

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED _____, 1883;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX AND REFERENCE INDEX.

PORTLAND:
PRINTED BY WILLIAM M. MARKS.

CHAP. 11.

TITLE TWO.

Provisions respecting education, religious instruction, public health, convenience, support of the poor and police.

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 13. The practice of medicine and surgery.
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CHAPTER 11.

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DUTIES OF TOWNS.

- Towns may determine the number and limits of school districts. 1880, c. 181.
- SEC. 1. A town at its annual meeting, or at a meeting called for that purpose, may determine the number and limits of the school districts therein, but they shall not be altered, discontinued or annexed to others, except on the written recommendation of the municipal officers and superintending school committee, accompanied by a statement of facts, and on conditions proper to preserve the rights and obligations of the inhabitants; but when in the judgment of the board, consisting of the municipal officers and

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superintending school committee or supervisor, the number of scholars in any district becomes too few for the profitable expenditure of the money apportioned to said district, said board may suspend the school in said district and cause the money to be expended for the benefit of the scholars in said district, in the adjoining district or districts. Said board shall make a record of its decision in relation to the school in said district, sign the same and cause it to be recorded by the town clerk, and such decision shall remain in *full* force until annulled by vote of the town, or by the action of a subsequent board. Said board may reserve not more than one half of the money appropriated to such districts, to be expended, in their discretion, for the conveyance of children of such districts to and from school. (a)

EC. 2. Any portion of a town too remote to be annexed to existing districts, and not having sufficient population to form a separate district may be omitted in districting the town.

SEC. 3. A town may abolish the school districts therein, and shall thereupon forthwith take possession of all the school-houses, land, apparatus, and other property owned and used for school purposes, which districts might lawfully sell and convey. The property so taken shall be appraised under the direction of the town, and at the next annual assessment thereafter a tax shall be levied upon the whole town, equal to the whole amount of said appraisal, or such part thereof as the town shall vote, and the remainder of said appraisal, if any there be, shall be levied by tax upon the whole town at the second and third annual assessments thereafter, or at the second alone, as the town shall vote, and there shall be remitted to the tax payers of each district the said appraised value of its property thus taken, in the same proportion annually as the tax therefor shall be levied, or the difference in the value of the property of the several districts may be adjusted in any other manner agreed upon by the parties in interest. Upon the abolition or discontinuance of any district, its corporate powers and liabilities shall continue and remain so far as may be necessary for the enforcement of its rights and duties.

SEC. 4. A town, at its annual meeting, may choose its school agents; and vacancies may be filled as in case of other town officers not chosen by ballot.

SEC. 5. A town at its annual meeting may empower the school district agents instead of the superintending school committee, to employ the teachers and when such power is so granted to said agents it shall remain in force until it is otherwise ordered by a vote of the town at its annual meeting.

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Towns may abolish school districts.

Property to be appraised.

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Certain powers and liabilities of districts continue.

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May empower agents to employ teachers. 1872, c. 87, § 2. See § 93, item 6.

(a) 17 Me., 103; 22 Me., 567; 31 Me., 281; 48 Me., 569; 49 Me., 349; 62 Me., 516; 64 Me., 46. 7 Pick., 106; 7 Gray, 244; 7 Met., 218.

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Towns to raise for schools 80 cents per inhabitant. 1878, c. 20. 68 Me., 584. 72 Me., 160. See § 12.

—penalty. Towns neglecting, not entitled to state school fund. See §§ 49, 55, 118, 119; c. 5. §§ 18, 19; c. 12, § 46.

School fund and mill tax to be withheld from delinquent towns. 1873, c. 111. See §§ 119, 122.

Towns may provide school books, &c. R.S., c. 11, § 6.

Distribution and preservation of books, &c. 1873, c. 110, § 2.

School books, damages for injuring or destroying, how recovered of parent, &c. 1873, c. 110, § 1.

