

MAINE STATE LEGISLATURE

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REPORT
OF
CHARLES W. GODDARD, COMMISSIONER
APPOINTED TO
REVISE, COLLATE, ARRANGE AND CONSOLIDATE
THE
GENERAL AND PUBLIC LAWS
OF THE
STATE OF MAINE,
BY THE RESOLVE APPROVED MARCH 8, 1881.

RESOLVE.

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

CHAPTER 26.

Resolve for the revision and consolidation of the Public Laws of the State.

Resolved, That the revision of the public laws of this State be committed to Charles W. Goddard, of Portland, whose duty it shall be to revise, collate, arrange and consolidate all the general and public laws now in force and such as shall be enacted at the present session of the legislature; preserving unchanged, the order and arrangement of the present revised code, and retaining the phraseology thereof, except so far as it may be necessary to vary it by incorporating existing laws therewith; and such subsequent laws as are in force at the time of the revision shall be incorporated into the revised code, in the appropriate chapters and sections thereof, in language concise and intelligible, and of the same intent, effect and construction; leaving out of the new revision all such parts of the present revised statutes as have been repealed or superseded, and omitting also, chapter ten, concerning the militia; and so modifying other provisions as to conform to existing laws; also causing the head notes and marginal notes to be carefully examined and changed to conform to the new revision; and references to the recent adjudged cases interpreting the statutes to be added; and a copious and perfect general index to all the provisions of the revised code to be prepared; also suggesting, with proper distinguishing marks, such contradictions, omissions, repetitions and imperfections as may appear in the present revised statutes and in the subsequent laws, and the mode in which the same may be reconciled, supplied, amended and corrected.

Resolved, That said commissioner shall complete said revision in separate titles, and on or before the first day of the next session of the legislature shall cause five hundred copies thereof to be printed by such person as shall be employed in accordance with the resolve following; and said commissioner shall superintend said printing.

Resolved, That the committee on the judiciary be, and they are hereby authorized to arrange the details of said commissioner's service, and his compensation; and to contract, in behalf of the state, with some competent and responsible printer for the printing aforesaid; *provided*, that the entire expense of said revision, and of the printing above specified, shall not exceed the sum of eight thousand dollars.

IN HOUSE OF REPRESENTATIVES, March 7, 1881.

Read and passed finally.

LIBERTY H. HUTCHINSON, *Speaker*.

IN SENATE, March 8, 1881.

Read and passed finally.

JOSEPH A. LOCKE, *President*.

Approved.

March 8, 1881.

HARRIS M. PLAISTED, *Governor*.

COMMISSIONER'S REPORT.

To the Honorable Legislature:

In obedience to the foregoing resolve, your commissioner most respectfully submits his revision of the general and public laws of the state.

During the twelve years which have elapsed since the third revision, 886 public laws have been enacted at eleven sessions, covering 770 pages. Of these, 68 have been superseded, 44 substantially repealed, and 32 expressly repealed; 28 others are acts of repeal, and 16 are of a temporary nature; while 38, not being of a general character, are omitted from this revision, although unrepealed. The remainder, 660 in number, affecting 540 sections and paragraphs of the revised statutes, are wholly or in part incorporated into the present revision.

The work has been conducted upon the following general principles. Although some of the subsequent laws might perhaps have been more conveniently arranged under new chapters, it was believed that the advantage of such a classification would not justify a disturbance of the order which was adopted in the revision of 1857, and retained by the revisers of 1871, and which has thus become familiar both to the legal profession and to the public. Neither did the resolve seem to authorize the removal of sections of the revised code from one chapter to another, although in some cases, particularly in chapters 46 and 48, such a change might in itself have been desirable. The only exception is the removal of section 7 of chapter 135 to chapter 138 (section 4), a change which the enactment of chapter 114 of the public laws of 1876 seemed to require. If, in view of its unconstitutionality, chapter 44, relating to hawkers and pedlars should be repealed, the blank might be filled with a miscellaneous chapter, consisting of acts which do not strictly belong to either of the other 142 chapters, but which have been incorporated with those that bear the most resemblance; as for example, chapter 135 of 1873, which, for want of a more appropriate place, has been made section 17 of chapter 7 of the present revision.

In the incorporation of subsequent laws into the revised code, your commissioner has endeavored to employ that concise and intelligible language which generally characterizes the second and third revisions. Where a change of phraseology was manifestly necessary or desir-

able, the original language of the public act has not always been noted, but in every doubtful case, the proposed alteration has been indicated by enclosing the new words in brackets and italicizing the superseded ones. In *all* cases where the phraseology of any unamended section of the third revision seemed to require alteration, the change has been thus noted. Where the style was so concise as to involve obscurity or a violation of grammar or syntax, your commissioner has not hesitated to suggest an improvement.

In several instances your commissioner has been in doubt whether a section of the revised statutes of 1871 was not repealed or superseded by a subsequent act, and in some cases legal gentlemen who have honored him with their advice have differed upon that point.* In such cases, your commissioner has deemed it on the whole safer to retain the section in question, adding the subsequent act, so that the Honorable Legislature, having both provisions before it in the draft, may determine the disputed question for itself.

Descending to minor points of style, uniformity has been sought by the exclusion, so far as practicable, of synonymous words. In most kinds of composition, euphony may be promoted by a judicious use of synonyms, but they are regarded as out of place in a code where precision and accuracy are of pre-eminent importance. Thus the full conjunction "*until*" has been substituted for the contracted form "*till*"; the word "*intoxicating*" for "*spirituuous*," in chapter 27; and "*disposal*" for "*disposition*," in several places. "The *disposal* of insane criminals" would, it is thought, be considered preferable to "the *disposition* of insane criminals." So also "*Sunday*" or "*Lord's day*" for "*Sabbath*," passenger "*station*" for "*depot*," "*forward*" for "*ship*" when applied to land transportation, and "*propel*" or "*operate*" for "*run*."† The present indicative and present subjunctive have been used somewhat indiscriminately in the other revisions; in most cases, either may be justified by modern usage, but the former has generally been preferred in the present code.

The word "*the*" before "*state*" has been substituted for "*this*," except when the sense required the use of the relative pronoun. Ordinarily, the legislature of Maine would be presumed by the words "the state," to intend the State of Maine.

Simplicity has been promoted by the use of Anglo-Saxon English instead of its latin equivalent, as for instance "six per cent. a year," in place of "six per centum per annum." The latin is longer, no better and more liable to misprint, if not misapprehension.‡ It is to be regretted that the public acts have been drawn by so many different hands, for they exhibit marked differences of style. This blemish cannot of course, be fully removed in a revision, but an effort has been made to relieve the code of some of the most conspicuous instances. Thus the auxiliary "*shall*" is substituted for the awkward

* See suggestions in proposed amendment VI, on pp. 11 and 12 of this report.

† Is not the tendency to force intransitive verbs into use as transitives a symptom of the decline of a language?

‡ For an unpleasant instance of this, see statement of the case of *Blake v. Parlin*, in volume 9 of Shepley's Reports, 22 Maine, page 396.

expression "*is to*," wherever the latter words have crept into the last revision.

In obedience to the resolve, your commissioner has suggested with proper distinguishing marks, several changes in order to reconcile contradictions, obviate repetitions, supply omissions and correct imperfections in the revised statutes and subsequent laws, noting, whenever it seemed necessary, the reasons therefor at the bottom of the page;* also the names of gentlemen to whom he is indebted for some of the suggestions.† At the end of this report, other amendments of the law, less obvious and imperative, are proposed by your commissioner for the consideration of the Honorable Legislature.

The head notes and marginal notes have been carefully examined and changed to conform to the new revision. The additional references to the recently adjudged cases from the last 16 volumes of Maine Reports have required a condensation of the marginal notes, and they have been largely re-written.

In the second revision cases are cited by their first page, but in the Revised Statutes of 1871 the practice is not uniform, for the page containing the actual reference is frequently given. This is regarded as the better practice, because it directs the reader to the desired page at once, frequently saving a long search. In the present draft, not only are the new cases thus cited, but those referred to in the third revision have been corrected so as to conform to the same plan.

Special attention has been given to the marginal references to the Constitution of the United States and its amendments. The cases referred to embrace 103 volumes of the U. S. Supreme Court Reports, and it is hoped that they will be found approximately complete.

The original spelling and capitalization of the National Constitution has been restored. The effect of the various amendments is indicated by italicizing the obsolete parts.

The dates of admission of each of the twenty-five new states and of the secession and re-admission of the eleven rebel states, are given, with a more full and complete account of the time and manner of the adoption of the XV Amendments to the U. S. Constitution.

The brief notes in reference to the origin and adoption of the Declaration of Independence, the organization of the Constitutional Convention of 1787, and the acquisition and extent of the territory embraced in the Union will, it is believed, be found of interest and value.

The four amendments to the Constitution of Maine which have been adopted since the promulgation of the new draft of 1876 have been added to this revision, with a full account of the date and man-

* pp. 89, 90, 127, 128, 135, 144, 145, 190, 201, 202, 212, 305, 315, 341, 342, 359, 368, 394, 445, 454, 455, 480, 495, 500, 517, 546, 548, 552, 570, 575, 579, 620, 621, 624, 657, 673, 682, 691, 705, 707, 710, 754, 755, 759, 814, 837, 842, 847, 849, 883, 898, 934, 962, 964, 1019, 1040, 1043, 1044, 1047, 1048, 1060, 1075, 1079, 1110, 1129, 1142, 1146, 1149, 1150, 1151, 1157, 1173.

† pp. 523, 563, 564, 639, 643, 677, 685, 716, 749, 883, 899, 901, 914, 996, 1018, 1060, 1077, 1097.

ner of their adoption; their effect upon the Constitution is indicated by italics.

A complete list of the forty acts touching intoxication and the sale of intoxicating liquors, passed since 1850, (known as the liquor laws) will be found at the end of chapter 27, and will prove convenient for reference. The list of local fish-laws at the end of chapter 40 has been revised and re-arranged alphabetically.

The general Index at the end of the book refers not only to the text of the revision proper, but to that of the Constitution of the United States and of Maine. This was the style of the first revision and has been thought on the whole the more convenient, but the references to the National Constitution are distinguished by small capitals and those to the State Constitution by italics, so that the plan of 1857 and 1871 may readily be restored if the Honorable Legislature should prefer it.

The marginal references of the text are a sufficient guide to the source of every section and paragraph of the present code, but they are, of course, of no service in tracing a section or item of the third revision or of a subsequent act to its place in the present volume. This want is supplied by a Reference Index, of 42 pages, in two parts; the first traces the various sections and items of the last revision, while the second performs the same duty for all the public acts from 1871 to 1882, inclusive.

Appended to this report will be found a Reference Table in two parts, containing every chapter, section and item of the third revision and of the subsequent public laws which is not incorporated into the present code, with the time and manner of its repeal, or substitution. This reference table is not designed to form a part of the Fourth Revision, but is annexed to this report in order that the Honorable Legislature may the more readily judge of the accuracy of the work.

A somewhat lengthy note on the sources of land titles in Maine follows this report, and is at the service of the Honorable Legislature, but it was not included in the revision proper, because your commissioner doubted what might be the legislative pleasure concerning it.

The first revision, of 1840, was honored by the services of such jurists as Ex-Chief Justice Mellen, Ex-Governor Smith, the Honorable Philip Eastman, and the Honorable Ebenezer Everett, and its preparation occupied nearly four years. It consists of 178 chapters, and the text contains 743 pages, with an index of 92 pages, the whole number of pages being 896. No cases are noted in the margin. The second revision, of 1857, received the aid of Ex-Chief Justice Shepley, the Honorable James Bell, the Honorable Joseph Baker, the Honorable Warren H. Vinton, the Honorable Noah Smith, Jr., and of John B. Hill, and Louis O. Cowan, Esquires, and occupied three years. Its text contains 750 pages, (although 36 pages were saved by the omission of the militia act,) and its indexes cover 198 pages, the whole number of pages being 968. The number of chapters is reduced to 143. Decisions from the first 39 volumes of Maine Reports are noted in the margin. The third revision, of 1871, was the work of the Honorable Joseph Baker, the Honorable Ephraim Flint, Jr., and

Edwin W. Wedgewood, Esquire, and occupied two years. The text contains 933 pages, and the indexes 319 pages; the whole number of pages is 1,273. The number of sections is 3,847 and of items, 252. Marginal reference is made to the first 57 volumes of Maine Reports.

The 770 pages of the last twelve years' legislation has added 238 pages to the text of the present revision, increasing the sections to 4,430 and the items to 286, and enlarging the code to 1,198 pages, which an elimination of the obsolete sections and italicized clauses will perhaps reduce to the extent of some 20 pages. The marginal references include 72 volumes of Maine Reports. The type and size of the volume conform to the standard required by the Honorable Committee on the Judiciary, being similar to the revision of 1871. They ought not, in the judgment of your commissioner, to be reduced, an opinion in which it is believed that those who have examined the recent Massachusetts revision will concur. To speak with exactness, the printed text of the present draft is one-eighth of an inch wider than that of the last revision, and three-eighths of an inch longer, but of the same capacity.

Soon after his appointment, your commissioner requested the judges and several leading members of the bar and public officers to favor him with such suggestions as they thought proper. To them, and to other gentlemen of learning and experience who have honored him with their advice and assistance, he takes this opportunity to tender his grateful acknowledgments, especially to the Honorable Harris M. Plaisted, Governor of Maine, to the Honorable Joshua L. Chamberlain, President of Bowdoin College, to Executive Councillors Baker and Robie, to Justices Walton, Danforth, Virgin, Peters and Symonds, of the Supreme Judicial Court, to Judge Webb, of the District Court of the United States, to Justices Bonney and Whitehouse, of the Superior Court, to Judges Hall, Peabody, and Wing of the Court of Probate, to the Honorable Nelson Dingley, Jr., Representative in Congress, to Attorney General Cleaves, Secretary of State Smith, State Treasurer Holbrook, Land Agent Packard, Bank Examiner Richards, and Reporter Spaulding, to Senators Bisbee, Emery, and Mortland, and to Representatives Dickey, Emery, Flint, Hall, Hutchinson, Keegan, King, Milliken, Strout, Talbot, Thompson and Verrill, of the recent Legislature, to Assistant Secretary of State Chadbourne, and Chief Clerk Milliken, to County Attorneys Coombs of Portland, Greenleaf of Pittsfield, Heath of Augusta, and Peaks of Dover, to the Honorable Joseph Baker and James W. Bradbury, and to A. G. Andrews, Henry S. Osgood, and F. E. Southard, Esquires, of Augusta, to the Honorable William W. Bolster, and A. R. Savage, Esquire, of Lewiston, to General John M. Brown, of Falmouth, to the Honorable Josiah Crosby, of Dexter, to the Honorable Daniel F. Davis, and Albert W. Paine, and to Charles A. Bailey, Charles A. Boutelle, Henry C. Goodenow, Jasper Hutchins, Thomas W. Vose, and Frank A. Wilson, Esquires, of Bangor, to the Honorable Neal Dow, Josiah H. Drummond, and Melvin P. Frank, and to Hanno W. Gage, Harvey D. Hadlock, Thomas H. Haskell, George F. Holmes, George E. B. Jackson, Charles P. Matlocks, Edwin

A. Noyes, James O'Donnell, and Alpheus G. Rogers, Esquires, of Portland, to the Honorable Nahum Morrill, and Josiah D. Pulsifer, of Auburn, to the Honorable John A. Waterman, of Gorham, to the Honorable Joseph Williamson, and to George E. Wallace, Esquire, of Belfast, to O. R. Bachelder, and Turner Buswell, Esquires, of Skowhegan, to Isaac W. Dyer, Esquire, of Baldwin, to William E. Gould, Esquire, of Deering, to A. G. Lebroke, Esquire, of Foxcroft, to Rufus K. Sewall, and George B. Sawyer, Esquires, of Wiscasset, to John H. Webster, Esquire, of Norridgewock, and to James S. Wright, Esquire, of Paris; also to the Honorable Charles F. Adams, Jr., to Charles Deane, LL. D., and to John W. Deane, and Ebenezer F. Pillsbury, Esquires, of Boston, Massachusetts.

Following the fifteen amendments proposed by your commissioner at the end of this report, forty-five others suggested by some of those gentlemen will be found and are respectfully submitted for the consideration of the Honorable Legislature.

The vigilance of your commissioner has not been sufficient to prevent several typographical and other errors from creeping into the marginal references and even into the text, the most serious of which are noted at the end of the volume. In partial excuse for their existence, he would remark that the supply of type was, of course, insufficient to allow the whole work to be printed at once, so that there was little opportunity to correct mistakes in the early part of the book where it will be found that most of the errors occur.

In conclusion, your commissioner begs leave to remark that however faulty and imperfect the revision may appear to others, it seems much more so to him, both on account of his greater familiarity with it, and because of his more profound realization of the difference between his ideal and the performance of the laborious and responsible duty with which the last Legislature was pleased to honor him.

C. W. GODDARD.

PORTLAND, January 3, 1883.

AMENDMENTS TO EXISTING LAWS PROPOSED BY THE COMMISSIONER FOR THE CONSIDERATION OF THE HONORABLE LEGISLATURE FOR INCORPORATION INTO THE FOURTH REVISION OF THE GENERAL AND PUBLIC LAWS.

I.

PROMULGATION AND TAKING EFFECT OF CONSTITUTIONAL AMENDMENTS.

There is no general provision for promulgating to the people the adoption of a constitutional amendment proposed by the legislature under Article X, Section 2, of the constitution, or fixing the time when an amendment so adopted by the people shall take effect. Neither has the practice been uniform or consistent.

Sometimes the resolve proposing an amendment has provided the mode of promulgation and the time of taking effect, and sometimes it has failed to do either satisfactorily. Out of this defect, serious questions arose in 1856 and in 1881.

