SECT. 3. He shall keep a true and exact account of all
- 2 moneys, that he shall receive or be entitled to receive, for
  - 3 services by virtue of his office, and on the first Wednesday
  - 4 of January annually render to the treasurer of the county

5 under oath a true account of the whole sum thus accrued  
 6 specifying the items from which the same accrued, and after  
 7 deducting his own salary pay over the residue, if any, to  
 8 him for the use of the county.

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Idem, § 6.  
 1852, c. 265.

SECT. 4. Sums to be paid to the treasurer of the county  
 2 and not provided for in the preceding section shall be paid  
 3 to him within thirty days after they are received. If he  
 4 neglects to pay any sum as required by this chapter,  
 5 he shall pay interest therefor at the rate of twenty-five per  
 6 cent. per annum till paid. The treasurer of the county shall  
 7 notify the treasurer of state of any such known delinquency,  
 8 and the bond of the delinquent shall be thereupon put in  
 9 suit.

Pay all other  
 money due to  
 treasurer of  
 county within  
 thirty days after  
 received.

Idem, § 7.

SECT. 5. He shall receive all fines forfeitures and bills of  
 2 costs arising or imposed to the use of the state paid or  
 3 tendered to him before a precept is issued to enforce col-  
 4 lection and give discharges therefor and enter them of record.

Receive and  
 give discharges  
 for sums volun-  
 tarily paid.

Idem, § 12.

SECT. 6. Within twenty days after adjournment of a court,  
 2 at which a fine forfeiture or bill of costs accrued, he shall  
 3 transmit to the secretary of state to be laid before the  
 4 governor and council a certificate thereof naming the court  
 5 and term, the names of the persons against whom they  
 6 were awarded, and the names of the officers accountable for  
 7 them to the state.

Transmit  
 certificates of  
 fines, &c., to  
 secretary of  
 state.

Idem, § 13.

SECT. 7. He shall furnish to the attorney general full  
 2 copies of all cases described in section seventeen of chapter  
 3 seventy-seven, in which the state is a party, thirty days  
 4 before the session of the court of law for that district.  
 5 When the papers in such cases are not filed more than thirty  
 6 days before such session, they shall be furnished immediately  
 7 after they are filed.

Copies of cases  
 of law in which  
 state is a party  
 furnished to  
 attorney general.

1854, c. 66.

SECT. 8. He shall under the direction of the supreme  
 2 judicial court complete unfinished records of a former clerk  
 3 deceased, when from entries on the dockets and papers on  
 4 file it sufficiently appears, what judgment was rendered.  
 5 Such record being made and approved by the court shall be  
 6 deemed valid.

Complete  
 records of  
 clerks, &c.

1856, c. 267.

SECT. 9. A clerk, who exacts or receives more fees, than  
 2 are allowed by law, forfeits fifty dollars to be recovered in  
 3 an action of debt by any person suing therefor to his own  
 4 use, or by indictment half to the complainant and half to the  
 5 state.

Penalty for  
 taking more  
 than legal fees.

R. S., c. 100,  
 § 16.

SECT. 10. When a clerk is absent or the office is vacant,  
 2 and an existing or immediate session of the court renders

Court may  
 appoint a clerk,  
 &c.

CHAP. 79.

Idem, § 8, 9.

Records of  
clerks to be  
examined, and  
when found  
deficient, made  
or corrected.

Idem, § 14.

Disposition of  
money collected  
by suit on clerk's  
bond.

Idem, § 15.

3 the appointment of a clerk necessary, the court may appoint  
4 one to supply the vacancy, until an appointment is made by  
5 the governor and council or during such absence, who shall  
6 be sworn and give such bond as the court orders.

SECT. 11. The supreme judicial court shall cause the  
2 records of each clerk to be examined *at least as often as*  
3 *there is a change of the clerk*, and when they are found to  
4 be deficient, *direct them to be immediately made or corrected*,  
5 *and when such order is not obeyed*, the fact of such de-  
6 ficiency shall be certified to the treasurer of state, who shall  
7 cause the official bond of such clerk to be put in suit. (a)

SECT. 12. The money recovered in such suit shall be  
2 applied under the direction of the court to complete the  
3 deficient records. If more than sufficient the balance enures  
4 to the state. If not sufficient the balance may be recovered  
5 by the treasurer of state in an action on the case founded  
6 on the bond and facts.

*County attorneys.*Mode of election,  
tenure of office.  
Same references  
as in section one,  
excluding, R. S.

SECT. 13. The first section of this chapter respecting  
2 clerks is applicable to county attorneys, substituting the  
3 words "county attorneys" for the words "clerks of the  
4 judicial courts."

Duties  
prescribed.

SECT. 14. The attorney of the state for the county shall  
2 attend the terms of the court held in his county and act for  
3 the state in all cases, in which the state or county may be a  
4 party or interested, and in the absence of the attorney gen-  
5 eral from a term in the county or district, perform his duties  
6 in cases in the county *and coming from the county to the*  
7 *district* under directions from him. (b)

R. S., c. 102, § 2.  
1852, c. 289,  
§ 2, 3.Duties  
continued.

SECT. 15. He shall enforce the collection and payment to  
2 the treasurer of the county of all fines forfeitures and bills  
3 of costs, that accrue to the state, and the faithful perform-  
4 ance of their duties by sheriffs coroners and constables and  
5 give information to the court of their defaults in this respect.

Idem, § 4.

Duty respecting  
sheriff's and  
coroner's  
bonds, &c.

SECT. 16. He shall annually move the county commission-  
2 ers at their meeting next following the third Tuesday of  
3 June to examine and consider the sufficiency of the sheriff's

(a) Some new provisions deemed useful.

(b) By the existing law when the attorney general is absent from a session of the court of law, the county attorney for the county in which the court is holden is to perform his duties in cases coming from all the counties. The commissioners of revision appear to have thought it better to have in such case each county attorney do the business coming from his own county. In that opinion I concur.