SEC. 6. Every city, town and plantation shall raise and expend, annually, for the support of schools therein, *a sum of money*, exclusive of the income of any corporate school fund, or of any grant from the revenue or funds from the state, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than eighty cents for each inhabitant, according to the census of the state by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency; *and no town which neglects to raise the amount of money required to be raised by this section, shall, during the year in which such neglect occurs, receive any part of the state school fund required to be apportioned to the several towns by the treasurer of state.**

SEC. 7. When the governor and council have reason to believe that any town has neglected to raise and expend the school money required by law, or faithfully to expend the school money received from the state, *it* [they] shall *be their duty* to direct the state treasurer to withhold further payment to such town from the state treasury on account of the state school fund and mill tax until such town shall satisfy them that it has expended the full amount required by law for common school purposes.

SEC. 8. Towns, cities and plantations, may *raise money* to provide school books for the use of the pupils in their public schools, at the expense of said town, city or plantation, or *to* [may] furnish them at cost to the pupils; and all money raised and appropriated for that purpose, shall be assessed in the same manner as other moneys raised for lawful purposes are assessed.

SEC. 9. School committees may make such rules and regulations not repugnant to *the laws of the state*, as they may deem proper, for the distribution and preservation of school books and school appliances furnished at the expense of the town.

SEC. 10. When a pupil in the public schools of any town shall lose, destroy, or unnecessarily injure any school book or school appliance, furnished such pupil at the expense of said town, the parent or guardian of such pupil shall be notified of the fact, and if the loss or damage is not made good to the satisfaction of the school committee within a reasonable time, *it shall be the duty of* said committee [shall] *to* report the case to the assessors of such town, who shall include in the next town tax of the delinquent parent or guardian the value of the book or appliance so lost, destroyed or injured, to be assessed and collected *in the same manner as* [like] other town taxes.

* [NOTE. This provision seems to be embraced in the next section.]

SEC. 11. Any city or town may annually make provision for *giving* free instruction in industrial or mechanical drawing, to persons over fifteen years of age, either in day or evening schools, under the direction of the superintending school committee.

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Instruction in industrial or mechanical drawing. 1871, c. 194.

SEC. 12. The assessors and superintending school committee, or [school] supervisors, of towns, cities and plantations, may annually apportion twenty per cent. of all money required to be raised by section six, and twenty per cent. of all money received from the state for schools, except money received under section twenty-eight, among the districts in the several towns, cities and plantations, in such manner as in their judgment shall give to the smaller districts, as nearly as may be, an equal opportunity of enjoying the benefits of common school education with the larger districts.

Apportionment of school money among the smaller districts in the several towns, &c. 1875, c. 8.

SEC. 13. The assessors or municipal officers of each city, town or plantation, shall on or before the first day of May in each year, make to the state superintendent of common schools, a certificate, under oath, embracing the following items:

Certificate of cities, towns, &c., to be returned annually to state supt. 1876, c. 68, § 1.

First.—The amount of money voted by the town for common schools at the last preceding annual meeting.

—amount voted by town.

Second.—The amount of school moneys payable to the town from the state treasury during the year ending with the first day of April last past.

—payable from state.

Third.—The amount of money actually expended for common schools during the said last school year.

—expended for schools.

Fourth.—The amount of school moneys unexpended, whether in the town treasury or in the hands of district agents.

—unexpended.

Fifth.—Answers to such other inquiries as may be presented to secure a full and complete statement of school revenues and school expenditures.

SEC. 14. *It shall be the duty of* the state superintendent of common schools [shall] to prepare and furnish to the town officers such blanks as he may deem proper to secure the fiscal returns required in the preceding section. *And furthermore it shall be the duty of the* said superintendent to [shall] return to the state treasurer on the first day of July annually, a list of such towns as have made the fiscal returns required by said section, and no school moneys shall be paid by the state treasurer to any town, so long as it neglects to make such fiscal returns.

Blanks furnished to towns. 1876, c. 68, § 2. Supt. to make return to state treasurer. —money withheld from delinquent towns.

SEC. 15. When any school agent fails to return in the month of April, the number of persons in his district between four and twenty-one years of age, exclusive of those coming from other places to which they belong, to attend a college or academy, or work in a factory therein, the assessors of the town shall cause an enumeration thereof to be made. They shall annually apportion

Duties of assessors when agent fails to return scholars. R.S., c. 11, § 8. See §§ 89, 93, item 5, § 94. Their duty

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in apportion-
ing money.

to each district, and to any inhabitants not embraced in a district, the money so raised, and all funds derived from any source for the support of public schools in their town, in proportion to the number of scholars aforesaid.