Of the four amendments adopted since the promulgation of the amended constitution in 1876, the first was proclaimed by Governor Connor, December 20, 1877, and took effect on the first Wednesday of the following January; the second was declared by a legislative resolve of March 18, 1880 to have taken effect on the second Monday of September previous; the third was proclaimed by Governor Davis, November 9, 1880, and the fourth does not appear of record at all, save in the transactions of the governor and council, where the report of the committee on election returns that a majority of the inhabitants voted in favor of the amendment, was accepted by the council and approved by the governor, October 20, 1880.

Neither of the proclamations is to be found in any volume of laws, and your commissioner is not aware of any evidence of the adoption of the first, third or fourth, except in the archives of the secretary of state. To supply this defect the following amendment is recommended.

An act in relation to Constitutional Amendments.

Chapter four of the draft of the fourth revision of the general and public laws is amended by the addition of two new sections, as follows:—

[CONSTITUTIONAL AMENDMENTS.

SEC. 105. Unless otherwise provided in the resolve submitting it, every constitutional amendment shall take effect and become part of the Constitution, on the first Wednesday of January following its adoption by the people.

When constitutional amendments take effect, 1883, c. , §

SEC. 106. Within thirty days after it shall appear that a constitutional amendment has been adopted, the governor shall make proclamation thereof, and the secretary of state shall forthwith cause such proclamation to be published in the state paper, and it shall also be prefixed to the next volume of acts and resolves.]

Constitutional amendments, how proclaimed, 1883, c. , §

II.

PUBLICATION OF THE PUBLIC LAWS IN NEWSPAPERS IN SUITABLE TYPE.

The practice has been to print the newspaper copies of the public acts on inferior paper and with diminutive type. When it is considered that many laws take effect upon approval and most of the others in thirty days after adjournment, the importance of a seasonable and suitable supply of the public acts will be conceded.

It is believed that the price paid by the state is sufficient to authorize the requirement of good small pica type, equal to that employed in the text of the accompanying revision, and the resolve of 1840, c. 107, has always ineffectually called for "good paper."

It should be known that the newspaper edition of the public laws is supplied to the various newspapers by the state printer or some other publisher, so that there need be no inconvenience in providing suitable type. The supply of bound volumes of the statutes from the state library is limited, and the great majority of our citizens are forced to rely upon these newspaper laws, which have hitherto been issued in a style unfit for general use and discreditable to the state.

It is believed that the first four words inserted in brackets in the fourth line of section 42 of chapter 2 (page 71), will correct this evil, and it is hoped that the Honorable Legislature will be pleased to retain them.

III.

CLAIMS FOR PRINTING THE LAWS IN MONTHLY PUBLICATIONS.

AN ABUSE GUARDED AGAINST.

The Honorable Joseph O. Smith, secretary of state, well suggests that a monthly publication can hardly with fairness be called a newspaper, but states that nevertheless some twenty such publications have been in the habit of claiming \$10 for publishing the laws at each session, besides a cent apiece for each copy, an expenditure which it cannot be supposed to have been the legislative intention to sanction.

The last three bracketed words in the fourth line of c. 2, § 41, are suggested to remedy this abuse.

IV.

PUBLICATION AND DISTRIBUTION OF THE ACTS AND RESOLVES, AND SEPARATION OF GENERAL AND PUBLIC LAWS FROM PRIVATE AND SPECIAL ACTS.

By the resolve of 1842, c. 60, a part of which is incorporated into c. 2, § 42 of this revision, the secretary of state is required to separate the public acts from those of a private and special nature, under the direction of the governor and council; but it is believed that in practice more important functions occupy so large a part of the executive attention that this responsibility necessarily devolves solely on the secretary. Your commissioner would suggest the inquiry whether the attorney general might not more profitably and appropriately direct the secretary in the discharge of this responsible duty.

It will be observed that the resolve requires the style of printing to conform as nearly as may be to that of the revised statutes.

This obligation has been generally complied with, although the acts and resolves of 1879 falls below that standard. The antiquated letter employed in that volume will, it is thought, be pronounced inferior to the clear roman type of the last and present revision. The resolve of 1832, c. 16, does not call for "good paper" in the acts and resolves, as the resolve of 1840 (c. 107), does in the newspaper copies of the public laws, and in this important particular the acts and resolves of different years will be found to vary widely.

The volumes published in 1871 and 1873 are particularly unsatisfactory. It is also desirable that the acts and resolves should be issued promptly.

The following amendment would secure better paper and more uniform promptness.

An act in relation to the publication of the Acts and Resolves.

Section forty-two of chapter two of the draft of the fourth revision of the general and public laws is amended as follows :

Insert after the word "distributed," in line seven, the words

[He shall, under direction of the attorney general, with all practicable despatch, separate the public acts from those of a private and special nature, and all the acts shall be divided, numbered, arranged, indexed and bound, as provided in chapter sixty of the resolves of eighteen hundred and forty-two, and the style of printing and quality of paper shall conform and be equal to that of the revised statutes.]

Public laws,
how separated.
—acts and
resolves, how
printed and
published.
1883, c. , §

V.

PUBLICATION OF PROCLAMATIONS.

Your commissioner recommends the collection of all the proclamations issued by the governors of Maine, and the publication of the same in a volume ; also the enactment of a law requiring future proclamations to be printed at the end of each volume of acts and resolves.

VI.

AMENDMENT OF A PUBLIC LAW BY A RESOLVE. IMPLIED REPEAL OR AMENDMENT OF PUBLIC LAWS. THE VALUE OF A LEGISLATIVE DRAUGHTSMAN.

An important public act (c. 2, § 41, R. S. of 1871) was amended by a *resolve* (1875, c. 68).

This was not good legislation, as its tendency is to mislead not only the ordinary citizen but even lawyers and courts, for counsellors and judges are not expected to search the resolves for amendments of public laws.

Another objectionable practice is the enactment of statutes designed to amend or perhaps to repeal public laws or even sections of the revised code, without any reference to the acts or sections thus amended or repealed. Sometimes the title of the new statute so

effectually conceals the true purpose of the law as to awaken a suspicion that its author did not desire the legislature to understand it, and for that reason avoided any allusion to the act affected by its passage. This evil, however, is one of a class not easily remedied by direct legislation.

Perhaps the only effectual cure would be the employment of an experienced draughtsman during each session, whose duty it should be to examine before its engrossment, every bill and resolve reported to either branch, and to suggest not only proper reference to laws which it is liable to repeal or modify, but all suitable amendments in phraseology. Such a provision would, it is believed, not only remedy the evils indicated, but would promote a greater uniformity of style and expression.

In this connection it is proper to remark that John H. Webster, Esquire, of Norridgewock, has called your commissioner's attention to the inconvenience which the enactment of laws essentially modifying previous statutes without referring to them occasions both to the bar and to the courts. The effort to give due effect to such laws by the proper modification of previous acts or of the former code has cost your commissioner more labor and anxiety than any other part of the work, and it is nevertheless the precise portion which he fears that he has performed least satisfactorily.

VII.

THE PENALTY FOR ROBBERY AND BURGLARY.

Your commissioner believes it his duty to call legislative attention to the fact that there is no substantial distinction between the present punishment for murder (c. 118, § 2), and for aggravated robbery, (§ 16,) or burglary in the night-time (c. 119, § 7). This condition of the law is dangerous to the life of the citizen, because it offers, in effect, a premium on murder. For the desperado whom a heavier penalty might deter from adding murder to robbery or burglary, is virtually invited to the perpetration of that last offence by the knowledge that he may thus increase the means of escape by forever closing the mouth of an eye-witness of his guilt, without adding to his punishment, if convicted of the double offence.

Human life should not be cheapened by applying the same penalty to murder as to the minor offences of robbery, burglary and rape. All these crimes were originally capital in this state, and it is understood that this very suggestion was urged with such effect in 1829 that the legislature wisely restricted the death penalty to treason, murder and arson.

The abolition of capital punishment in 1876 re-produced the danger which the act of 1829 had averted, and if it is the pleasure of the Honorable Legislature to continue the experiment of 1876, the public safety requires the abolition of life imprisonment for robbery and burglary.

VIII.

SUPPRESSION OF THE NAME OF THE JUSTICE PRESIDING AT NISI PRIUS, IN CASES REPORTED IN THE MAINE REPORTS.

It is with diffidence that your commissioner ventures to offer a suggestion touching the reports of cases in law and equity determined by the Supreme Judicial Court. In the first 53 volumes of Maine Reports, including nearly half a century (from 1820 to 1867), the name of the justice who presided at the trial is given by the reporter.

Thus are identified the nisi prius rulings of Chief Justices Mellen, Weston, Whitman, Shepley and Tenney, and of such eminent associate justices as Preble, Parris, Rice, Cutting, Kent and other distinguished jurists.

It is believed that the legal profession and the public prefer that the original practice should be restored. The name of the justice to whose rulings exceptions were taken is an interesting fact in the case, and no good reason for its suppression is apparent. The names of the justices of the Superior Courts are not concealed in the reports, and it is not known why the reporter made the change in question.

The ancient practice might be restored by the following amendment :

An act in relation to the duties of the reporter of decisions.

Section sixty of chapter seventy-seven of the draft of the fourth revision of the general and public laws is amended as follows :

Insert between the words "argued" and "reporting," in line three, the words [, in case of exceptions, stating the name of the justice to whose ruling exception is taken.]

IX.

A LIST OF LAWS WHICH HAVE BEEN PUBLISHED AMONG THE PRIVATE AND SPECIAL ACTS IN THE ANNUAL VOLUMES ISSUED SINCE THE THIRD REVISION, BUT WHICH ARE GENERAL AND PUBLIC IN THEIR NATURE, AND OUGHT TO BE INCORPORATED INTO THE PRESENT CODE.

Since the revision of 1871, the four following important acts of general and public interest have, for some reason not apparent to your commissioner, been separated from the other general and public laws and published among the private and special laws :

An act giving the consent of the legislature of Maine to the purchase by the United States of land within this state for public purposes.

[Private and special laws of 1871, c. 648.]

An act for the relinquishment to the United States, in certain cases, of title to lands for sites of light stations on the coast and waters of the state.

[1871, c. 649.]

An act to amend chapter six hundred forty-nine of the private laws of one thousand eight hundred seventy-one, relating to light-houses.

[1872, c. 130.]

An act to amend chapter six hundred and forty-nine of the private and special acts of the year eighteen hundred and seventy-one, entitled "an act for the relinquishment to the United States, in certain cases, of title to lands for sites of Light Stations on the coast and waters of the State of Maine."

[1877, c. 320.]

While the resolve did not seem to authorize the consolidation of those laws into the revised code, your commissioner recommends their incorporation into this revision by the following amendment:

An act to amend chapter two of the Revised Statutes in relation to the purchase of land by the United States.

Chapter two of the draft of the fourth revision of the general and public laws is amended by the insertion of the five following sections, immediately after section seven.

Consent of the legislature to the purchase by the U. S. of land within the state for public buildings.

Special laws of 1871, c. 648, § 1.

—conveyances, where to be recorded.

[SEC. 8. The consent of the legislature of the State of Maine is given to the purchase by the government of the United States, or under the authority of the same, of any tract, piece, or parcel of land, from any *individual or* individuals or bodies politic or corporate, within the boundaries or limits of the state, for the purpose of erecting therein lighthouses and [all] other needful public buildings whatever; and all deeds, [and] conveyances of title-papers for the same, shall be recorded, as in other cases, upon the land records of the county in which the land so conveyed may lie; and in like manner may be recorded, a sufficient description, by metes and bounds, courses and distances, of any tract or tracts, [and] legal divisions, of any public land belonging to the United States, which may be set apart by the general government for any or either of the purposes before mentioned, by an order, patent, or other official document or papers, so describing such land. The consent herein given being in accordance with the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of congress in such cases made and provided.

Such property not to be taxed.

Special laws of 1871, c. 648, § 2.

Proceedings for relinquishment to the U. S. of the title to land for the erection of light houses, forts, &c., when the title cannot otherwise be obtained.

Special laws of 1877, c. 320.

SEC. 9. The lots, parcels, or tracts of land so selected, together with the tenements and appurtenances for the purposes before mentioned, shall be held exempt from taxation by the State of Maine.

SEC. 10. Whenever it shall be made to appear to any justice of the supreme judicial court, upon the application of any authorized agent of the United States, that the *said* United States *are* [is] desirous of purchasing any tract of land and the right of way thereto, within the limits of this state, for the erection of a light house, beacon light, range light or light keeper's dwelling, or for the erection of forts, batteries or other public buildings, and that the owner or owners are minors or insane persons, or [are] from any cause incapable of making perfect title to said lands, or [are] unknown or non-residents, or shall from disagreement in price or any other cause whatever, refuse to convey said lands to the United States, *it shall be the duty of* said justice to [shall] order notice of *the* said application to be published in some

newspaper in the county where said lands lie, if any paper is published in said county, otherwise in a paper in this state nearest to where said lands lie, once in each week, for *the space of* three months, which notice shall contain an accurate description of *the* said lands, *together* with the names of the supposed owners, and shall require all persons interested in *the* said lands to come forward on a day to be specified in said notice, and file their objections, *if any they should have* to the proposed purchase; and at the time specified in said notice *it shall be the duty of* a justice of said court to [shall] empanel a jury, in the manner provided by law for empanelling juries for the trial of civil actions, to assess the value of said lands at their fair market value, and all damages sustained by the owner of the lands to be so appropriated by reason of such appropriation, which amount when so assessed, together with the entire costs of said proceedings, shall be paid into the county treasury of *said* [the] county in which said proceedings are had, and thereupon the sheriff [there-]of *the said county*, upon the production of the certificate of the treasurer [there-]of *said county* that the said amount has been paid, shall execute to the United States, and deliver to their authorized agent a deed of *the* said lands, reciting the proceedings in said cause, which *said* deed shall convey to the *said* United States a good and absolute title to *the* said lands against all persons whatsoever.

SEC. 11. The money so paid into the county treasury shall there remain until ordered to be paid out by a court of competent jurisdiction.

SEC. 12. *It shall be the duty of* the judge directing the money to be paid to a county treasurer, in accordance with the proceedings of *this act*, to [the four preceding sections, shall] require of such treasurer a bond in double the amount *of money* ordered to be paid by him, with two or more sufficient sureties, to be approved by said judge. Said bonds shall be payable to the people of the state of Maine, for the use and benefit of such persons, severally, as are entitled to said money. Said bonds shall be executed and approved and filed with the clerk of said court before receiving said money.

SEC. 13. In all cases of publication of notice under the five preceding sections, the court shall require the same proof as in cases of publication of notice under chapter eighty-one.]

Disposal of the purchase money. Special laws of 1871, c. 649, § 2.

Treasurer receiving the money to give a bond. Special laws of 1871, c. 649, § 3.

Proof of notice. Special laws of 1871, c. 649, § 4.

X.

THE SUPERIOR COURTS.

The seven following public laws establishing the Superior Courts in the counties of Cumberland and Kennebec and additional thereto, comprising about thirteen pages, are omitted from this revision in conformity to the revision of 1871.

An act to facilitate the prompt administration of justice by establishing a superior court in the county of Cumberland.

[1868, c. 151.]

An act to enlarge the jurisdiction of the superior court in the county of Cumberland.

[1868, c. 216.]

An act relating to the superior court for Cumberland county.

[1872, c. 1.]

An act to facilitate the prompt administration of justice by establishing a Superior Court in the County of Kennebec.

[1878, c. 10.]

An act additional to "an act to facilitate the prompt administration of justice by establishing a Superior Court in Kennebec County."

[1878, c. 48.]

An act in relation to fees for travel and attendance in the Superior Court of Kennebec County.

[1881, c. 55.]

An act relating to the criminal jurisdiction of the Superior Court for the County of Kennebec.

[1881, c. 75.]

These public statutes, although in a sense special, because the territorial jurisdiction of the superior courts is limited, are in another and higher sense general, because any citizen of the state is liable to a suit in either of them. The business transacted by those tribunals is very large in amount and value, and in the judgment of your commissioner, the statutes creating and affecting them ought to form part of chapter 77, and he recommends their consolidation and addition thereto as §§ 62, &c.

XI.

An act to provide for the organization of parishes of the Protestant Episcopal Church in Maine.

George E. B. Jackson, Esquire, of Portland, suggests that 1869, c. 180, containing 14 sections, ought to have been incorporated into the revised code of 1871, because it applies *generally* to all parishes of that church, and is, as is believed, generally adopted by them.

Your commissioner would suggest its insertion in full in chapter 12, entitled "Parishes, Meeting-houses, Ministerial and School Lands, and funds arising therefrom," at the end of section 24, on page 248 of the accompanying draft, beginning as follows :

[ORGANIZATION OF PARISHES OF THE PROTESTANT EPISCOPAL CHURCH.

(Here insert the entire act, 1869, c. 180, as sections twenty-five to thirty-eight, inclusive, of chapter twelve.)]

XII.

DOUBLE TAXATION OF MORTGAGED PROPERTY.

The Constitution requires that all taxes upon real estate shall be apportioned and assessed equally, according to the just value thereof. (Art. IX, § 8.)

The attention of the Honorable Legislature is called to the gross injustice of the law governing the taxation of mortgaged real estate, which must be admitted to be contrary to the spirit if not the letter of the organic act. Under the present law, if the owner of a farm valued at \$1,000 leases it for \$50 a year to a neighbor owning no property, the tax is levied on the property but once, that is to say the lessor is taxed for \$1,000 and the lessee is not taxed. This, of course, is equitable. But if the lessee, although still without means, should at the end of the year be enterprising and hopeful enough to buy the house, mortgaging it back for the whole amount, he will then be taxed for the full value of the property, \$1,000, while the former owner will, because of the mortgage, continue to be taxed for its full value, \$1,000 more. Thus the same farm will pay two taxes, each on its full value.

Double taxation is not only unjust but impolitic and demoralizing, because it produces dissatisfaction and tempts the wronged tax-payer to offset what he not without reason regards as a fraud committed against him, by an effort to evade some just tax. Your commissioner recommends such an amendment of the tax act (chapter 6), as to relieve citizens from this oppression by forbidding the double taxation of mortgaged real estate.*

XIII.