## CHAP. 79.

4 and coroner's bonds. If he neglects this or the duties re-  
 5 quired by the preceding section, he forfeits a sum not ex-  
 6 ceeding one hundred dollars recoverable in an action of debt  
 7 in the name of the treasurer of state and to its use.

Idem, § 5.  
 R. S., c. 104, § 3.

SECT. 17. He shall annually in the month of November  
 2 make such a report of the business done by him during the  
 3 past year to the attorney general, as he is required to make  
 4 by the thirty-fifth section of chapter seventy-seven.

Annual report.  
 Idem, § 7.  
 1845, c. 173, § 3.  
 1852, c. 273.

SECT. 18. When he does not attend a session of the court  
 2 and when the office is vacant, the court may appoint an at-  
 3 torney to perform his duties during the session and allow  
 4 him a reasonable compensation for his services to be paid  
 5 from the treasury of the county and charged to the state as  
 6 bills of costs are in criminal cases, and the judge shall notify  
 7 the treasurer of state, who shall deduct the same from the  
 8 salary of such county attorney.

Court may  
 appoint one in  
 case of vacancy,  
 &c.

Idem, § 6.  
 1850, c. 194,  
 § 1, 2.

SECT. 19. He is under the restrictions imposed upon the  
 2 attorney general by section thirty-six of chapter seventy-  
 3 seven, and shall cause witnesses to be recognized as required  
 4 of the attorney general by section thirty-three of the same  
 5 chapter.

Restrictions as  
 respects  
 compensation,  
 &c.  
 Idem, § 2.  
 1852, c. 289, § 2.

*Attorneys at law.*

SECT. 20. Any citizen of this state of good moral charac-  
 2 ter on application to the supreme judicial court shall be  
 3 admitted to practice as an attorney in the judicial courts in  
 4 this state.

Who may be  
 admitted as  
 attorneys at  
 law.  
 1843, c. 12, § 1.

SECT. 21. No person shall be thus admitted to practice,  
 2 until he pays the duty by law required, and in open court  
 3 takes and subscribes the oath to support the constitution of  
 4 the United States, and also takes the following oath, viz.:

Pays the duty  
 and takes the  
 oath; form of  
 oath.  
 R. S., c. 103, § 5.

5 "You solemnly swear, that you will do no falsehood, nor  
 6 consent to the doing of any in court, and if you know of an  
 7 intention to commit any, you will give knowledge thereof to  
 8 the justices of the court or some of them, that it may be pre-  
 9 vented; you will not wittingly or willingly promote or sue any  
 10 false groundless or unlawful suit, nor give aid or consent to  
 11 the same; you will delay no man for lucre or malice, but you  
 12 will conduct yourself in the office of an attorney within the  
 13 courts according to the best of your knowledge and discre-  
 14 tion, and with all good fidelity, as well to the courts, as your  
 15 clients. So help you God."

SECT. 22. Parties may plead and manage their own causes  
 2 personally, or by the assistance of such counsel as they see

Parties may  
 manage their  
 own causes, &c.

CHAP. 80.

Idem, § 6, 8.  
1843, c. 12, § 2.

If not admitted  
not entitled to  
recover for  
professional  
services.  
R. S., c. 103, § 7.

3 fit to engage, or by any citizen of good moral character who  
4 may produce in court a letter of attorney for that purpose.  
5 But the plaintiffs in any suit shall not manage their cause by  
6 more than two attorneys, nor shall any defendant employ a  
7 greater number.

SECT. 23. No person commencing practice as an attorney  
2 or counselor at law in any other state or place, or in any  
3 court in this state, without the qualifications, oaths, and pay-  
4 ment of the excise duty aforesaid, shall be entitled to de-  
5 mand or recover any remuneration for his professional  
6 services rendered in this state.

## Chapter 80.

### SHERIFFS, CORONERS, AND CONSTABLES.

- Sect. 1.* Sheriffs and coroners to be elected or appointed, and hold office as provided in the constitution. Oath and bond of sheriff.
2. Sheriff's bond to be approved by county commissioners, and filed with state treasurer.
  3. Sufficiency of sheriff's and coroner's bonds to be annually examined by county commissioners.
  4. If adjudged insufficient, new bond to be given.
  5. Forfeiture if sheriff neglects to give such bond. If sheriff and coroner neglect, offices to be vacant.
  6. In what cases the governor and council may require a new bond.
  7. Coroners on appointment to take oaths of office and give bonds.
  8. Jailer to remain in office during vacancy in office of sheriff, or a new jailer may be appointed.
  9. Sheriff to appoint and discharge his deputies and jailer by a writing to be recorded. Oath. Sheriff answerable for them.
  10. Sheriff on entering upon his office to notify coroners.
  11. New bonds required of sheriff or coroner on application of his sureties.
  12. Suits instituted on bonds of sheriff or coroner.
  13. Any other person having right of action may file an additional declaration, and have new summons served on defendant.
  14. Property may be attached on such summons, as on mesne process.
  15. When judgment is rendered against defendant in such action, execution to issue for each plaintiff for amount of his claim.
  16. His demand previously to be ascertained by a judgment.
  17. Against whom judgment to be entered, if for defendant.
  18. If against the defendant, the other party in interest to be named in the execution.
  19. Any person entitled to a copy of the bond. When the original may be required.
  20. Survivorship of actions against sheriffs or their deputies.
  21. Duty of sheriff and deputies to serve precepts. Their fees to be paid or secured in advance.
  22. Sheriff or deputy to make service, though his town is interested.
  23. Sheriffs, when vacating their office, may execute precepts in their hands.
  24. Also deputies when office of sheriff is vacated.
  25. Sheriff to have the custody of jails.
  26. Jailers holding over as in section eight, responsible on their bond.
  27. County commissioners may appoint a jailer when there is no sheriff or jailer.