Excess, how
appropri-
ated.
R.S., c. 11, § 9.

SEC. 16. A town raising more money than is required by section six, may, by vote, direct the excess to be apportioned to the several districts as the assessors and superintending school committee determine.

School mon-
ey, how paid
by towns.
1877, c. 196.

SEC. 17. No money appropriated to the use and support of public schools *under the laws of this state* shall be paid from the treasury of any city, town or plantation, except upon the written order of the municipal officers thereof; and no [such] order *for the payment of such money* shall be drawn by *the said municipal* officers, except upon presentation of a properly avouched bill of items.

—how
avouched.

Towns to
choose super-
intending
school com-
mittee or
supervisor.
R.S., c. 11, § 10.

SEC. 18. Every town shall choose by ballot at its annual meeting, a superintending school committee of three, unless already done, to hold office as provided in section eighty-six, and shall fill vacancies arising therein at each subsequent annual meeting, or shall, in the same manner, choose a supervisor of schools, who shall have the power and perform the duties which are now, or may hereafter be required of the committee aforesaid; and his election shall terminate the office of any and all existing members of such committee: and no person shall be ineligible to the office of supervisor of schools, or of superintending school committee, on account of sex.

Sex no test of
eligibility.
1881, c. 27.

Committees
may appoint
one of their
number.
R.S., c. 11, § 11.

SEC. 19. The superintending school committee may appoint one of their number, who shall have all the power and perform all the duties specified in the fifth and twelfth items of section eighty seven.

Neglect to
choose com-
mittee or
supervisor.
R.S., c. 11, § 12.

SEC. 20. Any town failing to elect members of superintending school committee or supervisor, as required by law, shall forfeit not less than thirty nor more than two hundred dollars.

Towns to
make by-
laws con-
cerning
truants; to
be approved
by S. J. court.

SEC. 21. Towns may make such by-laws, not repugnant to the laws of the state, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but said by-laws must be first approved by a judge of the supreme judicial court.

—penalty.
R.S., c. 11, § 13.

Who shall
complain of
violation of
by-laws.
R.S., c. 11, § 14,
65 Me., 130.

SEC. 22. Such towns shall appoint at their annual meeting, one or more persons, who alone shall make complaints for violations of said by-laws to the magistrate having jurisdiction thereof by said by-laws, and [shall] execute his judgments.

SEC. 23. Said magistrate, in place of the fine aforesaid, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods of *time* as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose under the authority conferred by section twenty-one.

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Truant children placed in suitable institutions. R.S., c. 11, § 15

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SEC. 24. Every parent, guardian, or other person *in the state*, having control of any child or children between the ages of nine and fifteen years, *shall be* [is] required to send such child or children to a public school for a period of at least twelve weeks in each year, unless such child or children are excused from such attendance by the school officers of the town in which such parent or guardian resides, upon its being shown to their satisfaction that the mental or bodily condition of such child or children has been such as to prevent attendance at school or application to study for the period required, and the certificate of a physician shall be deemed sufficient to satisfy said officers; or that such child or children have been taught at a private school or at home in such branches as are usually taught in primary schools; *provided*, in case a public school shall not be taught for three months in the year within one mile and *one* [a] half of the residence of such delinquent, by the shortest travelled road nor within the school district within which such child resides, he shall not be liable to the provisions of this section and the three following.

Children required to attend public school twelve weeks in each year. 1875, c. 24, § 1. —exception.

—proviso.

SEC. 25. In case any parent, guardian, or other person having such control, shall fail to comply with section twenty-four, he shall *be liable to a fine* [forfeit] not exceeding five dollars *and costs of prosecution for such offence, to be recovered in any court competent to try the same, and the magistrate or court to which said fine shall be paid, shall pay the same* to the treasurer of the town in which the offence was committed, *and shall* [to] be by him accounted for, [like] *the same as money raised for school purposes.*

Penalty for delinquent parent, guardian, &c. 1875, c. 24, § 2.