ORGANIZATION BY GENERAL LAW OF CORPORATIONS WITH THE RIGHT OF EMINENT DOMAIN.

Such is the liberality of our present law that half a dozen persons, more or less, may go before a justice of the peace and organize themselves into a railroad company with authority to condemn and take a citizen's land against his will. Ought any company with rights of eminent domain to be created except by the sovereign authority of the legislature, where all parties to the exercise of this extreme invasion of landed titles may be heard and their rights protected?

XIV.

DELAY IN THE DETERMINATION OF QUESTIONS OF LAW.

The bill of rights which forms the first article of our State Constitution guarantees to every citizen, the administration of "right and justice," not only "freely and without sale, completely and without denial," but "promptly and without delay." [Art. I, § 19.] "It may be worthy of inquiry whether this pledge has been faithfully kept,—whether in some instances the administration of justice has not been so impeded as to amount to a practical denial of it."† The establish-

*[Since the preparation of recommendation XII, the commissioner finds that the legislature of the parent Commonwealth has extended this just relief to its citizens.—See Public Statutes of Massachusetts, Chap. 11, § 14.]

†Second inaugural address of Governor Chamberlain, Acts and Resolves of 1863, page 230.

ment of Superior courts in Cumberland and Kennebec counties, has left little cause for complaint in reference to jury trials, either in those counties or in any other part of the state. But "the law's delay," that hoary abuse which the great dramatist of England nearly three centuries ago specified as one of the leading inducements to suicide in the philosophic mind of the Danish prince, has not been purged from our judicial system. The provision for the hearing and adjudication of questions of law arising at the *nisi prius* terms of our courts is inadequate and unsatisfactory. While in every county, at least two such terms are held yearly for the trial of civil and criminal cases, in most counties three, and in some five and even nine, the law court sits but once a year in either of the three judicial districts of the state. Six of the eight justices of the Supreme Judicial Court sit at the three annual terms, and the concurrence of five is necessary to give legal effect to an opinion upon any question, civil or criminal. Should two dissent, another year's delay is likely to follow, at the end of which a new trial may be granted, with perhaps a similar result.

In this way, several years sometimes intervene between the verdict and final judgment, to the serious injury of all concerned. At best, the delay is injuriously and unnecessarily long. In civil suits, it wears out the patience and exhausts the means of litigants, encumbers property by protracted attachments, weakens the security of attachments and bonds, and in case of new trials, involves the danger of loss of testimony by the departure or death of witnesses. In criminal cases, it defers most unprofitably the punishment of the guilty, and needlessly endangers the liberty of the innocent. The evil is notorious, but the fault is, of course, as has been said, in the system and not in the learned and laborious justices of our supreme court, although the blame is often unthinkingly laid upon them and upon the legal profession, by the sufferers. Nearly thirty years ago the grievance was recognized, and the legislature of 1855 attempted to remedy it by a division of the supreme court, relieving four of the justices from law duty, and conferring the entire law powers upon the other four, who would thus be enabled to give more attention thereto, and to dispose of law cases with more promptness. Unfortunately, the law was repealed the next year, without a fair trial.

A somewhat similar plan might now be adopted, or a court of appeals might be created by a constitutional amendment, and the number of justices of the supreme judicial court proportionally reduced; neither course need involve additional expense to the people. For the first twenty-seven years of our history, questions of law were much more promptly decided by a court of only three justices, and it is by no means clear that this responsible duty may not now be as well discharged by that number as by eight, and much more expeditiously. No good reason is apparent why provision should not be made for the hearing of all law questions arising at *nisi prius*, civil and criminal, within six, or even three months. Your commissioner respectfully commends the subject to the attention of the Honorable Legislature.

XV.

THE LAW OF TAXES, WAYS AND CORPORATIONS.

Your commissioner is of the opinion that chapters six, eighteen, forty-six and forty-eight need a thorough reconstruction. During the lapse of two generations, much of the original legislation contained in these chapters has been repealed or superseded, or has been gradually obscured by a mass of not wholly consistent legislation. Although such a revision of these chapters as is here indicated, was manifestly beyond the scope of your commissioner's authority, duty seemed to require him to offer this suggestion.

XVI.

A REVISION OF THE PRINTED DRAFT.

It will be observed that the Resolves authorizing the present draft, directed your commissioner to complete the revision on or before the first day of the next *session* of the legislature, and to cause the same to be printed. Accordingly, he felt obliged to proceed with sufficient dispatch to be able seasonably to fulfil the legislative requirement, in case of an extra session last winter. The recent leisure thus afforded him has been devoted to a careful re-examination of the printed draft, the style of which he has endeavored to condense and perfect by such further verbal alterations as occurred to him. These were too numerous and yet too slight to justify printing them separately at the end of the volume, and your commissioner has contented himself with inserting them by pen in the official copy, where they will readily be observed by the Honorable Committee who may have the matter in charge, or by any other members of the Legislature who wish to examine that copy of the draft.

The actual errors in the text, so far as discovered, have been printed on a page at the close of the book.

XVII.

THE INDEX.

No part of the work has cost more labor than the Index. That labor has led to a higher appreciation of the merits of the Index of 1871. Some changes have, however, been made. A few long heads, like "ACTIONS," which did not seem to him to convey an idea sufficiently definite and salient to merit so many pages of reference, have been subdivided and assigned to different parts of the Index under distinct headings, such as ATTACHMENT, CREDITORS, COSTS, JURY, LIMITATION, REVIEWS, SERVICE, SET-OFF, VERDICT, VIEWS, WITNESSES, WRITS, etc. Another new feature is a reference not only to pages and sections of the text, but also to the items, where they exist. An effort at condensation has been made, which it is hoped will not lead to obscurity.

XVIII.

INCORPORATION OF THE LEGISLATION OF THE COMING SESSION IN THE NEW REVISION.

It is believed that the amendments proposed by your commissioner,

together with those suggested by the eminent gentlemen who have given to the subject their consideration, embrace so large a proportion of the needed changes in the laws of the state, that after due consideration thereof by the Honorable Legislature at the approaching session, the code may be greatly improved, so that at its close a satisfactory revision may be issued.

To that end your commissioner recommends the incorporation of such of the proposed amendments as the legislative wisdom may be pleased to adopt, together with the other legislation of the session, in the new revision, which will thus consolidate into a single volume the entire public laws of the state, embracing the year 1883.

XIX.

DATE OF THE REVISION.

It is almost unnecessary to add that as the text of this revision was printed before it became certain that an extra session of the legislature would not be called, the date must be changed from 1882 to 1883, wherever it is used in reference to the new code.

The addition of all the foregoing amendments would not enlarge the present size of the accompanying revision, for it would not offset the elimination of the obsolete sections and clauses.

A REVISION OF THE CONSTITUTION BY A CONSTITUTIONAL CONVENTION.

To the constitutional commission of 1875, the state is indebted for section 15, part 3 of article IV, which authorizes the legislature by a two thirds concurrent vote of both branches, to call a constitutional convention for the purpose of amending the constitution. If it were within his province, your commissioner would not hesitate to commend this important duty to the serious consideration of this honorable legislature. The constitution of Maine was the work of our grandfathers. Two generations have passed away since it was adopted. It was framed for a population of three hundred thousand, with a valuation of twenty-one millions, dependent on wagons, teams, stages and sailing craft for the transportation of their persons, their merchandise, and their mails. Since 1819, an addition of one hundred and eighteen per cent. has been made to our population and eight hundred and seventy-six per cent. to our wealth, while steam, the telegraph, labor-saving machinery and countless other inventions have revolutionized society, accomplishing in sixty-three years the work of ordinary centuries. The constitution is outgrown, and patched with twenty-five amendments, some of them radical and not easily reconciled with the original instrument or with each other, and more are called for. Whatever may have been its first condition, our present organic law contains provisions not consistent or democratic, while the exercise of some of its most important powers has become substantially impracticable.

It is believed that a careful examination will convince legislators that our fundamental charter requires, not biennial repairs by the legislature, but a thorough overhauling by the people—a permanent reconstruction and adaptation to the wants of the age.

AMENDMENTS TO EXISTING LAWS, AND CHANGES IN THE DRAFT
OF THE NEW REVISION SUGGESTED TO THE COMMISSIONER
BY JUDGES, GENTLEMEN OF THE BAR, PUBLIC OFFICERS
AND OTHER CITIZENS OF LEARNING AND EXPERIENCE.

For convenience, the amendments are numbered and arranged in the order of the chapters of the revision to which amendments are proposed.

[1]

CONSTITUTIONAL AMENDMENT XXIV.

Senator Mortland, of Rockland, suggests the elimination of the italicised clause from Article XXIV of amendments of the State Constitution (page 55 of this revision). He contends that it stands on the same footing as the provision in the resolve (1880, c. 159) which requires the governor to proclaim the result of the vote, being a mere legislative direction touching a matter of detail; and that the legislature on its part is not authorized to *amend* the constitution, but can only *propose* amendments, while the inhabitants on their part can adopt or reject only what has *been proposed*.

That the *question* submitted is the limit of the amendment, which question was "*Shall the constitution be so amended as to provide for an election of governor by a plurality instead of a majority?*"

Consequently the inhabitants were never called upon or allowed to vote upon the *effect* of their affirmative vote.

Had the question been as in case of the soldiers' vote in 1864 (c. 344), or in reference to biennial legislative terms (1880, c. 217), "Shall the constitution be amended as proposed in said resolve," the case would have been different. It was simply a blunder of the legislature of 1880.

Senator Mortland further objects to the commissioner's note at the end of Amendment XXIV, and calls attention to the language of Governor Davis' proclamation of November 9, 1880; the senator insists that the governor did not proclaim that the amendment *as printed in the text of the draft* was ever submitted to the people.

There is undoubtedly great force in the senator's position, and it was on account of the grave doubts on that point growing out of the looseness of the resolve,* that the questionable clause was printed in italics in order that the Honorable Legislature having the entire matter before it, might the more readily and understandingly direct the exclusion or retention of the disputed clause.

[2]

RETURNS OF AGRICULTURAL PRODUCTS REQUIRED FROM TOWN
ASSESSORS.

R. S. of 1882, c. 3, §§ 38, 39, 40.

The Honorable Joseph O. Smith, secretary of state, suggests that

* See proposed amendment I, on page 9 of this report.

§§ 38, 39 and 40 of c. 3 (R. S., 1882), ought to be repealed or a suitable penalty imposed on assessors neglecting to make return of agricultural products.

Inasmuch as those returns are designed for the use of the secretary of the Board of Agriculture, the secretary of state also recommends that they should be made directly to that officer.

[3]

ARMORIES.

c. 3, § 44.

Thomas W. Vose, Esquire, of Bangor, suggests that 1865, c. 307, § 86, as amended by 1874, c. 257, "an act additional to" said section "relating to armories for military companies," should be inserted in c. 3, § 44, on account of its public interest, although it was excluded from the present draft because it belongs to the military act.

[4]

GOING AT LARGE OF SWINE AND CATTLE.

c. 3, § 57, ¶ 4.

Jasper Hutchings, Esquire, of Bangor, suggests that all of c. 3, § 57, ¶ 4, save the reference to dogs, is obsolete, and to remove the inconsistency, proposes an appropriate amendment by striking from the paragraph the words "*swine and cattle*".

[5]

CONSOLIDATION OF TWO SECTIONS OF THE CHAPTER ON TAXES.

c. 6, §§ 138, 203.

John H. Webster, Esquire, of Norridgewock, suggests that the statute of 1881, c. 71, embodied in § 203 of c. 6, might more appropriately have been incorporated into § 138; this is regarded as a good criticism, and if it should be adopted, § 203 would be dropped and § 138 would read as follows:

SEC. 138. Any collector of taxes, or his executor or administrator, may, after due notice, sue in his own name for any tax, [in an action of debt,] and no trial justice or judge of any municipal or police court before whom such suit is brought, shall be incompetent to try the same by reason of his residence in the town assessing said tax. *Where before suit the person taxed dies or removes to any other town, parish or place in the state, or, being an unmarried woman, intermarries, the plaintiff shall recover no costs, unless payment was demanded before bringing the action.**

[6]

SCHOOL FUNDS NOT TO BE PAID OVER TO DELINQUENT TOWNS.

c. 11, § 119.

Turner Buswell, Esquire, of Solon, suggests that the proviso which has been incorporated into the annual tax acts since 1856, should be

* It would seem that the words "after due notice" in line two, render the italicized sentence superfluous.

Collector or adm'r may sue for tax in his own name.

—town magistrate may try case.

1881, c. 71.

—when no costs for pl'ff unless demand before suit.

R. S., c. 6,

§ 113.

See § 140.

50 Me., 377.

61 Me., 546.

made part of the Revised Statutes, which may be effected by the following amendment :

Section 119, of chapter 11, of the draft of the fourth revision of the general and public laws, is amended by adding thereto the following words, [nor so long as any state tax assessed upon such town remains unpaid.]

[7]

THE BUILDING OR EXTENDING OF WHARVES AND FISH-WEIRS.

c. 17, §§ 25, 26, 27, 28.

Mr. Vose further suggests that 1876, c. 78, §§ 1, 2, 3, and 1877, c. 164, might more appropriately be incorporated into c. 2 (R. S., 1882), entitled "SOVEREIGNTY AND JURISDICTION," than into c. 17, entitled "NUISANCES," where they now constitute §§ 25 to 28, inclusive.

[8]

DAMAGES FOR LOCATING, ALTERING AND DISCONTINUING WAYS,
AND LIMITATION OF TIME.

c. 18, §§ 7, 31, 40.

Mr. Webster, of Norridgewock, also suggests that 1881, c. 53 is not judiciously incorporated into c. 18, R. S., 1882, as a separate section (§ 31), because, standing independently, its legal effect is to reduce the three years allowed by § 14 and the six years allowed by § 40 to two years, a construction which he thinks the original statute (1881, c. 53) does not warrant. To remedy this difficulty, he recommends the following amendments :

An act to amend sections seven and forty and to repeal section thirty-one of chapter eighteen of the Revised Statutes relating to damages for locating, altering and discontinuing ways.

Section seven of chapter eighteen of the draft of the fourth revision of the general and public laws is amended by substituting for the first sentence of said section all of the first four lines of section thirty-one of said chapter except the last two words of the fourth line "but the," after the semi-colon; also by adding to said section seven the remainder of the first sentence of said section thirty-one, so that said section seven of chapter eighteen shall read as follows :

SEC. 7. [If any person's property is damaged by laying out, altering, or discontinuing a highway or town way, the commissioners or municipal officers of towns shall estimate the amount, and in their return state the share of each separately]; *they* [the damages] are to be allowed to the owners of reversions, and remainders, and to tenants for life, and for years, in proportions to their interests in the estate taken; [but *they* [the commissioners or officers] shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the highway or alteration is located, has been entered upon and possession taken, for the purpose of construction or use.]

Section forty of said chapter eighteen is also amended by adding thereto the following :

[When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings shall be void.]

So that said section shall read as follows :

SEC. 40. Where a town, private or high way, is wholly or partly discontinued by the commissioners, a time is to be fixed for it. And when laid out by them the way is to be regarded as discontinued, if not opened within six years from the time allowed therefor. [When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings shall be void.]

Section thirty-one of said chapter eighteen is repealed.

[9]

FEES OF COMMITTEE APPOINTED BY THE COURT UPON APPEALS FROM COUNTY COMMISSIONERS.

c. 18, § 54.

Ex-judge Morrill, of Auburn, suggests that c. 18, § 54, ought to be so amended in lines 14 and 15 as to allow the appellate court to fix the compensation of the committee appointed by the court in cases of appeal from the county commissioners. He regards the present compensation which is the same as that of county commissioners, inadequate.

[10]

INJURY BY DEFECTIVE HIGHWAY.

c. 18, § 86.

Representative George A. Emery, of Saco, suggests that § 86, of c. 18 (R. S., 1882) ought to have been incorporated into § 84. Section 84 contains the provisions of 1877, c. 206, § 1, limiting the period within which an action by a sufferer from a defective high way may be commenced, and requiring written notice of the claim within fourteen days after the injury.

Section 86 embodies 1879, c. 156, §§ 1 and 3, and not only limits the amount of damages to \$2,000, but requires the sufferer having knowledge of the condition of the highway, to notify the municipal officers previous to the injury.

If the restriction and requirement of 1879, c. 156, §§ 1 and 3, and § 84 of c. 18, are both to be retained, they certainly might well be incorporated into § 84, as suggested by Mr. Emery. They were not so consolidated by the commissioner, because he believed that the next legislature would probably repeal either § 86, or both §§ 86 and 84, of c. 18 (R. S., 1882), for it seems to him that the act of 1879 amounts to a practical denial of the remedy which § 84, of c. 18, purports to afford.

[11]

THE SNOWING OF COVERED BRIDGES.

c. 19, § 7.

Mr. Vose also suggests that 1872, c. 21, requiring certain covered bridges to be snowed, ought to have been incorporated into c. 50, (R. S., 1882,) entitled "TOLL-BRIDGES," say at § 7, rather than into c. 19, § 7, entitled "THE LAW OF THE ROAD." This is regarded as a good criticism.

[12]

POUND BREACH OR RESCUE.

c. 23, § 21.

Ex-judge Henry C. Goodenow, of Bangor, suggests that c. 23, § 21 is obscure and ought to be amended at the end of the third line, so that the remainder of the section shall read as follows:

[but to avail himself of such illegalities, the party relying thereon must proceed in replevin.]

[13]

PAUPER SETTLEMENT.

c. 24, § 4.

Judge Goodenow also suggests a doubt as to the constitutionality of c. 24, § 4, and inquires whether Amendment XIV of the U. S. Constitution, may not forbid the legislature to debar the tender of a drawbridge under certain circumstances, from the privilege of gaining a pauper settlement by reason of his occupation.