- Sect.* 28. Defaults of deputies after death of sheriff covered by sheriff's bond.  
 29. Penalty if sheriff or deputy detain money collected after demand.  
 30. Sheriff not liable to be arrested.  
 31. Executions issued against his property only.  
 32. If sheriff does not pay such execution within forty days after notice from secretary of state, to be deemed as vacating his office.  
 33. After he ceases to be sheriff, executions to issue in common form.  
 34. Power of sheriffs to require aid. Forfeiture for refusing to aid.  
 35. If a person dies in prison, duty of jailer.  
 36. Constable's power to serve processes in personal actions.  
 37. Constables of Bristol may serve precepts on the Muscongus and Harbor islands.  
 38. Bonds previously required of constables.  
 39. Police officers to have same power as constables in serving warrants.  
 40. Remedy on constable's bond.  
 41. Officers prohibited from acting as attorneys.  
 42. Sheriffs to keep a calendar of prisoners.  
 43. On vacating his office, to retain the custody of the jail till his successor is qualified.  
 44. Warrants, &c., to be filed, safely kept, and delivered over.  
 45. Of the cleanliness of the jail and prisoners.  
 46. Sheriffs chargeable for all escapes from insufficiency of jail.  
 47. County commissioners may direct county treasurer to pay the sheriff the sum he has paid to creditor.  
 48. If county commissioners do not so direct, sheriff's right of action against the county.  
 49. Right of commissioners to defend. When action to be continued.  
 50. How execution may be levied. Remedy of party on whom levied.  
 51. List of prisoners to be returned by jailer to supreme judicial court.  
 52. Certain prisoners to be kept separate from the others.  
 53. Penalty for neglect. Spirituous liquors prohibited to persons accused or convicted of crimes.  
 54. Liability for negligent escapes. Proviso, in case of debtors.  
 55. Prisoners committed by the United States courts to be received and kept, except fugitive slaves.  
 56. No officer to arrest or detain, or assist therein, a person claimed as a fugitive slave. Penalty for so doing.  
 57. Appropriation of penalties.  
 58, 59. When officers may execute warrants out of their county.  
 60. What fees are receivable by sheriffs of their deputies.  
 61. Deputies to make annual returns of their emoluments of office to the sheriff.  
 62. Of the sheriff's annual return and settlement with county treasurer.  
 63. What sums may be retained by sheriffs in their counties.  
 64, 65. Of coroners' powers to serve precepts.  
 66. Jailer to reside in the house provided for him as such, if good and sufficient.  
 67. Officer, plaintiff or his attorney to furnish copy of writ to debtor, on his making demand and tendering the fee.

SECT. 1. Sheriffs shall be elected or appointed and hold  
 2 their offices according to the provisions of the constitution,  
 3 and their election shall be effected and determined as is  
 4 provided respecting county commissioners by chapter seven-  
 5 ty-eight, and they shall enter upon the discharge of official  
 6 duty on the first day of January following. And every per-  
 7 son elected or appointed sheriff shall be duly sworn; and  
 8 if for either of the counties of York, Cumberland, Lincoln,  
 9 Kennebec, or Penobscot, shall within sixty days after receiv-  
 10 ing his commission or being notified of his election give bond

Sheriffs and  
 coroners to be  
 elected or  
 appointed, &c.

CHAP. 80.1856, c. 210  
and 258.

R. S., c. 104, § 1.

Amendment to  
constitution.  
Sheriff's bond  
to be approved  
by county  
commissioners,  
&c.

R. S., c. 104, § 2.

Sufficiency of  
sheriff's and  
coroners'  
bonds, &c.

R. S., c. 104, § 3.

If adjudged  
insufficient,  
new bond to be  
given.

R. S., c. 104, § 4.

Forfeiture if  
sheriff neglects  
to give such  
bond, &c.R. S., c. 104,  
§ 5, 6.In what cases  
the governor, &c.

11 to the treasurer of state with at least three sufficient sure-  
12 ties in the sum of forty thousand dollars; and if for either  
13 of the other counties in the sum of twenty-five thousand  
14 dollars, conditioned for the faithful performance of the  
15 duties of his office and to answer for all neglects and mis-  
16 misdoings of his deputies.

SECT. 2. Every sheriff having executed such bond within  
2 such term shall file it in the office of the clerk of the county  
3 commissioners of his county to be presented to them at their  
4 next meeting for approval, and after being so approved the  
5 clerk shall record it and certify the fact on said bond, and  
6 retaining a copy thereof deliver the original to the sheriff,  
7 who shall deliver it to the treasurer of state within twenty  
8 days after its approval to be filed in his office.

SECT. 3. The county commissioners in each county at  
2 their first meeting after the third Tuesday of June on motion  
3 of the county attorney shall annually examine into the suf-  
4 ficiency of the bonds of sheriffs and coroners in their county,  
5 and cause a record of their determination to be made by  
6 their clerks, who shall certify the same to the treasurer of  
7 state within thirty days.

SECT. 4. If the bond of any sheriff or coroner is adjudged  
2 insufficient, the clerk within ten days shall certify that fact  
3 to such sheriff or coroner, who within twenty days there-  
4 after shall give a new bond with sufficient sureties to be filed  
5 in the office of the clerk of the county commissioners and  
6 approved as aforesaid, and then filed in the office of the  
7 treasurer of state.

SECT. 5. Any sheriff neglecting to give the security re-  
2 quired in the first or fourth section shall forfeit the sum of  
3 one hundred and fifty dollars for each month's neglect to the  
4 use of the state to be recovered in an action of debt by the  
5 treasurer of state, and the attorney general shall prosecute  
6 for the same; and the clerk of his county shall certify the  
7 name of such sheriff to the governor and council and to the  
8 attorney general; and unless reasonable cause for such neg-  
9 lect is shown, or within twenty days after the clerk has so  
10 certified he shall give or renew his security to the satisfac-  
11 tion of the governor and council, he shall be deemed to have  
12 vacated his office: and every coroner neglecting to give the  
13 bond required by the preceding section, shall be deemed to  
14 have vacated his office.