SEC. 26. Every boy *in this state* between the ages of nine and fifteen years, who shall neglect or refuse to attend school as required in section twenty-four, unless excused by the school officers of the city, town or plantation in which he resides, *on being convicted of such offence, shall pay a fine* [forfeit] not exceeding five dollars.

Delinquent boys fined. 1875, c. 24, § 3.

SEC. 27. *It shall be the duty of* the school committee or town supervisor *to* [shall] enforce the *several provisions of the three preceding sections.*

Foregoing enforced. 1875, c. 24, § 4.

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FREE HIGH SCHOOLS.

State aid to free high school.
1880, c. 229, § 1.

—amount.

—proviso.

How paid.

—proviso.
See § 17.

Free high schools, any town may establish two.
1878, c. 52.

—adjoining towns may maintain school.

—school districts may establish.

—proviso.

—adjoining school districts in different towns may establish.

Towns shall receive and expend donations and bequests.

SEC. 28. When any town shall have established and maintained a free high school as provided by this section and the seven following, for at least ten weeks in any one year, such town on complying with the conditions therein set forth, shall be entitled to receive from the state one half the amount actually expended for instruction in said school, not however exceeding two hundred and fifty dollars from the state to any one town; *provided*, that no town shall be entitled to such state aid unless the appropriation and expenditure for such school on the part of said town, has been exclusive of the amounts required by law to be expended for common school purposes. Such state aid shall be paid from the state treasury on and after the first day of December of each year, upon certification by the governor and council as provided by section thirty-five. But whenever a town or district shall desire to draw its state aid semi-annually, such state aid shall be paid from the state treasury on and after the first day of June and the first day of December, of each year; *provided*, that the superintending school committee of such town shall make, semi-annually, before the first day of June and the first day of December, such report as is required in section thirty-five.

SEC. 29. Any town may establish and maintain not exceeding two free high schools; and when two such schools are maintained, [it] shall *be entitled to* receive the same state aid as if the expenditures of both schools had been made for one school. Two or more adjoining towns may unite in establishing and maintaining a free high school, and both receive the same state aid as if such school had been maintained by one town. So long as any town shall decline to avail itself of the provisions of this chapter, any school district, or union of districts in such town, may establish and maintain a free high school, and receive state aid the same as the town might have done; *provided*, that no more than two such free high schools shall be established in any town, and that the amount of state aid extended to the districts in any town shall not exceed the sum that the town might have received. Two or more adjoining school districts in different towns may establish and maintain a union free high school, and, with the consent of both towns, may receive a proportional part of such state aid, to be determined as provided by section thirty-five, but in no case to exceed the amount that either town might have received. Towns shall receive in trust and faithfully expend donations and bequests made to aid in the maintenance of free high schools, and shall receive state aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; furthermore, any town or district shall be entitled to

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receive such state aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such town or district for educational purposes; but if all or any part of the money paid by the state for the support of such free high schools, shall be expended for any other purpose than for the support of said free high schools, as provided by this section, then *the* [each] person *or persons* so misapplying said money shall forfeit double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town shall receive further support from the state for any free high school, until the amount so received, but misapplied, shall be raised and expended, for such free high schools by such town.

—penalty for misapplying money appropriated by state.

SEC. 30. Any town, or union of towns or districts, voting to establish a free high school as herein provided, may locate the same permanently, or vote that the terms of said school be held alternately in such school districts within the town or towns as may be selected, and as may accept said school. *It shall be the duty of* the district in which said free high school is thus held, *to* [shall] supply appropriate equipments for the same, and also *to* furnish and warm a suitable building; *provided*, that such district may use its district school-house for such free high school, when not required for ordinary school purposes.

Location.
1873, c. 124, §3.

School rooms, &c., how supplied and furnished.
Proviso.