[14]

RETURNS OF MOOSE WARDENS, INSPECTORS OF BEEF AND PORK,
NAILS AND ASHES, AND RETURNS OF MARRIAGES AND BIRTHS.

c. 30, § 14; c. 38, § 28; c. 39, §§ 13, 22; c. 59, § 20.

Secretary Smith states that the annual returns of moose wardens (c. 30, § 14), inspectors of beef and pork (c. 38, § 28), of nails (c. 39, § 22), are not made, and that those of inspectors of pot and pearl ashes (c. 39, § 13), are imperfectly furnished.

Returns of marriages and births (c. 59, § 20) are made by about ten per cent. of the town clerks and he advises that a sufficient penalty be imposed or that the aforesaid sections be repealed, except c. 30, § 14, which he suggests ought to be enforced.

He also advises that the secretary of state should be required to furnish suitable blanks to the town clerks, as recommended by your commissioner in a note to page 621 of the text of this revision.

COMMISSIONER'S REPORT.

[15]

CORPORATION LAW.

cc. 46, 48.

Ex-county Attorney Charles P. Mattocks, of Portland, recommends the consolidation of portions of cc. 46 and 48, and the enactment of a consistent and intelligible code in reference to "CORPORATIONS," a subject of increasing importance.

Hon. Josiah Crosby, of Dexter, concurs with General Mattocks.

[16]

c. 46, §§ 21, 22, 23; c. 48, § 24.

E. F. Pillsbury, Esquire, of Boston, Massachusetts, formerly of Augusta, also believes that cc. 46 and 48 should be consolidated, and refers to the difficulty of reconciling certain provisions of said chapters with the requirements of §§ 21, 22 and 23 of c. 46, and of § 24 of c. 48.

[17]

c. 46, §§ 1, 2.

Ex-attorney General Lucilius A. Emery, of Ellsworth, senator and chairman of the Committee on the Judiciary, called attention to the doubts which had been suggested whether the first seventeen sections of c. 48, R. S., 1871 (§§ 1 to 8, and 13 to 21, R. S., 1882), apply to mining companies as well as to manufacturing corporations, notwithstanding the clear intent of the legislature to make cc. 46 and 48 apply to all business corporations except banks, railroads, etc. To remove that doubt, he recommended that the provisions for forming corporations under general law (1876, c. 65, § 1; 1878, c. 19; 1880, c. 177, § 1) be placed at the beginning of c. 46. His recommendation was adopted, and these three acts are accordingly embodied in c. 46, §§ 1, 2.

[18]

c. 48, §§ 22, 23, 24, 25.

Senator Emery further advises that §§ 22, 23, 24 and 25, of c. 48, directing the manner of forming corporations, ought to be transferred to c. 46, and to follow §§ 1 and 2.

[19]

c. 46, § 42.

Senator Emery also recommends that § 42 of c. 46, R. S., 1882 (which was 1871, c. 205, § 1), ought to follow § 32 of c. 46, because it is a statement of the general principle of which the present §§ 33, &c., are the development.

[20]

c. 46, §§ 1, 2; 48, § 22.

General Mattocks further suggests that §§ 1 and 2, of c. 46, belong in c. 48, and ought to follow § 22, thus leaving c. 46 the chapter of general application, relating to all corporations of whatever kind and however organized, and that the head line preceding c. 48, § 22, should read :

[CORPORATIONS ORGANIZED UNDER THE GENERAL LAW.]

[21]

c. 46, § 1.

He also recommends that *all* corporations organized under the laws of Maine should pay a handsome fee, of not less than \$50, for the privilege of organizing, even though their purpose is to do business exclusively out of the state, and for that purpose proposes the following amendment :

An act to amend section one of chapter forty-six of the Revised Statutes, in reference to the organization of certain corporations.

Section one of chapter forty-six of the draft of the fourth revision of the general and public laws is amended by striking from line two, the words "*within this state.*"

[22]

c. 46, § 11.

General Mattocks also recommends the following amendments to § 11, c. 46 :

First—Insert in the second line, between the word "office" and "containing," the words :

[having on the outside thereof a sign with the name of the company,]

Second—Add to said section the following sentence :

[Corporations failing to comply with the provisions of this section for two successive weeks after demand made by any stockholder, shall forfeit to said stockholder, for every such failure, five hundred dollars, to be recovered in an action of debt.]

[23]

c. 48, § 5.

He also suggests that c. 48, § 5, providing that certificates of stock shall be signed by the treasurer, should be amended so as to conform to c. 46, § 13, which provides for the signature of certificates and transfer of shares, and for that purpose he proposes the amendment following :

An act to amend section five of chapter forty-eight of the Revised Statutes, regulating the transfer of stock.

Section five of chapter forty-eight of the draft of the fourth revision of the general and public laws is amended by inserting in line two

between the words "the" and "treasurer," the words [president and attested by the] so that said section, as amended, shall read as follows:—

SEC. 5. Certificates stating the number of shares owned by them, signed by the [president and attested by the] treasurer, with the seal of the corporation affixed, are to be furnished to the stockholders. They are transferable as is provided in section thirteen of chapter forty-six.

[24]

c. 48, §§ 9, 10, 11, 12.

General Mattocks further suggests that 1878, c. 16, §§ 1, 2, 3, 4, providing for a reduction of capital stock, relates to all corporations, and he therefore recommends the transfer of said sections from c. 48, where they now form §§ 9, 10, 11, 12, to c. 46, where they should follow § 15, as §§ 16, 17, 18, 19.

[25]

c. 48, § 22.

He further suggests that c. 48, § 22, which requires the president to be chosen by the associates, should be amended so as to conform to § 2 which requires the directors to choose the president, and for that purpose he proposes the amendment following:

An act to amend section twenty-two of chapter forty-eight of the Revised Statutes, relating to the choice of presidents of corporations.

Section twenty-two of chapter forty-eight of the draft of the fourth revision of the general and public laws is amended by striking from line thirteen, the words "*a president*", and inserting between the words "directors" and "a" the words [one of whom shall be by them elected president].

In General Mattocks' suggestions 20, 22, 23, 24, and 25, Isaac W. Dyer, Esquire, of Baldwin, and Hanno W. Gage, Esquire, of Portland, concur.

[26]

cc. 46, 48.

The Honorable Joseph O. Smith, secretary of state, concurs with General Mattocks, Mr. Crosby and Mr. Pillsbury, in recommending a reconstruction of cc. 46 and 48. He also advises the appointment of a commission or legislative committee of legal ability and business experience, whose duty it should be to ascertain the correct status of the innumerable corporations organized in the state, and he recommends the enactment of a law for the surrender of the charters of defunct companies on equitable terms, providing for a recorded list of live corporations, directing the secretary of state to furnish blanks for returns with an abstract of the law requiring them, and declaring a failure to make seasonable returns a forfeiture of chartered rights.

[27]

c. 46, § 28.

The secretary of state further recommends that c. 46, § 28, which requires him to lay returns of stockholders' names before the legislature, should be amended so that such returns and the names of corporations failing to make due returns may be reported to the legislature by that officer and the lists of stockholders be retained on the secretary's files, as recommended by your commissioner in a note to said section, page 480.

[28]

c. 48, § 8.

Also that c. 48, § 8 be so amended as to require publication of the statements therein referred to *annually* in *January*, instead of semi-annually.

[29]

c. 1, § 4, ¶ 26.

The secretary of state further calls attention to c. 1, § 4, ¶ 26, which vacates all acts of incorporation passed since Feb. 15, 1871, unless the corporation has organized and commenced actual business within four years after its incorporation. It will be observed that this paragraph leaves the status of all corporations chartered between 1871 and 1879 uncertain, for the act does not provide for recording the proof of organization during the prescribed period.

[30]

BANKS AND BANKING.

c. 47, §§ 31, 32, 33, 36; §§ 132 to 138.

William E. Gould, Esquire, of Deering, cashier of the First National Bank of Portland, advises the omission from c. 47, § 31, the words "*whether such loan*" in line three, *the whole of line four, and all of line five except the last two words* "but such." He also regards §§ 32 and 33 as worthless, and § 36 as pernicious.

Mr. Gould also suggests that c. 198, of 1877, touching Loans and Building Associations, was substantially superseded by the Savings Bank act, c. 218 of 1877, and ought to be repealed.

1877, c. 218 is contained in c. 47, §§ 91 to 131, inclusive, and 1877, c. 198 is embraced in the last seven sections of chapter 47, §§ 132 to 138, inclusive.

[31]

POWERS AND DUTIES OF GUARDIANS.

c. 59, § 23.

Ex-judge Waterman suggests the removal of § 23 of c. 59 (PARENTS AND CHILDREN), which authorizes the guardian of a minor having a father alive, in certain cases to defray the expenses of the minor's maintenance and education out of the minor's property, to c. 67 (entitled APPOINTMENT, POWERS, AND DUTIES OF GUARDIANS), making it § 13 of c. 67.

[32]

RIGHTS OF MARRIED WOMEN.

c. 61, § 5.

Ex-judge Goodenow suggests that the words "*either of tort or contract*," at the beginning of the second line of c. 61, § 5, which embodies 1876, c. 112, ought to be repealed, because they improperly and unintentionally limit the rights of married women to prosecute and defend in their own names real actions, actions of replevin, &c.

[33]

BONDS OF EXECUTORS AND ADMINISTRATORS.

c. 64.

Ex-judge Morrill further suggests that c. 64 should be so amended as to require but one bond of an executor or administrator, and that a bond sufficient for all purposes should be required at the time when letters are issued; and he refers to the inconvenience occasioned by the requirement of so many bonds.

[34]

PROTECTION OF EXECUTORS AND ADMINISTRATORS OF SOLVENT ESTATES.

c. 64, § 54.

Judge Peabody, of Portland, of the Probate Court, recommends the following amendment of the Probate Law for the protection of executors and administrators.

Chapter sixty-four of the draft of the fourth revision of the general and public laws is amended by the insertion of a new section immediately after section fifty-three, as follows:

[SEC. 54. When a claim has been duly presented against an estate, not insolvent, of a person deceased, the executor or administrator, if he is apprehensive that objections may be made to the payment of such claim, by any person or persons interested in the estate, may have public notice of its presentment ordered by the judge of probate, and if no one appears to object, the judge if he deems the claim just, may order it paid by the executor or administrator, but if objections are made in writing supported by the oath of any interested party the judge may appoint commissioners, and like proceedings shall be had on such claim as are provided by the preceding section.]

How ex'r or
adm'r of a
solvent
estate may
protect him-
self against
personal lia-
bility upon
doubtful
claims.
1883, c. ,
§

[35]

PARTITION OF REAL ESTATE.

c. 65, § 14.

Ex-judge Morrill, of Auburn, suggests an amendment to c. 65, § 14, so as to read:

SEC. 14. If the share of any such heir or devisee [or any one claiming under such heir or devisee] is under attachment, the judge,

on like application from the plaintiff in the suit or the attaching officer, shall require the money, &c.

This he recommends in order to remove any doubt of the judge's power to deal with the buyer, the same as with the heir or devisee, in case of sale by the heir or devisee and attachment of the real estate for a debt of the purchaser.

[36]

DOWER, TENANCIES BY THE CURTESY, AND PARTITION OF REAL ESTATE.

cc. 65, 88, 103.

George B. Sawyer, Esquire, of Wiscasset, suggests that the parallel, or nearly parallel provisions in respect to dower and tenancies by the curtesy in cc. 65 and 103, ought to be consolidated and the substantial repetitions avoided.

Mr. Sawyer makes a similar suggestion in reference to the partition of real estate, c. 88.

[37]

ESTATES OF DECEASED PARTNERS.

c. 69, § 5.

Ex-judge Goodenow, of Bangor, further suggests that the first sentence of § 5 of c. 69, is obscure, and proposes an amendment thereto, by striking out *all of the fourth line except the first and last words*, and substituting the following:

[if such executors or administrators administer upon the partnership property, *are to* [shall] deliver it to them.]

[38]

SALE OF COPARTNERSHIP PROPERTY WHEN A PARTNER HAS DIED.

c. 71, § 1.

T. W. Vose, Esquire, also suggests that 1871, c. 225, which has been incorporated into c. 71, entitled SALES OF REAL ESTATE, at § 1, ¶ 11, R. S., 1882, more properly belongs in c. 69, entitled ESTATES OF DECEASED PARTNERS.

[39]

RE-ARRANGEMENT OF THE PROBATE CHAPTERS.

cc. 72, 73, 74.

Judge Hall, of the Probate Court of Sagadahock county, is of opinion that the probate laws might be very much better arranged than they have hitherto been, and particularly criticizes the interpolation of c. 73, entitled CONVEYANCES BY DEED, between cc. 72 and 74, entitled PROBATE BONDS AND WILLS.

COMMISSIONER'S REPORT.

[40]

DESCENT OF PERSONAL PROPERTY.

c. 75, §§ 9, 10.

Mr. Pillsbury, of Boston, also calls attention to the Massachusetts law giving the distribution of personal property [Public Statutes of Massachusetts, c. 135, § 3, ¶ 5], which gives the widow of a childless intestate all the unincumbered personal property up to \$5,000, and one half of the excess above \$10,000. This he regards as more just than the provision of our own law [R. S., 1882, c. 75, §§ 9, 10].

[41]

APPOINTMENT OF ASSISTANT COUNTY ATTORNEY OF CUMBERLAND.

c. 79, § 22.

County Attorney Coombs, of Portland, suggests that the appointment of Assistant County Attorney of Cumberland county should be subject to the approval of the justice of the Superior Court, instead of the Supreme Court, as provided by c. 79, § 22. The context would seem to indicate that this must have been the legislative intention.

[42]

SET-OFF.

c. 82, § 67.

Ex-judge Goodenow suggests that line three of c. 82, § 67, should be amended by substituting the word [damages] for "*debt*"; also line five by striking out the word "*for*," and inserting the words [on account of].

[43]

POOR DEBTOR DISCLOSURE BEFORE COMMISSIONERS.

c. 113, §§ 57, 65.

O. R. Bachelder, Esq., of Skowhegan, suggests an amendment of § 57 by substituting for the word "*appraised*" at the end of line seven (fourth line of page 1012) the word [agreed,] because the law does not authorize an appraisal, and because the section as it stands is not in harmony with the sentence following, in the seventh line of same page, which refers only to agreements.

He also recommends an amendment of § 65 of c. 113, by inserting after the word "judgment" in line six, [top of page 1014] the words [or on any judgment based thereon].

[44]

COSTS TAXABLE FOR THE STATE IN CRIMINAL PROSECUTIONS.

c. 116, § 15.

County Attorney Greenleaf, of Somerset county, calls attention to

the obscurity of the first line of c. 116, § 15, which speaks of costs "for the attorney acting for the state," whereas the last sentence of c. 115, § 2 forbids the allowance of any fees, costs or emoluments to attorneys for the state, except their salaries.

[45]

THE GENERAL INDEX.

Ransom Norton, Esquire, of Houlton, suggests that in the general Index the number of the page ought to precede the number of the section.

A NOTE ON THE SOURCES OF LAND TITLES IN MAINE.

[NOTE.—The development of that political jurisdiction and sovereignty which at the end of more than two centuries ripened into State Independence in 1820 is so peculiar and interesting, and the sources of land titles in Maine are so obscure as to justify a reference to some of the more important links in the intricate historical chain.]

In 1493, Alexander VI, Pope of Rome, issued a bull, granting the New World which Columbus had discovered in the preceding year, to the sovereigns of Spain and Portugal. Under this title, Spain laid claim to the entire North American coast from Cape Florida to Cape Breton, as part of its territory of *Bacalaos*. It has even been claimed that between 1566 and 1588, Spain took fortified possession of Maine, as a part of its grant at Pemaquid, but such possession, if effected, was abandoned before the end of the sixteenth century.*

Although in that age a papal bull was usually regarded by Christian nations as a sufficient title to heathen lands, both France and England protested against the exclusion of so many Christian princes from this wholesale grant.

England, becoming Protestant, did not hesitate to plead against the bull its legal maxim "*Prescriptio sine possessione haud valebat*," and in 1588, Drake decided the issue by his victory over the Spanish Armada in the British channel.

In 1495-6, three years after the discovery of the Western Hemisphere, Henry VII, King of England, issued a commission to John Cabot and his sons, "to seek out, discover and find whatsoever Isles, Regions or Provinces of the heathens and infidels" hitherto unknown to all Christians; and, as vassals of the King, to hold the same by his authority. (1) Under this commission, those enterprising Venetians discovered the Western continent more than a year before Columbus saw it, and explored the American coast at least as far as from Nova Scotia to Labrador. (2) (3)

In 1502, the same King commissioned Hugh Eliot and Thomas Ashurst to discover and take possession of the Islands and Continent in America; "and in his name and for his use, as his vassals, to enter upon, possess, conquer, govern and hold any Mainland or Islands by them discovered." (2)

In 1524, Francis I, King of France, saying that he should like to see the clause in Adam's will which made the American continent the exclusive possession of his brothers of Spain and Portugal, is said to have sent out Verazzano, a Florentine corsair, who, as has generally been believed, explored

* Might not the Honorable Legislature be justified in making a small appropriation for the purchase of the few acres of grassland in Bristol which covers the ancient pavements of the legendary Pemaquid?

(1) Frederick Kidder's pamphlet on "The discovery of North America by John Cabot" published in the *New England Genealogical Register* for October, 1878.—*Charlevoix*, Vol. I, p. 20.—*Hume's New England* and other countries, Vol. III, p. 76.—*Rymer's Foedera*, Vol. XII, p. 295.

(2) *Sullivan's History of Land Titles in Massachusetts*, page 32.