SECT. 6. When the treasurer of state certifies to the gov-  
2 ernor and council, that moneys due to the state on warrants

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3 or any other sums or balances are in the hands of any sheriff, and furnishes the names of the sureties of such sheriff, and it appears to the governor and council that such sureties have become insufficient or have removed from the state, they may require such sheriff to give a new bond with sufficient sureties within sixty days after he is notified to be filed as aforesaid, and on his neglecting so to do his office becomes vacant.

R. S., c. 104, § 7.

SECT. 7. Every coroner before entering upon the duties of his office shall be duly sworn and give bond to the treasurer of state with sufficient sureties to the satisfaction of the county commissioners of his county for the faithful performance of his duties, and such bond shall be transmitted to the treasurer of state in the same manner as a sheriff's bond, but when his bond is approved as sufficient by the certificate of two of the county commissioners and filed with the clerk of his county, it shall be deemed good to authorize such coroner to discharge his duties until the first day of their next stated meeting, and not afterwards unless approved by them.

Coroners on appointment to take oaths of office, &amp;c.

R. S., c. 104, § 8.

SECT. 8. During any vacancy in the office of sheriff any jailer duly appointed under such sheriff shall continue in office and retain the custody and charge of the jail and of all prisoners therein and all committed to his custody, till a new sheriff shall be elected or appointed and duly qualified, or till the governor and council removes such jailer and appoints another; and the governor with advice of council may make such removal and appointment during the vacancy in the office of sheriff; and the jailer so appointed shall give bond in the manner required of a sheriff for the faithful discharge of the duties of his office.

Jailer to remain in office during vacancy in office of sheriff, &amp;c.

R. S., c. 104, § 9.

SECT. 9. Every sheriff may appoint deputies and a jailer, for whose misconduct and neglect while in office he shall be answerable, and they shall be duly sworn. Their appointment and discharge shall be in writing signed by the sheriff and recorded in the office of the clerk of the courts in the same county, and shall not be valid until so lodged and recorded, except by operation of law or by vacancy in the office of sheriff. For recording such appointment or discharge the sheriff shall pay the clerk twenty-five cents.

Sheriff to appoint and discharge his deputies, &amp;c.

R. S., c. 104, § 10.

SECT. 10. Every person appointed or elected sheriff shall give notice thereof immediately to the several coroners of the same county.

Sheriff on entering upon, &c.  
R. S., c. 104, § 11.



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New bonds  
required of  
sheriff or coroner  
on application of  
his sureties.

R. S., c. 104,  
§ 12. Act of  
amendment,  
1841, § 14.

Suits instituted  
on bonds of  
sheriff or  
coroner.

R. S., c. 104,  
§ 13.

Any other  
person having  
right of action,  
may file an  
additional  
declaration, &c.

1842, c. 19, § 1.

Property may be  
attached on  
such summons,  
&c.

1842, c. 19, § 2.

When judgment  
is rendered  
against defend-  
ant in such  
action, &c.

SECT. 11. When any surety upon the official bond of any  
2 sheriff or coroner, or the heirs executors or administrators  
3 of such surety, petitions the county commissioners in the  
4 county of such sheriff or coroner to be discharged from such  
5 bond, the court shall cause such sheriff or coroner to be  
6 served with an attested copy of the petition, and may require  
7 him to give a new bond to their satisfaction; and upon such  
8 new security being given such surety or his legal represent-  
9 atives shall be free from responsibility on such bond for any  
10 neglects or misdoings occurring after such new bond is filed  
11 and accepted.

SECT. 12. When the condition of the official bond of any  
2 sheriff or coroner is broken to the injury of any person, he  
3 may at his own expense institute an action in the name of  
4 the treasurer in the county where such sheriff or coroner is  
5 commissioned to act, and prosecute the same to final judg-  
6 ment and execution, and in such case the writ shall be in-  
7 dorsed by the name and place of residence of such person  
8 or with the name of his attorney; and such indorser shall  
9 be alone answerable for all costs.

SECT. 13. Any other person having a right of action on  
2 such bond may file an additional declaration in the same  
3 action in the office of the clerk of the courts; and the clerk  
4 shall issue a summons directed to the defendant in said  
5 action specifying the cause of action and the amount de-  
6 manded returnable to the court in which such action is pend-  
7 ing, and indorsed by the name and place of residence of such  
8 other person or his attorney; and such indorser shall be lia-  
9 ble for costs the same as indorsers of writs.

SECT. 14. The goods chattels and estate of the defendant  
2 may be attached on such summons as on mesne process, and  
3 such summons shall be served on the defendant as an origi-  
4 nal summons; and thereupon the person so filing his decla-  
5 ration shall have all the rights of a plaintiff in the suit; and  
6 the defendant shall answer to said declaration, and judgment  
7 may be rendered thereon as if it was filed in an action  
8 originally instituted for the same cause.

SECT. 15. When judgment is rendered against the defend-  
2 ant in any action on such bond, damages shall be assessed  
3 on each declaration for the amount, which the party filing it  
4 would recover in a suit on the bond with costs; and several  
5 executions shall issue therefor in the name of each party so  
6 recovering in the order, in which the declarations were filed,

7 but not beyond the amount of the bond. And if judgment  
8 is for the defendant on any such declaration, execution shall  
9 issue against the party filing such declaration for costs.  
10 And no such action shall be dismissed discontinued or non-  
11 suited, except by order of court, without the consent of all  
12 the parties interested as plaintiffs.

1842, c. 19, § 3.

SECT. 16. But no such action on such official bond shall be  
2 instituted, until the party commencing it has recovered judg-  
3 ment against such sheriff or coroner his executors or admin-  
4 istrators for the injury sustained by him, or obtained a decree  
5 of the judge of probate allowing a claim for the cause afore-  
6 said; and such judgment or decree or so much of the same  
7 as remains unpaid with the interest shall be the amount of  
8 damages for which execution shall issue.