(3) Ex-governor Chamberlain's Centennial address, published by order of the Legislature in the *Acts and Resolves* of 1877, page 282.

the entire coast from 30° to 50° North Latitude, and named the whole region *New France*. (1)

In 1534, Jacques Francis commissioned Jacques Quartier [or Cartier] to discover and take possession of Canada; "his successive voyages, within the six years following, opened the whole region of the St. Lawrence and laid the foundation of French dominion on this continent." (1) (2)

In 1574, a petition had been presented to Elizabeth, Queen of England, to allow of the discovery of lands in America "fatally reserved to England and for the honor of Her Majesty," and, in 1578, she gave a roving commission to Sir Humphrey Gilbert, "for planting our people in America, authorizing himself, his heirs and assigns, to discover, occupy and possess such remote "heathen lands not actually possessed of any Christian prince or people, as should seem good to him or them," and in 1584, after Gilbert's death, she renewed the grant to Sir Walter Raleigh, his half-brother.

Under this commission Raleigh made an unsuccessful attempt to plant an English colony in Virginia, a name afterwards extended to the whole North coast of America in honor of the "Virgin" Queen. (3)

November 8, 1603, Henry IV, King of France, granted to Sieur de Monts, a Protestant gentleman of the King's Bed-Chamber, a royal patent conferring the possession and sovereignty of the country between Latitudes 40° and 46° (from Philadelphia as far north as Katahdin and Montreal). Samuel Champlain, geographer to the King, accompanied De Monts on his voyage, landing at the site of Liverpool, N. S., a region already known as "Acadia," May 6, 1604, but establishing their first colony of gentlemen, priests, ministers, vagabonds and ruffians, "the best and the meanest of France," at Neutral Island, in the St. Croix River, where they passed the winter of 1604-5. After carefully exploring the entire coast of Maine and giving names to Mt. Desert and the Isle au Haut, they abandoned its shores in 1606. (4)

"But the noble efforts of Sir Walter Raleigh had not passed out of thought." (5)

On the last day of March, 1605, (O. S.), Captain George Waymouth sailed from the Downs in the Archangel, a ship which had been fitted out by Sir Ferdinando Gorges, Governor of Plymouth, in England, (to whom Waymouth had given three Maine Indians whom he had kidnapped,) and the Earls of Southampton and Arundel, and anchored off the coast of Maine, May 17, probably under Monhegan Island, whence he visited the mainland and from his anchorage in "Pentecost Harbor," (perhaps George's Island Harbor, possibly Boothbay) explored "the excellent and beneficial River of the Sagadahock," and afterwards, as some have supposed, the Penobscot, returning the same season to England. (6)

Early the next spring an association of English gentlemen, prominent among whom was Gorges, obtained from James I, King of England, a grant of all that part of North America between Latitudes 34° and 45° (from South Carolina to New Brunswick) "extending from the sea on the East between those

(1) Chamberlain's address, p. 282.—"Verrazzano, the Navigator," by J. C. Brevoort, member of the American Geographical Society of New York, 1874. But, per contra, see Buckingham Smith's "Inquiry into the Authenticity of Documents concerning a Discovery in North America claimed to have been made by Verrazzano, 1864," and "The Voyage of Verrazzano," by Henry E. Murphy, 1875,—also a Review of the foregoing pamphlets by Rev. Edmund F. Slafter, in the New York Historical and Genealogical Register for January, 1876.

(2) Sullivan, p. 32.

(3) Chamberlain's address, page 284.—Encyclopædia Britannica, article "Sir H. Gilbert."

(4) Chamberlain's address, page 285,—"Champlain's explorations of the coast of Maine" by General John M. Brown in Maine Historical Society's collections, Vol. VII, page 245.

(5) Chamberlain's address, p. 288.

(6) Ibid., p. 287.

parallels of latitude West, one hundred English miles inland, and the Islands within one hundred miles of the shore, to be holden by them as a Corporation, and to their successors in the same, and to their assigns, in free and common socage, not *in capite*, nor by knights' service; but after the form of the royal manor of East Greenwich, in the County of Kent, for the advancement of the Christian religion and the glory of God, and to replenish the deserts with people, who would be governed by laws and magistrates." (1)

By the Royal Patent which passed the seals April 10, 1606, the grantees were, at their own desire, incorporated into two Companies under one Council of Government, wherein Richard Hakluyt, Somers and their associates, of London, formed the London Company, or First Colony of Virginia; and Lord John Popham, Chief Justice of England, Raleigh Gilbert, George Popham, Sir Ferdinando Gorges and others of Plymouth, in the County of Devon, and their associates, formed the Plymouth Colony, or the Second Colony of Virginia. The First Colony was permitted to begin a Plantation anywhere South of Latitude 41°, and the Second Colony anywhere North of 38°, provided that the Colony last planted should not settle within one hundred miles of the other. The government ordained was a general "Council of Virginia," consisting of thirteen men appointed by the crown, residing in England, with paramount jurisdiction, to be exercised according to such ordinances as should be given them under the royal sign manual; and two Subordinate Councils, each of thirteen members, living in America, named in the same way. The first settlement was effected by the London Company of South Virginia at Jamestown in Virginia, April 26, 1607. (2)

On the last day of the next month, two ships, "The Gift of God," commanded by George Popham, brother of the Lord Chief Justice, and "The Mary and John," commanded by Raleigh Gilbert, son of Sir Humphrey and nephew of Sir Walter Raleigh, sailed from Plymouth with the Plymouth Company of North Virginia, arriving at Monhegan Island, August 8, at Stage Island, August 11, and landing at the site of Fort Popham, at the mouth of the Kennebec, August 18, 1607, where, with Popham for their President, and Gilbert for their Admiral, the Colony built a thirty ton vessel, "The Virginia of Sagadahock," and passed the winter. But they experienced so many misfortunes and discouragements in the death of their President, the loss of their fort, store-house and magazine, and the hostility of the natives, that the settlement was abandoned in the spring, some of the company returning to England, while some, as there is reason to believe, may have gone to Virginia, and others probably to Monhegan and Pemaquid. (3) (4)

During the next twelve years, settlements were made or attempted at various points on the coast of Maine:—at Mt. Desert, in 1613, by Saussaye, agent of Madame DeGuercheville, a French Roman Catholic lady who had procured of De Monts a surrender of his patent, and had obtained a Charter from the French King,—at Monhegan, in 1614, by Captain John Smith, ex-president of the Colonial Council of Virginia, who gave New England the name which was confirmed by Charles I, when Prince of Wales,—by Sir Richard Hawkins, President of the Plymouth Colony in October, 1615,—at Saco, by Richard Vines and his companions whom Gorges hired to remain during the winter of 1617, and others. (5)

The General Court of Massachusetts, by a Resolve of July 6, 1787, granted to "Monsieur and Madame De Gregoire all such parts and parcels of the Island of Mount Desert, and other Islands, and tracts of land particularly described in the grant or patent of his late most christian majesty, Louis XIV, in April, 1691, to Monsieur de la Motte Cadillac, grandfather of said Madame

(1) Sullivan, p. 33.

(2) Williamson's History of Maine, Vol. I, p. 196.

(3) Chamberlain's address, p. 289. Williamson, Vol. I, p. 198.

(4) See note 4 on page 35.

(5) Williamson, Vol. I, pp. 208—218.

De Gregoire, which now remain the property of this commonwealth," not so much on account of any legal claim, "the legal title to the lands having been by long lapse of possession lost to said heir at law," but as an "act of the most liberal justice," and "through the liberality and generosity of this Court, which are not hereafter to be drawn into precedent." (1) Perhaps the inlet between Mt. Desert and Gouldsborough may thus have derived the name "Frenchman's Bay."

In September, 1619, the Leyden Pilgrims who had been in Holland since 1608, obtained a patent from the London or South Virginia Company under which they founded the first permanent Colony in New England, at Plymouth, Massachusetts, Dec. 11, 1620.

While the Pilgrims were on their passage under their South Virginia patent, King James, on petition of Sir Ferdinando Gorges, granted to the North Virginia Company a new separate patent dated Nov. 3, 1620, and known as the great Charter of New England, granting in fee simple all the North American continent and islands between the parallels of 40° and 48°, "throughout the mainland from sea to sea, (from the Bay of Chaleur as far South as Philadelphia). The patentees were forty noblemen, knights, and gentlemen of England, chief of whom were the Duke of Lenox, Sir Ferdinando Gorges, Francis Popham, son of the late Chief Justice, and Raleigh Gilbert; they were styled, "The council established at Plymouth in the County of Devon, for planting, ruling and governing New England in America." (2)

Whatever may have been the original design of the Pilgrims when they embarked in the May Flower at Plymouth, their captain landed them nearly two degrees North of the extreme limit of the South Virginia patent under which they had sailed, so that the Colony found itself from the start within the jurisdiction of the Great Charter of New England.

But Gorges, Chief Manager of the Council, obtained for the new Colony a Charter issued June 1, 1621, and enlarged in 1630, on which all the legal titles of the "Old Colony" are based. (3)

Feb. 2, 1619, John Pierce, a London clothier, and his associates, obtained a grant "in the Northerly part of what was called New England."

Feb. 12, 1620, Thomas Weston was sent to the Pilgrims at Leyden, in Holland, to inform them of the fact and to induce them to go there, which, it is stated, they were inclined to do for "the hope of present profit to be made by the fishing that was found in that countrie."

It is recorded in the transactions of the Directors of the Virginia Company that prior to June 1, 1621, John Pierce had a grant indorsed by Sir T. Gorges and had seated thereupon a company within the limits of the Northern Plantations.

This colony settled in and about Muscongus, north of New Harbor of Pemaquid. This grant of 1619, located prior to February, 1620, and settled before 1621, was the root of the Muscongus grant and ended in the Waldo Patent. (4)

But the authority of the Council for the affairs of New England was too remote to be referred to by the Pilgrims.

Therefore they came into a voluntary and solemn compact, dated Nov. 11, 1621, to obey the laws, which should be made by their own common consent; and for this purpose they assumed the title of a body politic, and proceeded to a division of the land. (5)

August 10, 1622, the Council granted to Gorges and Mason a patent convey-

(1) May not this ancient land title in Maine have come down from the patent granted to De Monts by Henry IV, in 1603, through Madame De Guercheville's purchase?

(2) Williamson, Vol. I, p. 220. Chamberlain's address, p. 304.

(3) Chamberlain's address, p. 303.

(4) It has been claimed that this was the Pierce who is said to have belonged to the Popham colony, and never returned to England, but went to Pemaquid on the abandonment of the Sagadahoc settlement.

(5) Sullivan, p. 41.

ing all the country between the Merrimac and Kennebec to the farthest head of said rivers, and sixty miles inland, with all the islands and islets within five leagues of the shore which "they intend to call the PROVINCE OF MAINE."

March 19, 1627-8, the Plymouth Council through the friendly instrumentality of Gorges and the Earl of Warwick, granted to Sir Henry Roswell, John Endicott and others the territory, afterwards called the Colony of Massachusetts Bay, in New England, "between the great River Merimeck and Charles River, in the bottom of a certain bay, called Massachusetts Bay; *and within three English miles to the Northward of the River Merimeck or to the Northward of any and every part thereof from the Atlantic and Western Sea and Ocean on the East part, to the South Sea, on the West part.*" (1)

To give full effect to this patent, a Royal Charter was obtained March 4, 1628-9, by which it was erected into a COLONY, under the name of Massachusetts Bay, and Endicott and his associates were incorporated into a government, with power to choose a governor, deputy governor and assistants, annually forever. (2)

Endicott's colony of Puritans arrived at Salem in 1628, but the authority of the Corporation was exercised under a form of government agreed upon in London, April 30, 1629, whereby the sole power was delegated from time to time to thirteen of such residents on the plantation "as should be reputed the most wise, honest, expert and discreet." (3)

Gorges claimed that in the Royal Patent to the Massachusetts Bay Colony, it was expressly conditioned that the grant should contain nothing to prejudice his son Robert, who in 1622 had obtained under the great New England Charter, the patent of a tract extending ten miles on Massachusetts Bay.

But the Massachusetts agents claimed that this grant was "void in law" and the Colony were advised "to take possession of the chief part thereof" which was forthwith done. (4)

In January, 1629, before the Puritan colony had been organized upon the shores of Massachusetts, the Pilgrims had received from the Plymouth Council of Gorges an advantageous grant on the Kennebec, since called the Kennebec or Plymouth Patent, comprising a territory of about 1,500,000 acres, fifteen miles in width on each side of the Kennebec River, between Woolwich and Cornville. This grant was sold by the Pilgrim colony in 1661 for £400 sterling to four persons. In 1753 the lands passed to a company, and were thenceforward known as the Kennebec Purchase. (5)

As early as 1624, Gorges had been called to the bar of the House of Commons to defend the Plymouth Council against the charge of misuse of its charter, and was required to deliver the Patent forthwith to the House.

This Gorges declined to do because he had no authority to deliver the patent without the consent of the Council and because it was not in fact in his custody. But the House in its presentation of grievances to King James put the Plymouth Patent at the head of the list. Nevertheless the King refused to recall it.

The next year James I died. His successor Charles I married the daughter of the French King, and stipulated in the marriage treaty to cede Acadia to France.

In 1635, D'Aulney, under Razillai, in behalf of France, took possession of Penobscot [Castine] and drove out the English who had a trading-house there. (6)

(1) Sullivan, p. 48.—Chamberlain's address, p. 305.

(2) Williamson, Vol. I, p. 234.

(3) Sullivan, p. 49.

(4) Chamberlain's address, p. 306.

(5) Williamson, Vol. I, p. 236.—Chamberlain's address, p. 303.

(6) Bradford's History of Plymouth, p. 332 of Vol. III, Fourth Series, Book II.

The north-eastern portion of the Plymouth patent was claimed by the French King as part of Acadia, and Gorges was again summoned to defend it—this time before the King and his Council.

As soon as the French claim had been disposed of, the Commons again moved the crown for a dissolution of the charter which the King refused to grant. (1)

June 7, 1635, the Plymouth Council surrendered to Charles I the Great Charter of New England which had been granted by James I in 1620, having divided all the territory which had not been deeded by the Council into *eight* Royal Provinces, *four* of which were in Maine, and the others in New Hampshire, Rhode Island, Connecticut, New York and New Jersey. Gorges obtained Western Maine, being all the territory between the Piscataqua and the Kennebec, more than one sixth of the present area of the State.

The Council also petitioned King Charles to revoke the Massachusetts Bay Charter, alleging that it had been obtained surreptitiously and was held wrongfully, that a portion of their territory rightfully belonged to Robert Gorges, son of Sir Ferdinando, who, when Governor took actual possession of it, and that the Massachusetts Bay colonists claimed to be absolute masters of the continent from sea to sea, a distance of more than a thousand leagues.

Judgment was given that the franchises of Massachusetts Bay should be seized into the King's hands, but in the confusion of the times it was never carried into execution.

April 28, 1634, the King had appointed eleven of his Privy Councillors, Lords Commissioners of all his American Plantations, and soon afterwards he made Sir Ferdinando Gorges Governor General over the whole of New England. (2) The same year or the next, he sent over his nephew, William Gorges as Governor of his lands in Western Maine, which he called "New Somersetshire."

Governor William Gorges opened a court at Saco as the shire town March 28, 1636, which was the first organized government established within the present State of Maine.

At this time there were six permanent settlements within the Province; at Agamenticus, (now York,) at the Piscataqua settlement from Kittery Point to Newichawannock, and the Northern Isles of Shoals; at Black Point, in Scarborough; at the Lygonian Plantation, or Casco, now Portland and vicinity; and at the Pejepscot settlements, on the lower Androscoggin;—besides the Kennebec patent which was under the jurisdiction of the Pilgrims. (3)

It was not, however, until April 3, 1639, that Sir Ferdinando Gorges obtained from King Charles a Provincial Charter of his Territory, described as "all that Parte, Purpart, and Porcon of the Mayne Lande of New England aforesaid, beginning att the entrance of Pascatway Harbor," extending up that river and through Newichawannock and Salmon Fall river, "north-westward, one hundred and twenty miles, and thence overland to the utmost northerly end of the line first mentioned, including the north half of the Isles of Shoals;" * * "also all the Islands and inlets within five leagues of the Mayne, along the coasts between the said rivers Pascatway and Sagadahock, all which said Parte, Purpart or Porcon of the Mayne Lande wee doe for us, our heires and successors create and incorporate into one province or Countie. And wee doe name, ordeyne and appoynt that the Porcon of the Mayne Lande and Premises aforesaid shall forever hereafter bee called and named **THE PROVINCE OR COUNTIE OF MAYNE.**" (4)

(1) Williamson, Vol. I, pp. 229-232.

(2) Ibid., pp. 255-259.

(3) Ibid., pp. 264, 265.—Chamberlain's address, p. 212.

(4) There is now little doubt that our state derived its name from its great extent of main-land, as distinguished from its almost innumerable islands, and not from the Province of Maine in France as was once supposed. See Chamberlain's address, p. 314, and authorities cited in his note.

By this memorable charter Gorges was made Lord Palatine of a princely domain extending Northerly to the mouth of Dead river and Northwesterly to Umbagog lake, the only instance of a purely feudal possession on this continent:—a charter containing more extensive powers than were ever granted by the crown to any other subject.

Under this Charter, which made the Lord Palatine, his heirs and assigns, absolute Lords Proprietors of the province, subject only to the supreme dominion, faith and allegiance due to the crown and certain revenues payable thereto, with power to erect Courts of justice, and in concurrence with a majority of the freeholders, assembled in legislation, to establish laws extending to life or member, the colony was organized March 10, 1640, by the appointment of Thomas Gorges, cousin to Sir Ferdinando, Deputy Governor, and Richard Vines and five other Councillors, and the first General Court for the preservation of justice throughout his Province, was opened at Saco, June 25, 1640. The Province was divided by the Kennebunk River into two Counties, "East and West," the former gradually acquiring the name of "York" with its shire town at Agamenticus, and the latter the name of "Somerset," or "New Somerset," with Saco for its shire. (1)

Prior to the surrender of its Charter, the Plymouth Council in England had issued twelve land patents within the limits of Maine, in addition to the two already mentioned, viz:— (2)

IN 1630.

To Lewis and Bonythan on the North side of the Saco River, four miles along the coast and eight miles inland.

To Oldham and Vines, a similar tract in Biddeford, on the South side of the Saco.