His demand  
previously to be  
ascertained by a  
judgment.R. S., c. 104,  
§ 14.

SECT. 17. If in an action on the official bond of a sheriff  
2 or coroner judgment is rendered in favor of the defendant,  
3 it shall be against the party for whose benefit the action was  
4 brought.

Against whom  
judgment to be  
entered, &c.  
R. S., c. 104,  
§ 15.

SECT. 18. When judgment is rendered in such action on  
2 the bond in favor of the treasurer, the name of the person  
3 for whose use the action was commenced shall be expressed  
4 and set forth in the execution issuing on such judgment.

If against the  
defendant, &c.  
R. S., c. 104,  
§ 16.

SECT. 19. The treasurer shall deliver an attested copy of  
2 the bond of any sheriff or coroner to any one applying and  
3 paying for it; and such copy shall be received as competent  
4 evidence in any case relating to the same, unless the execu-  
5 tion of the bond is disputed, in which case the court may  
6 order the treasurer to produce the same in court for the pur-  
7 poses of such trial.

Any person  
entitled to a  
copy of the  
bond, &c.R. S., c. 104,  
§ 17.

SECT. 20. Any actions for the neglect or misdoings of a  
2 sheriff or any of his deputies may be sued against the exec-  
3 utors or administrators of such sheriff, as if the action sur-  
4 vived at common law.

Survivorship of  
actions against  
sheriffs or their  
deputies.  
R. S., c. 104,  
§ 18.

SECT. 21. Every sheriff and each of his deputies shall  
2 serve and execute within his county all writs and precepts  
3 to him directed and committed issued by lawful authority;  
4 but his legal fees for service shall first be paid or secured  
5 to him; and if they are not paid or secured when the writ  
6 or process is delivered to him, he shall without delay return  
7 it to the plaintiff or attorney so offering it; or if sent to  
8 him by mail or otherwise shall put the same into some post  
9 office directed to the person sending the same within twenty-  
10 four hours; otherwise he shall be deemed to have waived  
11 his right to receive his fees before service.

Duty of sheriff  
and deputies to  
serve precepts,  
&c.R. S., c. 104,  
§ 19.

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Sheriff or deputy  
to make service,  
&c.

R. S., c. 104,  
§ 20.

Sheriffs, when  
vacating, &c.  
R. S., c. 104, § 21.

Also deputies  
when office of  
sheriff is  
vacated.

R. S., c. 104,  
§ 22.

Sheriff to have  
the custody of  
jails.

R. S., c. 104, § 23.

Jailers holding  
over, &c.

R. S., c. 104, § 24.

County com-  
missioners may  
appoint a jailer  
when there is no  
sheriff or jailer.

R. S., c. 104,  
§ 25.

Defaults of  
deputies after  
death, &c.

R. S., c. 104,  
§ 26.

Penalty if  
sheriff or deputy  
detain money  
collected after  
demand.

Act of amend-  
ment, 1841, § 14.  
c. 104, § 27.

Sheriff not liable  
to be arrested.  
R. S., c. 104, § 28.

Executions  
issued against  
his property  
only.

R. S., c. 104,  
§ 29.

If sheriff does  
not pay such  
execution  
within forty  
days after  
notice, &c.

SECT. 22. Such sheriff or deputy may serve writs or pre-  
cepts in cases, where a town plantation parish religious soci-  
ety or school district is a party or interested, though he is  
at the time a member thereof.

SECT. 23. All sheriffs and their deputies may execute all  
precepts in their hands at the time of vacating their office.

SECT. 24. In every vacancy in the office of sheriff in any  
county, every deputy under him having any writ or precept  
in his hands at the time such vacancy happens shall have the  
same authority, and be under the same obligation to serve  
the same and return it, as if he had continued in office.

SECT. 25. The sheriff of each county shall have the cus-  
tody and charge of the jail or jails therein, and keep the  
same personally or by his deputy.

SECT. 26. While any jailer continues to hold his office in  
virtue of the eighth section of this chapter, his defaults and  
misdoings shall be adjudged a breach of the official bond of  
such sheriff.

SECT. 27. If the office of jailer becomes vacant, while the  
office of sheriff is vacant, the county commissioners in the  
same county may appoint a jailer, who shall give bond as a  
sheriff is required to do, and continue in office, if his ap-  
pointment is confirmed at their next meeting, during the  
vacancy in the office of sheriff, or until he is removed and a  
new jailer appointed.

SECT. 28. The defaults or misfeasances in office of any  
deputy sheriff after the death resignation or removal from  
office of the sheriff who appointed him, shall be adjudged a  
breach of the condition of the sheriff's bond.

SECT. 29. Any sheriff or his deputy coroner or constable,  
who unreasonably refuses or neglects to pay moneys re-  
ceived by him on execution to the person entitled to it on  
demand, shall pay five times the lawful interest of such  
money so long as he unreasonably detains it.

SECT. 30. No sheriff shall be arrested on mesne process  
or execution in a civil action.

SECT. 31. When judgment is rendered against any sheriff  
either in his official or private capacity, the execution on  
such judgment shall be issued against his goods chattels and  
lands, but not against his body.

SECT. 32. When such an execution is returned not satis-  
fied, the creditor may file before the governor and council  
an attested copy of such execution and the return thereon,  
and serve such sheriff with a copy of such copy filed attested

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5 by the secretary with notice under the hand of the secretary  
 6 of the day on which such copy was filed, and if such sheriff  
 7 does not within forty days next after being served with such  
 8 copy and notice pay the creditor his full debt with reasona-  
 9 ble costs for copies and service of them, he shall be deemed  
 10 to have vacated his office.

R. S., c. 104,  
 § 30.

SECT. 33. When a sheriff against whom such executions  
 2 are issued ceases to be sheriff, the clerk may, as soon as an-  
 3 other sheriff is elected or appointed and duly qualified, issue  
 4 alias executions in common form against the body as well as  
 5 the goods chattels and lands of such former sheriff.