The Muscongus Grant, a territory thirty miles square between the Muscongus and Penobscot Rivers, afterwards known as the Waldo patent.

The Lygonia Patent, extending from Kennebunk to Harpswell and forty miles inland, including rights of soil and government.

IN 1631.

The Black Point Patent in Scarboro', to Cammock, 1,500 acres on the sea coast, on the East side of Black Point River;

The Pejypscot Patent, on the North side of the Androscoggin River, to Bradshaw;

The Agamenticus Patent, to Godfrey and others at York, 12,000 acres;

Richmond's Island and 1,500 acres on the mainland at Spurwink, in Scarboro', to Bagnall;

Cape Porpoise, (Kennebunkport,) 2,000 acres on the South side, to Stratton.

IN 1632.

The Trelawney and Goodyear Patent "between Black Point and the River and Bay of Casco," including the ancient town of Falmouth, (Portland and vicinity) Cape Elizabeth and a part of Gorham.

The Pemaquid Patent at Bristol, between the Muscongus and Damariscotta Rivers, 12,000 acres along the sea coast and up the River besides all the Islands three leagues into the ocean, with powers of government.

The Way and Purchas Patent on the lower Androscoggin, reaching to Casco Bay:—

The whole embracing the entire seaboard from the New Hampshire line to the Penobscot (save the coast between Sagadahoc and Damariscotta, a tract of five leagues, including the Sheepscot and the Islands, and the most of that small strip was claimed under the Kennebec Patent). Some of these grants conflicted with each other. (3)

(1) Williamson, Vol. I, pp. 272-286.—Chamberlain's address, p. 314.

(2) Williamson, Vol. I, pp. 236-244.—Chamberlain's address, p. 310.

(3) Chamberlain's address, p. 312.

April 10, 1641, Sir Ferdinando Gorges, by a special charter of incorporation, erected Agamenticus into a "borough," and by a second charter dated March 1, 1642, incorporated it with a territory of twenty-one square miles, into a city called Gorgeana, with a charter that allowed no appeal to England. Under this charter, in 1644, a woman was tried, convicted and executed at Gorgeana, for the murder of her husband. (1)

Encouraged by the success of Republicanism in England, Sir Alexander Rigby, a member of the Long Parliament, purchased the Lygonia Patent, April 3, 1643, and claimed exclusive jurisdiction thereunder from Kennebunk to Harpswell, but agreed to submit his claim to the magistrates of Massachusetts Bay, who, in June, 1645, dismissed the case, advising the disputants to live in peace till a decision should come from the proper authority.

In March, 1646, the Earl of Warwick, whom the House of Commons in 1642 had appointed Governor General and High Admiral of all the American Plantations, and sixteen Commissioners (of whom John Pym and Oliver Cromwell were two,) decided that Rigby was "the lawful owner and proprietor, in fee-simple, of the Province of Lygonia, being a tract of land 40 miles square lying on the South side of the river Sagadahock and adjoining unto the great Ocean, or sea, called Mare del Nort," and directed the Governor of Massachusetts Bay, in case of resistance, to afford Rigby's officers all suitable assistance.

This restricted Gorges to the Kennebunk River on the East. (2)

The next year, Sir Ferdinando Gorges died in England while in arms for King Charles I against the Parliamentary forces.

At the death of Gorges, the present area of Maine embraced four great political sections:

First—The restricted Province of Gorges, extending from the New Hampshire Line to the Kennebunk River, and 120 miles into the interior.

Second—Lygonia, extending forty miles East from Kennebunk River, and forty miles inland, including Harpswell and the Islands of Casco Bay.

Third—The Sagadahoc Territory, extending from Kennebec River to the Penobscot, including several detached settlements, chief of which was the Pemaquid Patent; and

Fourth—The region between Penobscot Bay and the Passamaquoddy or St. Croix River, at that time in substantial possession of the French and claimed by them as part of Acadia. (3)

Discouraged by the dismemberment of the Province and the death of the Lord Palatine, followed in less than two years by the execution of the King, the people of Wells, Gorgeana and Kittery held a consultation at Georgeana in July, 1649, where they formed themselves into this "Social Compact:"—"We, with our free and voluntary consent, do bind ourselves in a body politic and combination, to see these parts of the Country and Province regulated, according to such laws as have formerly been exercised, and such others as shall be thought meet, but not repugnant to the fundamental laws of our native country." (4)

Two years later, the General Court of Massachusetts Bay put forth a new claim. King Charles' Charter of 1628-9 embraced "all the lands within the space of three English miles, to the Northward of the River Merrimeck, or to the Northward of any and every part thereof," meaning, as had always been supposed, three miles *beyond* the river, but the Colonial Government now contended that their charter conveyed all the territory South of a line drawn due East, across the country, from a point three miles North of the *source* of the Merrimack to the same Latitude on the Maine coast.

(1) Williamson, Vol. I, p. 288.

(2) Ibid., pp. 292-302.

(3) Ibid., 325-328.

(4) Ibid., 326.

At the May session, 1652, the claim was embodied in a Legislative Resolve, and commissioners were appointed to procure "suitable artists (1) and assistants" to take a true observation of the latitude and to make the survey, which they accomplished, Aug. 1, 1652, fixing the source of the Merrimack at Lat. $43^{\circ} 40' 12''$, and at the October session their report was accepted and the jurisdiction of Massachusetts was declared to extend as far North and East as a line drawn due East from a point three miles North of the head waters of the Merrimack in Lat. $43^{\circ} 43' 12''$, "touching the Southernmost bend of the River Presumpscot, and touching the coast at Goose Rock," (on the line which still divides the towns of Falmouth and Cumberland) "and terminating at Split Rock, on the Northern point of Upper Clapboard" (Sturdivant's) "Island, in Casco Bay, about three miles Eastward of Casco Peninsula" (Stover's Point). (2)

The authorities of Massachusetts Bay at once proceeded to enforce their claim as fast as practicable upon the inhabitants of the Province of Maine and of Lygonia South of $43^{\circ} 43' 12''$. Luckily for them, Edward Rigby, son and heir of Sir Alexander who had died in 1650, was pleased, at this juncture, to address to the leaders of Lygonia a letter, dated London, July 19, 1652, notifying them that he conceived that all political power derived from his father expired at his death, and commanding them to desist and abstain from the further exercise thereof, thus extinguishing the Lygonia government of which Saco had been made the shire. (3)

In November, 1652, a Commission appointed by the General Court of Massachusetts Bay was opened at Kittery, which had been incorporated into a town under the Government of Gorges five years before, and the inhabitants were persuaded to acknowledge their subjection to the government of Massachusetts Bay in New England.

Proceeding to Gorgiana, which had been erected into a borough by Sir Ferdinando Gorges in 1641, and chartered by him as a city in March, 1642, they abolished its charter and named it York, being the second town incorporated in the State. The next year, Wells, Saco, and Cape Porpoise (now Kennebunkport) were incorporated as towns by the Massachusetts Bay Commissioners. In July, 1658, Scarboro' and Falmouth were incorporated out of the Lygonia territory, and declared to be a part of Yorkshire. October 27, 1658, the towns of York, Kittery, Wells, Saco and Cape Porpoise presented their memorial to "Lord Cromwell," expressive of their satisfaction in the new government as administered by Massachusetts Bay, with a request for its uninterrupted continuance. (4)

At the restoration, in 1660, Ferdinando Gorges, grandson of the Lord Palatine, made claim to the Province of Maine, appealing to King Charles II in Council, and to Parliament. (5)

Although the Committee of Parliament reported in favor of Gorges, it was not until January 11, 1664, that he obtained from the King an order to the Governor and Council of Massachusetts Bay forthwith to restore to him his Province, or without delay assign their reasons for withholding it, and June 11, 1664, the King addressed to them a letter communicating his decision.

Although neither the King nor the Parliament of Charles II had any sympathy with the Massachusetts authorities, and in spite of the defects in that Colony's title, the General Court succeeded in delaying final judgment for twenty years. (6)

But as early as March 12, 1664, the King had granted to his brother James,

(1) One of the "artists" was "Jonathan Ince, of Cambridge College."

(2) Sullivan, p. 51.

(3) Williamson, Vol. I, pp. 334-342.

(4) Ibid., pp. 343-356; 396.

(5) Ibid., p. 398.

(6) Ibid., p. 406.

Duke of York and Albany, (afterwards James II) all the Dutch territory on the Hudson River, including Long Island, together with the whole region between the St. Croix and Pemaquid, "thence to the Kennebeck and so upwards, to the River of Canada Northward."

This grant was known as "The Duke of York's Property,"—"The Territory of Sagadahock,"—"New Castle,"—and "The County of Cornwall." It was an encroachment upon the Kennebec Patent, the Pemaquid Patent, the Muscongus Patent and others. Col. Nichols assumed the government of the ducal Province as Deputy Governor under his Royal Highness, and Sept. 5, 1665, possession was taken of the Sheepscot plantation as the shire of the New County of Cornwall, the plantation being named Dartmouth or New Dartmouth. (1)

By 1670, the "Province of Maine" had been substantially reduced to the subjection of Massachusetts Bay; the interior regulations of Yorkshire had been perfected by the establishment of Courts and the appointment of magistrates, commissioners and judges, chief of whom was Thomas Danforth.

But the French, who were in full possession of Nova Scotia (including New Brunswick) and the territory West as far as the Penobscot River, boldly claimed jurisdiction over the rest of the Duke of York's Patent, even to the Kennebec.

In this aspect of affairs, both Massachusetts Bay and the Duke's colonists had reason to apprehend the sale or resignation of his entire Eastern patent to the French.

"To contravene a measure so much apprehended, the General Court in May, 1671, suspecting the correctness of the survey of 1651," determined to have a revision of their Northern line, which was accordingly made by Mountjoy of Falmouth in 1672, who found it six minutes further North, at 43° 49' 12", crossing the Kennebec near Bath, and terminating at White Head Island in Penobscot Bay. This new line, "run more suitable to the exigency," added to the Massachusetts Bay Charter an extensive seaboard, also Arrowsic, Parker's and Georges' Islands, with Monhegan, Matinicus, Damariscove and in fact all the other Islands along the coast, and even the principal settlement at Pemaquid, "but happily, not embracing Dartmouth, the seat of the Duke's Government."

Encouraged by the recapture of the fort at New York by the Dutch armament July 30, 1673, the General Court of Massachusetts Bay sanctioned Mountjoy's survey, and in October, 1673 proceeded to erect the Easternmost section of the readjusted patent beyond Sagadahoc into a new County. In May, 1674, a court was opened at Pemaquid, which was made the shire of the "County of Devonshire," extending from Sagadahoc to Georges' River.

But by a treaty of peace signed February 9, 1674, Holland had already restored the Province of New York to the English, and June 22, 1674, King Charles granted to the Duke of York a new patent comprising all the territories embraced in that of 1664. The Duke thereupon commissioned Sir Edward Andros Governor of both Provinces, New York and Sagadahock, and Andros assumed the government in October. (2)

In 1676, Gorges and Mason, in their complaint against Massachusetts Bay which they had instituted in 1659, succeeded in persuading the King to serve legal notice of the charges upon the Massachusetts Bay authorities and to require the appearance of its agents in defence.

Toward the end of the year the Massachusetts agents appeared before a committee of the Privy Council who gave a decision substantially extinguishing the claims of Massachusetts Bay to Maine, but leaving the rightful ownership of the Province undetermined.

In consequence of this decision, the authorities of Massachusetts Bay em-

(1) Williamson, Vol. I, p. 407.

(2) Ibid., pp. 440-445.

ployed John Usher, a Boston trader then in England, in behalf of the Colony to purchase of Gorges all his interest in the Province. May 6, 1677, Ferdinando Gorges gave Usher an assignment of THE PROVINCE OF MAYNE for £1,250 sterling, with all "royalties, jurisdictions, ecclesiastical, civil, admiral and military;—the privileges, governments and liberties," granted to Sir Ferdinando Gorges by charter of King Charles I, April 3, 1639, covenanting that Usher should stand seized of an absolute, perfect and independent estate of and in the said County Palatine, excepting the grants made by the original proprietor or his agents. (1)

The purchase of Maine by the colony of Massachusetts Bay displeased Charles II, who was himself, at the time, in treaty with Gorges for its purchase for his natural son, the Duke of Monmouth, (afterwards executed by Charles' brother James) and he remonstrated with the colonial government on their conduct, and even required the colony's agents to assign it to the crown upon payment of the purchase money, to which demand little attention was paid, and at the October session, the General Court resolved to keep the Province. Accordingly in February, 1680, it was determined to assume the Royal Charter granted to Sir Ferdinando Gorges and to frame a civil administration over the Province in conformity with its provisions, consisting of a standing Council of eight members appointed by the Massachusetts Bay Board of Colony Assistants and a House of Deputies chosen by the towns in the Province, with a President chosen by the Board of Assistants. (2)

Thomas Danforth of Cambridge, Deputy Governor of Massachusetts Bay was chosen President of Maine and at once entered upon his duties, proclaiming his authority at York in March, and at Fort Loyal at Casco Neck in Falmouth (now Portland) September 22, 1680, where President Danforth and his two assistants gave the name of North Yarmouth to a new plantation adjoining Falmouth on the East, the eighth town incorporated in Maine. (3)

But the charter of Massachusetts Bay was now so violently assailed that in 1683, the General Court directed its agents in England to resign to the crown the title deeds of Maine provided the colonial charter could thus be saved. Their proposition was not acceptable, for a writ of quo warranto had already been brought before the Court of King's Bench July 20, and was served on the Governor of Massachusetts Bay in October, 1683. This not proving sufficient, a writ of scire facias was sued out of the Chancery Court at Whitehall in June, 1684, under which the Royal Charter granted to the Colony of Massachusetts Bay by Charles I in 1628 was promptly adjudged to be forfeited and the liberties of the colonies were seized by the crown. (4)

The infamous Col. Kirke was immediately appointed by Charles II, Governor of Massachusetts Bay, Plymouth, New Hampshire and Maine, but before his embarkation from England, the Duke of York succeeded to the throne as James II, Feb. 16, 1685, and was publicly proclaimed at York in April. He was not inclined to renew the appointment of Kirke, but commissioned Joseph Dudley a native of Massachusetts; as President of Massachusetts, New Hampshire, Maine and Rhode Island, with fifteen mandamus Councillors appointed by the Crown to assist him.

The last General Court under the Massachusetts Bay charter of Charles I organized May 12, 1686, but was dissolved by President Dudley, May 20. (5)

Within five months he was superseded by Sir Edmund Andros, who arrived at Boston December 20, 1686, and on the same day published his commission.

He had been for eight years Ducal Governor of New York and Sagadahock,

(1) Williamson, Vol. 1, pp. 448-451.

(2) Ibid., pp. 554-558.

(3) Ibid., pp. 558-564.

(4) Ibid., p. 572,—Chamberlain's address, p. 324.

(5) Proceedings of Mass. Historical Society, for Sep., 1864, pp. 484-486.

and was now made Captain-General and Governor-in-Chief over all New England. (1)

April 18, 1689, a revolution took place in Boston, and the populace seized and imprisoned Governor Andros and thirty of his partizans, and Andros was finally induced to surrender the keys of government and the command of the fortifications.

A general convention of the people assembled April 20, and a meeting of the General Court was called at Boston May 22 which determined to resume the government, according to charter rights, a resolution which was carried into effect May 24, 1689.

Two days after, news arrived from England that James II had abdicated the British throne December 12, 1688, and that William and Mary had been proclaimed King and Queen, February 16, 1689.

Danforth was re-elected President of Maine and continued to govern the Province of Maine under the provision of the Charter to Gorges until May 6, 1692.

Finally the Province of Massachusetts Bay, the Pilgrim Colony of Plymouth, the Province of Maine, together with Sagadahock, and Acadia, (or Nova Scotia, including New Brunswick) were all incorporated into the Royal Province of Massachusetts Bay by the Charter of William and Mary which received the Royal sanction, October 7, 1691, and took effect May 6, 1692. But Nova Scotia (with New Brunswick) was soon after relinquished by Massachusetts to the entire exclusive dominion of the British crown.

The present State of Maine at the time of this consolidation, consisted of three principal divisions:

I.—The original "Province of Maine" granted by Charles I to Sir Ferdinando Gorges in 1639, extending from the New Hampshire line to the Sagadahock or Kennebeck and one hundred and twenty miles into the interior, which his grandson Ferdinando Gorges sold to the Massachusetts Bay Colony in 1677.

II.—The Province of Sagadahock between the Kennebeck River and Nova Scotia, and extending "Northward to the River of Canada," or latitude 48°, embracing not only the second principality in the eight great divisions of 1635, lying between the Kennebeck River and Pemaquid, but the ducal province of James II, (as Duke of York) being the rest of the whole territory between Pemaquid and the St. Croix, which had reverted to the crown on his abdication in 1688.

III.—The territory North of the original grant to Gorges, between the Northern limit of his patent and the Canada Line. (2)

As the Palatine Province of Maine was limited to one hundred and twenty miles from the sea, it may be asked how the Colony of Massachusetts Bay could, either by its purchase from Gorges or under the charter of William and Mary, acquire title to that considerable territory in the North-western corner of the present State of Maine, between the Northerly line of Gorges' Province and the Canadian boundary, as conceded by the treaty of independence.

Perhaps no better answer can be readily given than that of the learned Attorney General of Massachusetts, in the first year of this century;—"the question "is not of much consequence." (3)

The Provincial Charter of Massachusetts Bay continued to be the foundation and ordinance of civil government in Massachusetts and Maine for eighty-eight years, until the adoption of a Republican Constitution by the parent Commonwealth, October 25, 1780. (N. S.)

(1) Williamson, Vol. I, pp. 572-578.

(2) Ibid., pp. 500-603.

(3) Sullivan, p. 48.

With the consolidation of 1692 disappeared the ephemeral Counties of Somerset, Cornwall and Devonshire, and the County of York which was created by Sir Ferdinando Gorges, Lord Palatine of the Province of Maine, in 1640, and the first volume of whose records begins with the court opened at Saco, June 25, under the charter of Charles I, embraced the whole of Maine until November 2, 1760, when the Counties of Cumberland and Lincoln were created by an act of the Provincial Legislature.