After he ceases  
 to be sheriff, &c.

R. S., c. 104,  
 § 31.

SECT. 34. Any sheriff deputy sheriff coroner or constable  
 2 in the execution of the duties of his office in criminal cases,  
 3 for the preservation of the peace, for apprehending or secur-  
 4 ing any person for the breach of the same, or in case of the  
 5 escape or rescue of persons arrested on civil process, may  
 6 require suitable aid therein; and any person so required to  
 7 aid either of said officers neglecting or refusing so to do, on  
 8 conviction thereof shall pay to the use of the county not  
 9 less than three nor more than fifty dollars; and if the offender  
 10 is unable or does not forthwith pay such fine, the court may  
 11 punish him by imprisonment not exceeding thirty days.

Power of  
 sheriffs to  
 require aid, &c.

R. S., c. 104,  
 § 32.

SECT. 35. When any person dies in prison in any county,  
 2 the jailer or sheriff shall deliver the body of the deceased to  
 3 his friends if requested; and if not requested bury the same  
 4 in the common burying ground, and the expenses thereof  
 5 shall be paid by the town in which the deceased had a legal  
 6 settlement, if he had any in the state, and if not the ex-  
 7 penses shall be paid out of the state treasury.

If a person dies  
 in prison, duty  
 of jailer.

R. S., c. 104,  
 § 33.

SECT. 36. Any constable is authorized to serve upon any  
 2 person in the town to which he belongs and in any adjoining  
 3 plantation any writ or precept in any personal action, where  
 4 the damage sued for does not exceed one hundred dollars,  
 5 including all precepts in which the town where he resides is  
 6 a party or interested; and he shall make due return thereof  
 7 as therein directed. His power to serve such processes,  
 8 when the damage exceeds that amount, is suspended so long  
 9 as a qualified sheriff or deputy resides in the town, where  
 10 he resides.

Constable's  
 power to serve  
 processes in  
 personal actions.

R. S., c. 104,  
 § 34.  
 1852, c. 285,  
 1856, c. 217.

SECT. 37. The constables of the town of Bristol shall  
 2 have like powers to serve all the precepts on the islands  
 3 called Muscongus and Harbor islands in the county of Lin-  
 4 coln as in their own town, until said islands can legally elect  
 5 constables.

Constables of  
 Bristol may  
 serve precepts  
 on the Muscon-  
 gus and Harbor  
 islands.  
 1843, c. 23.

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Bonds previously  
required of  
constables.

R. S., c. 104,  
§ 35.

Police officers to  
have same power  
as constables in  
serving  
warrants.

1850, c. 150, § 1.

Remedy on  
constable's  
bond.

R. S., c. 104,  
§ 36.

Officers prohib-  
ited from acting  
as attorneys.

R. S., c. 104,  
§ 38.  
1855, c. 114.

Sheriffs to keep  
a calendar of  
prisoners.

R. S., c. 104,  
§ 39.

On vacating  
his office, &c.

R. S., c. 104,  
§ 40.

SECT. 38. Every constable before he serves any precept  
2 shall give bond to the inhabitants of his town in the sum of  
3 five hundred dollars with two sureties approved by the mu-  
4 nicipal officers thereof, who shall indorse their approval on  
5 said bond in their own hands, for the faithful performance  
6 of the duties of his office as to all processes by him served  
7 or executed; and for every process he serves before giving  
8 such bond he shall forfeit and pay not less than twenty nor  
9 more than fifty dollars to the use of any person suing  
10 therefor.

SECT. 39. All police officers duly appointed in any city in  
2 this state shall have all the powers, which constables legally  
3 have in serving warrants in criminal matters, in arrest of  
4 persons charged with or suspected of offenses against the  
5 laws of the state, or the by-laws of such city, and in all sim-  
6 ilar matters within the powers of constables.

SECT. 40. All persons suffering by the faults or misdoings  
2 of any constable shall have remedy on his bond, as is pro-  
3 vided in case of sheriffs' bonds, and similar proceedings shall  
4 be had in both cases such change being made as to render  
5 the process effectual.

SECT. 41. No sheriff deputy sheriff or constable shall  
2 appear before any court or justice of the peace as attorney  
3 to or advising any party in a suit, or draw any writ plaint  
4 declaration citation process or plea for any other person;  
5 and all such acts done by either of them shall be void.

SECT. 42. Every sheriff shall keep in a bound book pro-  
2 vided for that purpose a true and exact calendar or register  
3 of all prisoners committed to the prison under his care con-  
4 taining, distinctly and fairly registered the names of all pris-  
5 oners, their places of abode, additions, time of their com-  
6 mitment, for what cause, and by what authority; and a par-  
7 ticular description of the persons of those committed for  
8 criminal offenses; and when any prisoner is discharged, he  
9 shall register in said book his name and description, the  
10 time when, and the authority by which he was discharged;  
11 and the time and manner of any prisoner's escape.

SECT. 43. Every sheriff shall be answerable for the deliv-  
2 ery over to his successor of all prisoners in his custody at  
3 the time when he ceases to be sheriff; and for that purpose  
4 shall retain the keeping of the jail in his county and the  
5 prisoners therein, until his successor enters on the duties of  
6 his office.

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SECT. 44. All warrants, mittimuses, processes, and other  
 2 official papers, or attested copies of them, by which any  
 3 prisoner is committed or liberated, shall be regularly filed  
 4 in order of time; and with the calendar before mentioned  
 5 safely kept in a suitable box; and on expiration of his com-  
 6 mission, or on his ceasing to be sheriff, shall be by the sheriff  
 7 or his personal representative delivered over to his successor  
 8 on penalty of forfeiting for his neglect two hundred dollars  
 9 to the use of the county.

Warrants, &c.,  
 to be filed,  
 safely kept, and  
 delivered over.