The formation of a Republican Constitution by the people of Massachusetts Bay and the recognition of that Commonwealth as an Independent State within three years afterward seem to have inspired in the inhabitants of Maine a desire for a separation. Indeed, as early as 1778 the Continental Congress had divided Massachusetts into three districts, the Southern, Middle and Northern, the last embracing the three Eastern Counties of York, Cumberland and Lincoln, which thus acquired a distinctive name, "THE DISTRICT OF MAINE," which it retained until the separation. Twelve years later the First Federal Congress re-established the same division under the National Constitution.

Very soon after the acknowledgment of Independence, separation began to be generally agitated throughout the District, and in September, 1785, a notice appeared in the Falmouth Gazette, a paper which had made its appearance on New Year's day, calling a Conference at Messrs. Smith and Deane's Meeting-House in Falmouth, October 5th, to consider the proposal to erect the three Eastern Counties into a separate Government. Accordingly thirty-three delegates appeared from twenty of the principal towns of each of the Counties, and organized a Convention whereof William Gorham, of Gorham, was chosen President, and Stephen Longfellow, Jr., also of Gorham, Secretary. The convention voted to call another convention at the same place on January 4, 1786, to consider the expediency and means of forming a separate State.

Governor Bowdoin, in his speech to the General Court, October 20, 1785, by advice of his Council, deprecated the movement, and the General Court, in their reply, concurred in his views.

The Convention, however, assembled and appointed a Committee of nine whose report stating the grievances and inconveniences under which the District labored, was signed by the President and sent to every town and settlement in Maine, and the Convention appointed another Convention to be held at the same place, September 6, 1786; it was also voted to request the towns and plantations at their next March meetings, to choose delegates and to certify the number of votes for and against the choice.

A Convention consisting of thirty-one members accordingly assembled and appointed a Committee to petition the General Court that the District of Maine be erected into a separate State and adjourned to January 3, 1787.

On its re-assembling, the Convention found that of the ninety-three towns and plantations in Maine only forty had been represented in any Convention, and of those only thirty-two had made return of their votes; that the whole number of votes returned was only 994, of which 645 were in favor of separation and 449 opposed. Finally the Convention, by a majority of two, directed the Committee to present or retain the petition, at their discretion, and adjourned from time to time until September, 1788, when it expired through non-attendance of its members. The Committee finally decided to present the petition in 1788, and it was duly referred to a Committee of the General Court, which was the end of the agitation for nearly thirty years.

At the close of the war of 1812-15 the subject was revived, and at the January session of the General Court in 1816 petitions were presented from forty-nine Maine towns in their corporate capacity, and from individuals in many others, in favor of separation, whereupon the Legislature directed town and plantation meetings to be held on the question throughout the District May 20.

At the June session it was found that out of the whole number of 37,828 legal voters only 16,894 had voted, of whom 10,393 favored separation and 6,501 opposed it.

Thereupon the Legislature of Massachusetts called for a second vote from the District in September, and authorized each town to choose delegates to a Convention to be held at Brunswick on the last Monday in September, which should count the votes, and if five ninths of the votes returned were in favor of separation, should also form a Constitution, but not otherwise.

A Convention of 185 delegates assembled and elected William King, of Bath, President, but of the 23,316 votes cast, only 11,969, a majority of less than five ninths, were for separation.

Nevertheless the Convention appointed a Committee to frame a Constitution and another to apply to Congress for admission into the Union and then adjourned to December.

But the General Court, convening in the meantime, dissolved the Convention.

Still the agitation continued and at the May session of 1819, petitions for Separation were presented from about seventy towns.

By an act passed June 19, the General Court directed the voters of Maine to vote on the question July 24, and if the majority in favor of Separation should exceed 1,500, the Governor was authorized to proclaim the result and to direct the towns at the September election to choose delegates to a Constitutional Convention.

August 24 Governor Brooks made proclamation that Separation had been carried by the requisite majority of 9,959 to 7,132, and issued his call for a Convention. The delegates chosen the next month assembled in Convention at Portland, October 11, and organized by electing William King, President, and Robert C. Vose, Secretary.

The Convention completed the proposed Constitution Oct. 29 and adjourned to January 5, 1820, after submitting it to the people in town-meetings to be held December 6, 1819.

On re-assembling, the Convention found that the Constitution had been adopted by a large majority and announced the result to the people of Maine as did Governor Brooks in his message to the General Court of Massachusetts. The Convention also applied to Congress for admission which was granted by Act of March 3, 1820, and Maine became an Independent State of the Union March 15, 1820.

During its connexion with the Commonwealth of Massachusetts, six new Counties were incorporated within the District of Maine, viz. :—

Hancock and Washington,	May 2, 1790	by act of June 25, 1789;
Kennebec,	April 1, 1799	" " " February 20, 1799;
Oxford,		" " " March 4, 1805;
Somerset,	June 1, 1809	" " " March 1, 1809;
Penobscot,	April 1, 1816	" " " February 15, 1816.

Since its Independent existence, seven other Counties have been organized in Maine, viz. :—

Waldo,	July 4, 1827	by act of February 7, 1827;
Franklin,	May 9, 1838	" " " March 20, 1838;
Piscataquis,	May 1, 1838	" " " March 23, 1838;
Aroostook,	May 2, 1839	" " " March 16, 1839;
Androscoggin,	Mch. 31, 1854	" " " March 18, 1854;
Sagadahoc,	April 2, 1854	" " " April 4, 1854;
Knox,	April 1, 1860	" " " March 5, 1860;

being in all sixteen Counties.

In conclusion it may be said that Private Land Titles in Maine are derived from six principal sources.

I—Possession.

II—Indian deeds.

III—The patent of the French King Louis XIV, in 1603, to Monsieur de la Motte Cadillac, substantially confirmed by a Resolve of the General Court of Massachusetts Bay passed July 6, 1787.

IV—The Great Charter of New England granted by James I, King of England, to the North Virginia or Plymouth Colony, issued November 3, 1620;—through divers grants from the Plymouth Council before the surrender of its Charter in 1635, viz. :—between 1622 and 1632.

V—The Provincial Charter granted by Charles I, King of England, to Sir Ferdinando Gorges, April 3, 1639; through sundry grants from Gorges prior to the sale of his Charter by his Grandson Ferdinando Gorges to the Massachusetts Bay Colony, in 1677, and through grants directly from the Colony of Massachusetts Bay and the Province and State of Massachusetts after said sale.

VI—The Royal Charter issued by Charles I to the Colony of Massachusetts Bay, March 4, 1628; through grants directly from the Colony after its assertion of a claim thereunder to Latitude 43° 43' 12" and to 43° 49' 12" in 1652 and 1673.

The Political Sovereignty and Authority of Government in Maine is derived, of course, directly from the act of Congress admitting Maine into the Union, passed March 3, 1820, and the consent of Massachusetts expressed in the act of its General Court passed June 19, 1819.

The Independence of Massachusetts itself rests upon the Declaration of the Continental Congress, adopted July 4, 1776.

But the Province of Massachusetts Bay which sent its delegates to the Congress was chartered by William and Mary, October 7, 1691, which charter is, strictly speaking, the basis of the government of the States of Massachusetts and Maine.

Yet the germs of the State of Maine are to be found in King James' grant to the North Virginia or Plymouth Colony, issued November 3, 1620, and to the Pilgrim Colony of Massachusetts, dated June 1, 1621, and what is known as the Warwick Patent to the Pilgrims issued in 1629-30;—in the two grants of his son Charles I, one to Sir Ferdinando Gorges, dated April 3, 1639 and purchased by Massachusetts Bay in 1677, and the other to the Colony of Massachusetts Bay, March 4, 1628-9;—in the extinction by conquest of the claim maintained by France to the Eastern part of Maine until the capture of Canada by the British government in 1759;—and in the terms of the Treaty of Independence of September 3, 1783, by which Great Britain conceded to the United States a boundary which included within the limits of the District of Maine a portion of territory in the Northwest extending beyond the terms of any prior grant from the British Crown, but which was curtailed on the Northeast by releasing to Great Britain its territory Northerly of the river St. John, in the settlement of the Northeastern boundary in 1842.

REFERENCE INDEX TABLE.

PART I.

SHOWING THE DISPOSAL MADE OF THOSE SECTIONS AND PARAGRAPHS OF THE REVISED STATUTES OF 1871 NOT INCORPORATED INTO THE PRESENT REVISION.

(Being a reprint of the table prepared by the commissioner in making the revision.)

EXPLANATIONS.—S means *superseded by*; R means *repealed by*; R* means *substantially repealed by*; T means *temporary*. Sections regulating the time when acts take effect are disregarded.

R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.				R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.					
CHAP.	SEC.	¶		YEAR.	CHAP.	SEC.	¶	CHAP.	SEC.	¶		YEAR.	CHAP.	SEC.	¶
2	5		S	1874	217			6	34		S	1879	139		
	17		R	1875	48	7			40		S	1876	91		
	25		R	1880	210				44		S	1880	239	18	
	42		S	1876	100				51		S	1874	253		
	53		R	1875	48	7			53		S	1877	209		
	66		S	1880	239	7			66		S	1881	73	1	
4	32		S	1877	213			67		S	1881	73	2		
	41		S	1879	97			68		S	1881	73	3		
	49		S	1875	9	2		93		S	1880	176			
	67		S	1881	42			97		S	1874	223			
								116		S	1871	192			
5	3		S	1872	76	1		148		S	1875	10			
	4		S	1872	76	2		153		S	1877	165			
	24		S	1872	76	3		162		S	1874	234	1		
			S	1872	76	3		167		S	1874	238			
	25		R*	1876	141	2		169		S	1881	1	1		
	34		R	1872	76	4		170		S	1881	1	2		
	35		S					174		R*	1874	234	1		
	37		R	1872	10		7	3		S	1877	175			
	38		S	1872	76	5									
	39		R	1872	76	6		9	1		S	1872	13	1	
	40		R						11		R	1872	13	2	
	43		S	1872	76	7	12								
	45		R				1872	76	7	20		S	1874	236	
6	10		S	1881	45		11	1		S	1880	181			
	14	1	S	1881	28			3		S	1875	14			
	16		S	1880	233			5		S	1878	20			
	25		S	1878	77			7		S	1874	166			
	27		S	1879	120			24	5	S	1881	24			
	30		S	1878	47										

R. S., 1871.							R. S., 1871.						
HOW DISPOSED OF BY SUBSEQUENT ACT.							HOW DISPOSED OF BY SUBSEQUENT ACT.						
c.	\$	¶	Y.	C.	\$	¶	c.	\$	¶	Y.	C.	\$	¶
11	31		S 1877	205			26	10		S 1871	207	1	
	33		S 1873	100	1			11		R }			
	44		S 1874	163				12		R }	1871	207	2
	53		S 1877	173				13		R }			
	54	2	S 1873	120				14		R }			
		3	S 1871	215				29		S 1873	142	1	
	55	5	S 1873	134				33		R* 1873	142	3	
	72		R* 1879	150	10								
	75		R }				27	2		S 1872	63	1	
	76		R }					6		R* }		3	
	77		R }	1872	67			7		R* }	1881	50	4
	78		R }									5	
	79		R }					22		S 1872	63	2	
	80		R }					23		S 1877	215	2	
	81		R }	1875	34			24		S 1877	215	3	
	82		R }					25		S 1872	63	3	
	87		S 1873	114				26		S 1872	59		
								32		S 1872	63	4	
12	12		R* 1879	153				35		S 1872	63	5	
	19		S 1881	61				45		S 1877	215	5	
	30		S 1872	48				47		S 1871	189	1	
								49		S 1874	255		
13	1		R* 1881	93	2		29	3		S 1873	109		
14	35		S 1873	149				4		S 1881	13		
17	1		S 1880	247	1		30	7		S 1876	136		
	8		S 1877	219				9		S 1873	103		
	25		R* 1876	78	1			10		R* 1878	50	7	
								11		R* 1878	50	8	
18	1		S 1875	25	1			12		R* 1878	50	9	
	4		S 1875	25	2			13		S 1876	61		
	13		S 1879	105				14		R* 1878	50	10	
	19		S 1881	4				15		R* 1878	50	11	
	26		S 1875	25	3			16		R }			
	35		S 1879	107	1			17		R }	1874	239	7
	36		R 1879	107	3			18		R }			
	37		S 1875	25	5								
	39		S 1877	199			32	9		S 1874	202	1	
	48		S 1881	15									
	53		S 1872	46			34	1		S 1876	58		
	65		S 1877	206									
19	8		S 1881	7			38	46		S 1871	217		
	10		S 1878	24				51		R* 1878	17		
								52		S }			
22	6		S 1879	95				53		S }	1874	224	
	13		S 1881	97				54		S }			
	39		S 1873	129			39	2		S 1874	265	1	
								3		S 1874	265		
24	22		S 1874	230									
	39		R }				40	1		R }			
	40		R }	1875	41	2		2					
	41		R }					3			2	9	
								4		R }			

R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.					R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.				
C.	\$	¶		Y.	C.	\$	¶	C.	\$	¶		Y.	C.	\$	¶
40	5		R					47	98		R				
	6		R	1875	2	9			99		R				
	7		R						100		R	1877	218	43	
	10		R*	1871	209				101		R				
	22		R*	1878	75	12			102		R				
	25		S	1872	30	1									
	26		R*	1878	75	2		48	2		S	1881	47		
	28		R*	1878	75	3			16		S	1880	221		
	29		R*	1878	75	4									
	30		R*	1878	75	5		49	7		S	1873	148	5	
	31		S	1875	25	2			44		S	1881	63		
	32		R*	1880	208	2			47		R	1874	208	2	
	35		T						54		S	1874	208	1	
	36		S	1875	25	3			55		S	1874	207		
	37		R*	1878	75	10			56		S	1881	12	2	
	38		R*	1878	75	13			62		S	1873	148	4	
	39		R*	1878	75	17			63		S				
	42		R*	1878	75	20			64		S	1874	226		
	43		R*	1878	75	21			65		S	1881	17		
	45		R*	1878	75	26			66		R	1875	44	2	
	46		R*	1878	75	25									
	50		S	1877	171			51	16		S	1872	40		
	52		R*	1878	75	22			18		S	1874	189		
	53		R*	1878	75	24			21		R*	1875	17		
	54		R*	1878	66	1			30		S	1874	218	1	
	58		S						42		S	1874	164		
	59		S	1874	248				47		S	1876	105		
									51		S	1876	123		
41	13		S	1879	142				56		S	1877	151	1	
									80		S	1879	134		
43	12		S					55	1		S	1876	71		
	16		S	1881	25				4		S	1881	10		
46	16		S	1880	203										
	21		S					58	3		R*	1880	235	2	
	22		S	1872	16				4		R*	1880	235	3	
	23		S	1881	79	1			5		S	1879	167	1	
									10		S	1881	78		
47	48		R					59	4		S	1875	40		
	49		R						11		S	1876	110	2	
	50		R	1871	191				15		S	1873	102		
	51		R						22		S	1875	29		
	52		R												
	53		R												
	57		R												
	87		R					60	6		S	1878	25		
	88		R						9		S	1874	184	3	
	89		R												
	90		R					61	5		S	1876	112	1	
	91		R												
	92		R	1877	218	43		63	6		S	1881	38		
	93		R						30		S	1876	108		
	94		R												
	95		R					64	8		S	1876	81		
	96		R						14		S	1874	169	1	
	97		R						17		S	1874	169	2	

R. S., 1871.				HOW DISPOSED OF BY SUBSEQUENT ACT.				R. S., 1871.				HOW DISPOSED OF BY SUBSEQUENT ACT.			
C.	\$	¶		Y.	C.	\$	¶	C.	\$	¶		Y.	C.	\$	
64	20 21 65		S S S	1881 1874 1874	21 221 168			82	87 111 117	2		S S S	1873 1879 1876	145 119 121	
65	32		S	1878	14			83	9			S	1874	196	
66	3 17		S S	1876 1881	84 9			86	8 13 31 55			S S R S	1873 1881 1877 1877	131 18 208 210	1
67	1 31		S S	1879 1880	102 183			87	11 12 13 14 15 16 17 18	6		S S S S S S S S			
68	5		R*	1878	8	1									
70	3		S	1876	73										
71	1 16	3	S S	1875 1876	51 104										
72	3		S	1881	69										
73	13		S	1881	46			88	18			S	1876	72	1
76	7 22		S S	1878 1872	15 35	2		89	2			S	1878	37	
77	5 13 16 18 23	6 9	S S S S S	1877 1872 1873 1872 1874 1873	197 29 127 75 202 138			90	2 3 6 7	1		S S S S	1881 1881 1872 1881	84 84 37 84	1 2 3
78	2 5 8 18 22		S S S R* R*	1880 1876 1877 1879 1879	239 62 157 150 150	32 6		91	1 2 3 7 26 28 32 34 38			S S S S S S S S S	1880 1876 1875 1876 1876 1881 1876 1876	193 63 1 90 140 5 64 99	1
79	1 12		S S	1880 1880	239 239	36 37		94	2			S	1880	219	
80	22 49		R* S	1873 1874	133 209	3		95	11			S	1878	18	
81	18 29 56 76		S S S S	1877 1871 1880 1874	155 184 241 202			97	2			S	1873	106	
								99	34			R	1873	137	3
82	4 48 62 87	1	S S S S	1881 1875 1881 1876	59 38 36 128			106	2			S	1878	4	
								107	5			S	1881	66	
								111	5			S	1874	181	
								113	21 26			S S	1875 1873	4 122	

R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.				R. S., 1871.			HOW DISPOSED OF BY SUBSEQUENT ACT.					
C.	\$	¶		Y.	C.	\$	¶	C.	\$	¶		Y.	C.	\$	¶
113	28		S	1878	59	2		132	16		S	1879	166		
	41		S	1878	79				17		S	1880	186		
	53		S	1874	220										
115	2		R*	1879	150	2		133	13		S	1876	133		
	3		R*	1879	150	3			134	13		R*	1876	114	1
	4		R*	1879	150	4		14			S	1874	237		
116	3		S	1879	130			135	8		R	1875	55	1	
	9		S	1878	76				9		R*	1876	114	1	
	10		R	1872	50				10		R*	1876	114	1	
	12		R	1873	123				11		R*	1876	114	1	
									12		S	1879	132		
118	6		S	1873	108			136	8		S	1874	161		
119	8		S	1877	152	1									
120	2		S	1877	152	2		137	2		S	1879	160	1	
									5		S	1877	188		
122	12		S	1878	57			138	5		S	1876	80		
	22		S	1881	20										
124	1		S	1879	85			140	10		S	1874	250		
	5		S	1873	104										
	18		S	1878	3			141	5		R	1876	134		
	36		R	1874	264				13		S	1880	202		
125	4		S	1877	159			142	1		S	1880	231		
									10		R*	1881	56	1	
									14		S	1876	111		
127	10		S	1879	81			143							
131	10		S	1877	189				1		R*	1874	256	1	
									3		R*	1874	256	2	
									5		R*	1874	256	3	
132	4		S	1879	114				7		S	1873	151	1	
	15		S	1879	166			13		S	1873	151	2		

NOTE.—The foregoing table contains every section and paragraph of the Revision of 1871, of which no part has been incorporated into the Revision of 1882.