R. S., c. 104,  
 § 41.

SECT. 45. Every sheriff shall see that the jail in his county  
 2 is kept as clean and healthy as may be; and cause the walls  
 3 to be whitewashed in April or May annually, and as often  
 4 as the county commissioners order, at the expense of the  
 5 county; and pay strict attention to the personal cleanliness  
 6 of the prisoners.

Of the cleanli-  
 ness of the jail  
 and prisoners.

R. S., c. 104,  
 § 42.

SECT. 46. When any prisoner escapes through the insuffi-  
 2 ciency of the jail, or the negligence of the sheriff or jailer,  
 3 the sheriff shall be chargeable to the creditor or other per-  
 4 son, at whose suit he was committed, or to whose use any  
 5 forfeiture was adjudged against such prisoner.

Sheriffs charge-  
 able for all  
 escapes from  
 insufficiency of  
 jail.  
 R. S., c. 104,  
 § 43.

SECT. 47. When such escape happens through the insuffi-  
 2 ciency of the jail, the county commissioners may order the  
 3 county treasurer to pay over to the sheriff of the county  
 4 the amount paid by him to such party.

County commis-  
 sioners may  
 direct county  
 treasurer, &c.  
 R. S., c. 104,  
 § 44.

SECT. 48. If the county commissioners do not make such  
 2 order within six months after the demand is laid before them,  
 3 the sheriff may bring his action on the case against the in-  
 4 habitants of such county to be tried in the same county or  
 5 one of the adjoining counties; an attested copy of the writ  
 6 left with the county treasurer thirty days before the sitting  
 7 of the court, to which it is returnable, shall be a sufficient  
 8 service.

If county com-  
 missioners do  
 not so direct, &c.

R. S., c. 104,  
 § 45.

SECT. 49. The county commissioners may appoint an agent  
 2 to appear and defend the action; and when there is 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  
 5 to the next term of the court saving all advantages to the  
 6 defendants.

Right of  
 commissioners  
 to defend, &c.

R. S., c. 104,  
 § 46.

SECT. 50. If in such action judgment is rendered against  
 2 the county, the debt may be levied by execution upon the  
 3 estate of any inhabitant, who shall have his remedy against  
 4 the county to recover the amount so levied.

How execution  
 may be levied,  
 &c.  
 R. S., c. 104,  
 § 47.

SECT. 51. Every jailer at the opening of the supreme judi-  
 2 cial court for his county shall return a list of prisoners in

List of prisoners  
 to be returned by  
 jailer, &c.

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R. S., c. 104,  
§ 48.

Certain prisoners  
to be kept  
separate from  
the others.

R. S., c. 104,  
§ 49.

Penalty for  
neglect, &c.

R. S., c. 104,  
§ 50.

Liability for  
negligent  
escapes, &c.

R. S., c. 104,  
§ 51.

3 his custody, certifying the cause for which and the person by  
4 whom committed, and of all committed during the session,  
5 and the cause of commitment; and shall have the calendar  
6 of prisoners in court for its inspection; and for neglecting  
7 so to do the court may impose a reasonable fine.

SECT. 52. Every jailer or prison keeper shall keep prison-  
2 ers committed for debt separate from felons, convicts, and  
3 prisoners charged with felony or infamous crimes; and all  
4 minors so committed, and all prisoners upon a first charge  
5 with or without conviction of any crime, separate from noto-  
6 rious offenders and those convicted more than once of any  
7 felony or infamous crime, as the construction or state of the  
8 prison will admit.

SECT. 53. If any prison keeper violates any of the pro-  
2 visions of the preceding section, or voluntarily or negligently  
3 suffers any prisoner in his custody charged with or convicted  
4 of any crime to have any spirituous liquors or in part spirit-  
5 uous, unless the physician authorized to attend the sick in  
6 such prison in writing certifies that such prisoner's health  
7 requires it and prescribes the quantity, shall in each case for  
8 the first offense forfeit twenty-five dollars, and for the second  
9 offense fifty dollars, to be recovered by indictment for the use  
10 of the county, or by any person suing therefor to his own  
11 use; and shall forfeit his office, and be incapable of holding  
12 the office of sheriff deputy sheriff or jailer for the term of five  
13 years; and if the keeper of any jail or other person gives sells  
14 or delivers to any person committed to jail on mesne pro-  
15 cess or execution, or to any other person for his use, any  
16 spirituous liquors without the consent in writing of the over-  
17 seers of the poor of the town where the jail is situated, he  
18 shall forfeit not less than five nor more than ten dollars to  
19 be recovered on complaint before a justice of the peace one  
20 half to the use of said town and the other to the prosecutor.

SECT. 54. If any jailer or prison keeper through negli-  
2 gence suffers any prisoner charged with any crime to escape,  
3 he shall pay such fine as the court before which he is con-  
4 victed inflicts, according to the nature of the offense charged  
5 against the escaped prisoner; if any person committed for  
6 debt escapes from prison, and the sheriff or jail keeper  
7 within three months next after the escape recovers him and  
8 returns him to the prison, the sheriff shall be liable for no  
9 more than the costs of any action commenced against him  
10 for the escape.

- SECT. 55. The keepers of the several jails in this state shall take the custody of and safely keep all prisoners committed under the authority of the United States, except persons claimed as fugitive slaves, until discharged by law under the penalties provided by law for the safe keeping of prisoners under the laws of this state.
- SECT. 56. No sheriff, deputy sheriff, coroner, constable, jailer, justice of the peace, or other officer of this state, shall arrest or detain or aid in so doing in any prison or building belonging to this state or to any county or town any person on account of a claim on him as a fugitive slave. Any of said officers violating any of the aforesaid provisions, or aiding or abetting any person claiming arresting or detaining any person as a fugitive slave, shall forfeit a sum not exceeding one thousand dollars for each offense to the use of the county where it is committed, or be imprisoned not exceeding one year in the county jail.
- SECT. 57. All fines arising from breaches of any of the provisions of this chapter not otherwise appropriated shall be applied to building and repairing the jails in the county, where the offense is committed.
- SECT. 58. A warrant duly issued by a municipal or police court or a justice of the peace for an offense committed in his county, or under the law for the maintenance of bastard children, may be executed by any constable of any town in the same county, to whom it is directed; and if the person charged has removed or gone into another county before or after the warrant was issued, the sheriff or his deputy, coroner, or constable, to whom the warrant is committed, may execute the same and pursue and arrest such person in any county, and carry him to the county in which the act complained of was committed.
- SECT. 59. When any sheriff, deputy sheriff, coroner, or constable, arrests any person by virtue of a lawful precept for the purpose of committing him to the prison of his county, he may convey him by the most convenient and suitable route, though the same passes through other counties.
- SECT. 60. No sheriff shall receive from any of his deputies any portion of the fees for levying and collecting executions issued by a justice of the peace, wherein the debt or damage does not exceed twenty dollars; nor more than at the rate of twelve per cent. on the amount of fees for travel and service of precepts; nor take from him a percentage on any

## CHAP. 80.

Prisoners committed by the U. S. courts to be received and kept, &c. R. S., c. 104, § 52, 1855, c. 182.

No officer to arrest or detain, &c.

1855, c. 182, § 2, 3.

Appropriation of penalties. R. S., c. 104, § 53.

When officers may execute warrants out of their county.

1848, c. 45, R. S., c. 104, § 54.

When any sheriff, coroner, or constable, arrests, &c. R. S., c. 104, § 55.

What fees are receivable by sheriffs of their deputies.



## CHAP. 80.

R. S., c. 104, § 56.  
1852, c. 253.

Deputies to  
make annual  
returns of  
their emolu-  
ments, &c.

R. S., c. 104,  
§ 57.

Of the sheriff's  
annual return  
and settlement  
with county  
treasurer.

R. S., c. 104,  
§ 58.

What sums may  
be retained by  
sheriffs in their  
counties.

R. S., c. 104,  
§ 59.  
1854, c. 70,  
§ 14.  
1854, c. 60.

Of coroner's  
powers to serve  
precepts.

R. S., c. 104,  
§ 60.

When the office  
of sheriff in any  
county is vacant,  
any coroner of  
such county may  
execute and  
return all  
writs, &c.

R. S., c. 104,  
§ 61.  
1854, c. 110, § 1.

7 items, except travel and service, notwithstanding his bond  
8 otherwise provides.

SECT. 61. Each deputy sheriff shall keep a true account  
2 with the items thereof of all fees for travel and service and  
3 other emoluments accruing to him by virtue of his office, and  
4 within twenty days after the first day of December annually  
5 return under oath to the sheriff a true copy of such account  
6 up to the time of said return.

SECT. 62. Each sheriff within ten days after the twentieth  
2 day of December annually from the accounts returned to  
3 him by his deputies as required in the preceding section  
4 shall state a true account of the amount of fees for travel  
5 services and other emoluments of office specifying the dif-  
6 ferent classes of items accruing from his deputies and of the  
7 amount of such fees and other emoluments accruing to him  
8 in his office within the preceding year, and within said ten  
9 days make a true return under oath of said account to the  
10 treasurer of his county, after deducting from the sum total  
11 the sum limited for him in the following section, and pay  
12 over the residue to such treasurer for the use of the county.

SECT. 63. The sheriffs for the counties of York, Cumber-  
2 land, Lincoln, Penobscot and Kennebec, shall be limited to  
3 seven hundred dollars each; the sheriffs of Oxford and Som-  
4 erset to five hundred dollars each; the sheriffs of Hancock,  
5 Sagadahoc, *Androscoggin*, Washington and Waldo, to four  
6 hundred dollars each; the sheriff of Piscataquis three hun-  
7 dred and fifty dollars; the sheriff of Franklin three hundred  
8 dollars; and the sheriff of Aroostook to one hundred and  
9 twenty-five dollars.

SECT. 64. Every coroner within his county shall serve and  
2 return all writs and precepts, in which the sheriff of the  
3 same county or any of his deputies is a party, unless served  
4 by a constable, including those precepts in which a town,  
5 plantation, parish, religious society, or school district, is a  
6 party or interested, though he is at the time a member  
7 thereof.

SECT. 65. When the office of sheriff in any county is vacant,  
2 any coroner of such county may execute and return all writs  
3 and precepts which by law could be served and returned by  
4 the sheriff or his deputies, until another sheriff is elected or  
5 appointed and legally qualified. And any coroner may law-  
6 fully serve execute and return any precept in his hands, when  
7 his term of office expires, or when he is notified of the ap-

8 pointment and qualification of the sheriff of his county after CHAP. 80.  
 9 a vacancy in such office.

SECT. 66. Every keeper of a county jail shall reside con-  
 2 stantly with his family, if he has any, within the house pro-  
 3 vided for him, if such buildings are good and sufficient in the  
 4 opinion of the county commissioners of his county; and in  
 5 case of neglect so to do he shall forfeit and pay a sum not  
 6 exceeding three hundred dollars to be recovered by indict-  
 7 ment to the use of the county.

Jailer to reside  
in the house  
provided for him  
as such, &c.

R. S., c. 104,  
§ 62.

SECT. 67. Every officer plaintiff or his attorney having in  
 2 his possession a writ, on which an attachment has been made,  
 3 shall make and deliver to the debtor or his attorney, if re-  
 4 quested and the legal fee tendered, an attested copy thereof.  
 5 And if he unreasonably refuses or neglects so to do for  
 6 twenty-four hours, he shall forfeit five dollars and five dol-  
 7 lars additional for every subsequent twenty-four hours he so  
 8 refuses or neglects to be recovered by the debtor to his own  
 9 use in an action of debt in any competent court.

Officer, plaintiff  
or his attorney  
to furnish copy  
of writ to  
debtor, &c.

1852, c. 264,  
§ 1, 2.