REFERENCE INDEX TABLE.

PART II.

SHOWING THE DISPOSAL MADE OF THOSE CHAPTERS, SECTIONS
AND PARAGRAPHS OF THE GENERAL AND PUBLIC LAWS
PASSED SINCE THE YEAR 1870 WHICH HAVE NOT BEEN
INCORPORATED INTO THE PRESENT REVISION.

(Being a reprint of the table prepared by the commissioner in making the revision.)

EXPLANATIONS.—S means *superseded by*; R means *repealed by*; R* means *substantially repealed by*; [R] means *repealing*; A means *amending*; T means *temporary*; O means *omitted from the revision*.—Sections regulating the time when acts take effect, or providing generally for the repeal of all inconsistent acts, are disregarded.

1871.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.			HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.			HOW AFFECTING R. S. OF 1871.	
C.	§	T	Y.	C.	§	C.	§	C.	§		Y.	C.	§	C.	§
178			S	1872	2			200		R*	1874	248			
179	1		O					201		O					
	2		S	1874	203	2		207	2	[R]				26	{ 11
	3		O												{ 12
	4		O					210		T					{ 13
	5		O					211		[R]				40	{ 14
	6		O					214		R*	1879	150	2		54
	7		T					217		S	1872	68			
180			[R]	1870	Mar. 24.			218	2	[R]				51	21
181			A	1871	Jan. 25.			220		R*	1879	150	2		
183			O					221		R*	1879	150	2		
187			R	1872	22	1		222		R	1877	218	43		
188			S	1874	205			223		S	1878	9			
191			[R]				47	224	3	R*	1873	133	15		
196	1		S	1879	84			227		T					
	2		S	1874	157			228		R*	1874	256	3		
199			T					229		S	1872	87	2		

1872.

1			O					9		O					
3			S	1873	100			10		[R]				5	37
4			R*	1878	75	13		13	2	[R]				9	{ 11
5	1		T												{ 12
	2		O					14		S	1879	82			
8	2		T					15		R*	1873	88			
	3		T					16	†	S	1879	149			
	4		T					17		S	1874	159			
	5		T					19	1	R*	1874	215			

† Only a part of 1872, c. 16 is superseded by 1879, c. 149.

1872.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.	
C.	§	¶		Y.	C.	§	C.	§	C.	§	¶		Y.	C.	§	C.	§
19	2		T						47			R	1873	116	3		
20			R	1874	210	3			49			R*	1879	150	2		
22	1		[R]	1871	187				52	1		R*	1879	150	3		
	2		O							2		T					
26	3		S	1877	172				56	1		R*	1878	20			
27			S	1873	125					2		S	1872	77			
30	1		R*	1878	75	1			57			R*	1879	150	6		
	2		R*	1878	75	8			62	4		S	1880	247	5		
	3		R*	1878	75	9			63	2		R}	1873	150			
31			R*	1879	150	2				3		S	1880	247	7		
33			O							5		[R]					
37			S	1876	113				67			O					
38	2		R	1873	118				72			R	1877	218	43		
39			R*	1879	125	2			74			R*	1874	180			
40			S	1877	191				75			S	1875	26	2		
43	3		S	1872	77				76	2		R*	1878	20			
44			R	1876	145				77	2		S	1881	44			
46			R*	1874	246				83								

1873.

88			T						124	5		S	1875	33			
90			R	1874	239	7				8		S	1880	229	3		
91			R*	1875	25	5			127			S	1874	231			
93			R*	1879	150	4			128			S	1880	241	3		
94			O						131			R*	1877	153			
96			O						132			O					
97	1		S	1876	59				133	7		S	1879	159			
98			T							12		S	1878	11			
99			R*	1878	75	13				13		S	1877	183			
102			R*	1876	110	27			137	3		[R]					
103			R*	1878	50	3			139			S	1879	86			
107	1		R*	1879	150	3				1							
	2		R*	1879	150	4			141	10		S	1878	63			
112			O							11							
115	{1}		S	1874	216				142	3		S	1874	183			
	{2}								147	4		S	1877	203	1		
116	3		[R]	1872	47					9		R	1877	203	2		
118			[R]	1872	38	2				12		T					
121	2		T						148	4		R*	1875	44	1		
122			R	1874	198	2				5		S	1881	16			
123			[R]				116	12		9		R*	1881	63			
124	1		S	1875	33				150			[R]	1872	63	{2}		
	2		S	1874	222										{3}		
	4		S	1880	229	2			154			R	1877	218	43		

1874.

166			S	1875	8				173			R*	1879	150	6		
171			R	1874	263	1			176			R*	1879	125	3		
172	1		S	1876	148	1			177			R	1875	49			
	10		S	1876	148	2			180			S	1877	181			
	11		S	1876	148	3			182	1		S	1881	19			
	13		S	1876	148	4			186	2		S	1879	118			

1874.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.	
C.	\$	¶		Y.	C.	\$	C.	\$	C.	\$	¶		Y.	C.	\$	C.	\$
186	4		O						230			S	1879	162	1		
189			S	1881	48	1			234	1		S	1878	35			
192			R*	1874	239	7			239	1		S	1876	98	3		
193	1		S	1881	35					2		R*	1878	50	13		
	2		R	1881	35					3		R*	1878	50	14		
195			R*	1879	150	2				4		R*	1878	50	15		
198	2		[R]	1873	122					5		R*	1878	50	18		
	3		S	1875	22					6		R*	1878	50	17		
199	1		O							7		[R]	1873	90		30	{ 16
202	1		S	1880	174				241			S	1877	195			{ 17
203	1		O						244			R	1876	145			{ 18
	2		O						247			R*	1876	125	2		
	3		O						248	††		R*	1878	75	11		
	4		S	1875	21				251			R	1876	129	6		
208	2		[R]				49	47	255			S	1880	228			
210	1		S	1875	13	1			256	1		S	1880	184			
	2		S	1875	13	2				7		S	1876	117		143	{ 1
	3		[R]	1872	20					14		[R]					{ 3
211			O						257			O					
214			S	1878	43				258	2		R*	1881	91			
215	1		S	1876	97					3		S	1878	32			
	2		T							4		R*	1881	91			
218	1		S	1877	207				259			S	1875	41			
222			R*	1876	131				260			O					
224	†		R	1881	98				261			O					
225			R*	1879	150	2			263	1		[R]	1874	171			
226	†		S	1876	74				264			[R]				124	36
229			R	1876	130				266			R	1877	218	43		

1875.

								1								
								2								
2	9		[R]				40	3			S	1877	169	1		
3			T					4	††		S	1877	169	2		
4			S	1878	59	1		5			S	1880	229	1		
12			T					6			[R]				11	{ 81
13	1		S	1877	177			7			R*	1881	86			{ 82
	2		R*	1879	96	{ 1			2		R	1876	143		24	{ 39
						3					[R]					{ 41
16			R*	1881	91				2		[R]				49	{ 66
19			R*	1881	91						T					
21			O								R	1876	129	6		
23			O								R	1877	218	43		
26	1		[R]	1874	314	††			1		S	1878	56			
	3		R*	1876	119				4		O					
	4		T						6		O					
	5		O								[R]	1874	177			
											R*	1876	114	1		

† Only a part of 1874, c. 224 is repealed by 1881, c. 98.

† Only a part of 1874, c. 226 is superseded by 1876, c. 74.

|| Only a part of 1874, c. 241 is superseded by 1877, c. 195.

†† Only a part of 1874, c. 248, § 1 is substantially repealed by 1878, c. 75, § 11.

†† It is c. 314 of the *Resolves* of 1874 which repeals 1875, c. 26, § 1.

†† Only a part of 1875, c. 33 is superseded by 1880, c. 229, § 1.

1876.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.	
C.	§	¶		Y.	C.	§	C.	§	C.	§	¶		Y.	C.	§	C.	§
58			S	1878	28				115	2		T					
60			S	1877	174				118			O					
62			S	1877	212				120	10		S	1878	40			
63			R*	1880	193				122			R*	1878	53	1		
65	2		S	1880	177	1			124	†		S	1878	38			
66			O						125	1		R*	1878	75	13		
72	2		T							2		R*	1878	75	14		
76	1		R*	1877	202	1				3		R*	1878	75	15		
77			R*	1877	181					4		R*	1878	75	26		
78	4		S	1877	164												
79			T							5		R*	1878	75	{ 20 22		
86			O						127			T					
88			[R]				12	12				[R]	1874	251			
90			S	1878	27				129	6		[R]	1875	46			
95			R*	1881	86				130			[R]	1874	229			
97			S	1877	206				131			S	1878	52			
98	2		R	1878	50	20			133			S	1879	135			
	3		R*	1878	50	12			134			[R]				141	5
	4		R*	1878	50	{ 15 18			143			[R]	1875	39			
101			S	1877	158				144	12		S	1881	57	1		
103	3		T						145			[R]	1872	44			
106			R	1878	50	20						[R]	1874	244			
107			S	1878	73				146			R	1877	199			
									147	1		R*	1880	213	1		

1877.

160			R	1881	58	1			206	2		T					
162			T						208			[R]				86	31
163	{ 1 4		S }	1881	43				209			S	1879	124			
166			S }						212			S	1880	230			
167			T						213			S	1878	2			
171			R*	1879	83				215	1		R*	1880	247	2		87
173			R*	1878	23					4		R*	1880	247	7		88
174			S	1880	171				218	8		S	1878	5			89
177			S	1881	8					10		S	1878	55			90
178			R*	1879	96					36		S	1880	190			91
178			R	1878	61												92
185	1		S	1878	22							[R]	1871	222			93
186			S	1881	23							[R]	1872	74			94
192			S	1881	23					43		[R]	1873	154		47	95
193			S	1878	6							[R]	1874	266			96
193			R*	1879	150	6						[R]	1875	47			97
194			R*		150	3											98
195			R	1879	141	2											99
200			R	1878	72												100
201			O														101
202			S	1878	69												102
203	2		[R]	1873	147	9											

1878.

10			O						24			S	1879	232			
21			O						27			S	1879	163			
22			S	1879	164				32			R*	1881	91			

† Only a part of 1876, c. 124, is superseded by 1878, c. 38.

1878.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.	
C.	§	¶		Y.	C.	§	C.	§	C.	§	¶		Y.	C.	§	C.	§
39			S	1879	109				67	10		S	1879	91	1		
40			R*	1879	125	2			69			S	1879	140			
42			T						71			R*	1879	150	5		
48			O						72	1		R	1877	200			
49			O							2		T					
50	1		T						74	9		S	1879	154	1		
	2		T							15		S	1879	154	5		
	12		S	1879	127					16		S	1879	154	6		
	20	{	[R]	1876	98	2				28		S	1879	154	12		
			[R]	1876	106					30		S	1880	199	2		
61			[R]	1877	178				75	8		S	1879	123	1		
63	†		S	1879	87					9		S	1879	143	1		
66	1		S	1879	112					10		S	1879	143	2		
	2		R							11		S	1881	67			
	3		R							13		S	1879	123	2		
	4		R							15		S	1879	123	3		
	5		R							16		S	1879	123	4		
	6		R	1880	234	2				17		S	1879	123	5		
	7		R							21		S	1879	143	3		
	8		R							23		S	1879	126			
	9		R						76			R*	1879	150	8		

1879.

83			[R]	1877	167				140			S	1881	96			
84			S	1880	175				141	2		[R]	1877	195			
90			S	1880	178				143	2		R*	1880	187			
105			S	1880	242				145			R	1881	33			
106			R	1881	34				146			T					
107	3		[R]				18	36	150	8		R*	1881	64	1		
112			S	1880	234	1				9		O					
113			S	1880	182				154	5		S	1881	14			
117			S	1880	214					18		S	1880	199	1		
123	1		R*	1880	208	2			155			O					
125	1		R*	1880	240				161	1		T					
	2	‡	R*	1880	220					2		S	1880	172	1		
131			T						165			O					
133			R	1880	177	2			167	2		R*	1880	235	5		

1880.

172	1		O						213	8		T					
	2		T						216			O					
177	2		[R]	1879	133				220			[R]	1879	125	2		
179			S	1881	92				225			O					
191			R	1881	30	2			227			[R]	1880	209			
196			O						228			R*	1880	247	6		
204			O												2		
205			S	1881	60										3		
206			S	1881	71										4		
209			R	1880	227				234	2		[R]	1878	66	5		
210			[R]				25	2							6		
211			R	1880	245	2									7		

† Only a part of 1878, c. 63 is superseded by 1879, c. 87.

‡ Only a part of 1879, c. 125, § 2 is substantially repealed by 1880, c. 220.

1880.

PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.		PUBLIC LAW.			HOW DISPOSED OF BY SUBSEQUENT ACT.				HOW AFFECTING R. S. OF 1871.	
C.	\$	¶		Y.	C.	\$	C.	\$	C.	\$	¶		Y.	C.	\$	C.	\$
239	31		R	1881	12				245	2		[R]	1880	211			
	39		T														
245	1		O						249			R*	1881	91			

1881.

2			O						55			O					
12	1		[R]	1880	239	31			57	2		T					
30	2		[R]	1880	191				58	1		[R]	1877	160			
33			[R]	1879	145				68	28		T					
34			[R]	1879	106				75			O					
35	2		[R]	1874	193	2			91	8		T					
40			O						98			[R]	1874	224	53		
48	2		T														

NOTE.—Part II of the foregoing table contains each section and paragraph of every public act passed since the year 1870, of which no part has been incorporated into the Revision of 1882.

ADDITIONAL CHANGE IN THE DRAFT OF THE NEW REVISION
SUGGESTED BY THE HONORABLE SAMUEL A. HOLBROOK,
STATE TREASURER.

[46]

TAXATION OF TELEGRAPH COMPANIES.

R. S. of 1872, c. 6, §§ 50, 52.

The State Treasurer points out an error in §§ 2 and 4 of 1880, c. 246, "an act for the taxation of telegraph companies," which having escaped the notice of the commissioner, re-appears in §§ 52 and 54 of c. 6, R. S., 1882; it ought to be corrected by the passage of the following act:

An act to amend sections fifty and fifty-two of chapter six of the revised statutes, relating to the taxation of telegraph companies.

Section fifty of chapter six of the draft of the fourth revision of the general and public laws is amended by striking from line five the word "*together*," and by inserting in line seven after the word "annually" the words "[together with the number of shares owned by non-residents.]"

Section fifty-two of said chapter is amended by striking from lines four and five the words "*owned in the state*."

[The foregoing suggestion was not received by the commissioner in season to insert it at its proper place on page 20 of his report.]

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[ERRORS IN THE NOTE ON THE SOURCES OF LAND TITLES IN MAINE.]

Page 33. For parenthesis, lines 33 and 34: (to whom Weymouth had given three Maine Indians whom he had kidnapped) *read* (to whom Weymouth on his return gave the three Indians whom he kidnapped.)

Bottom of page 36. To "Bradford's History of Plymouth, p. 332, of Vol. III, Fourth Series, Book II," *add* "of Massachusetts Historical Society's Collections."

[ERRORS IN REFERENCE INDEX TABLE, PART I.]

<i>Page 47</i> —	For	11	5	S	1878	20,	
	<i>read</i>	11	5	S	1872	56	1.
" 48 —	For	11	33	S	1873	100	1,
	<i>read</i>	11	33	S	1872	3.	
" " —	For	18	37	S	1875	255,	
	<i>read</i>	18	37	S	1873	91.	
" " —	For	18	39	S	1877	199,	
	<i>read</i>	18	39	S	1876	146.	
" " —	For	18	65	S	1877	206,	
	<i>read</i>	18	65	S	1872	19	1.
" 49 —	<i>insert</i>	40	18	R*	1875	2	8.

[SUGGESTION BY THE COMMISSIONER IN REFERENCE TO PAGE 33.]

Although any further contribution toward a solution of the long-vexed question of the identity of Weymouth's explorations may seem superfluous, the commissioner after a personal examination of those waters in a sail-boat in August, 1882, ventures to express his concurrence in the opinion of Captain George Prince, of Bath, first published in 1858, that Pentecost Harbor was probably George's Island Harbor, and not Boothbay, that the very high mountains which might be discovered a great way up in the main, could not possibly have been the White Mountains or any other than the Camden Hills, and that the great river trending alongst into the main towards the great mountains, which Strachey (not Weymouth, or Rosier, Weymouth's companion and historian) calls "that most excellent and benifycial river of Sachadahoc," but which Sir Ferdinando Gorges calls the "Pemaquid," must have been the Georges and not the Kennebec or the Penobscot.

C. W. G.