SEC. 31. The course of study in the free high school contemplated by this chapter, shall embrace the ordinary english academic studies, especially the natural sciences in their application to mechanics, manufactures and agriculture; but the ancient or modern languages shall not be taught in said schools except wholly at the expense of the city, town, district or union of districts maintaining such school or schools. But any town having one or more graded schools, with a prescribed course of study, including the branches latin, greek and french, established prior to the eighteenth day of March, eighteen hundred and eighty, shall be allowed to avail itself of the privileges of this chapter without causing any change in the prescribed course or courses of study. Such school or schools, when established by any town or union of towns, shall be free to all the youth in such town or towns, on such attainments of scholarship as shall be fixed by the superintending school committee or committees having the supervision of said school or schools. When such school is established by any school district or union of school districts, it shall be free in the same manner to the scholars within such district or districts, and also open to scholars passing the required examination from without such district or districts; but within the town or towns in which

Course of study, what it shall embrace.
1880, c. 229, §2.

—exception.

Schools to be free to youth in town or district.

CHAP. 11. said district or districts are situated, on *the* payment to the agent of the district in which such school is located, of such tuition, to be fixed by the superintending school committee or committees having the supervision of the same, as shall be equivalent to the cost per scholar of maintaining such school, after deducting the aid extended by the state. Whenever in the judgment of the superintending school committee or committees having the supervision of any free high school or schools, the number of pupils in the same may be increased without detriment; scholars from without the town or towns, directly interested in such school or schools, may be admitted to the same on passing the required examination and paying such tuition as may be fixed by such committee, to the treasurer of the town in which the school is kept, when the school is maintained by a town or union of towns, or to the agent of the district in which the school is kept, when such school is maintained by a district or union of districts.

S. S. committees may admit pupils from without town, on payment of tuition.

Free high schools subject to the school laws, except in certain cases.

—established by towns, how managed. 1875, c. 33.

—established by union of towns.

—established by districts.

—established by districts in different towns.

Towns may raise money to maintain free high schools. 1873, c. 124, §6.

SEC. 32. Free high schools, established and maintained under the provisions of this chapter, shall be subject to the laws of the state relating to common schools, so far as applicable, except as herein otherwise provided. When established and maintained by a town, such free high school or schools shall be under the supervision and entire management of the superintending school committee of such town. When established and maintained by a union of towns, such school shall be under the supervision and entire management of the superintending school committees of such towns, who shall constitute a joint board for that purpose. When established and maintained by any district or union of districts in the same town, such school shall be under the supervision of the superintending school committee of such town, or of the state superintendent of common schools, when the district or districts so elect, and under the financial management of the agent of the school district in which such school is kept, who, in connection with said committee or superintendent, shall employ the teacher or teachers for the same. When established and maintained by two districts in different towns, such school shall be under the supervision of the superintending school committees of such towns, who shall constitute a joint board for that purpose, and under the financial management of the agents of both districts, who, in connection with said committees, shall employ the teacher or teachers of such school.

SEC. 33. Towns and school districts may raise money for the purpose of establishing and maintaining free high schools, and erecting buildings and providing equipments for the same, in the same manner as is provided by law for supporting common schools and erecting school-houses.

SEC. 34. Any town may from year to year authorize its superintending school committee to contract with and pay the trustees of any academy in said town, for the tuition of scholars within such town, in the studies contemplated by this chapter, under a standard of scholarship to be established by such committee; and the expenditure of any town for tuition in such academy shall be subject to the same conditions, and shall entitle such town to the same aid from the state as if said town had made such expenditure for a free high school.

SEC. 35. The superintending school committee or committees having the supervision of any free high school or schools, shall annually before the first day of December, make returns under oath to the superintendent of common schools, on blanks prepared and sent out by him, of the amount appropriated and also the amount expended by each town or school district for instruction in such free high school or schools during the current year; also of the amount appropriated and the amount expended for common school purposes by each town or school district maintaining such free high school or schools; the number of weeks which such school or schools have been taught; the wages paid each teacher; the number of pupils registered; the average attendance; the number of pupils in each branch of study pursued, and the amount received for tuition. If the superintendent of common schools shall be satisfied that the provisions of the eight preceding sections, have been complied with, he shall certify to the governor and council the sum which each town or district is entitled to receive from the state under this chapter. If any town or district is dissatisfied with the decision of the superintendent of common schools, such town or district may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town, or agent of the district, for such amount as they may adjudge [that] such town or district is entitled to receive from the state treasury. Any person or persons connected with the management of such free high schools, either as teacher, school agent, school committee or supervisor, who shall in any way aid or abet in defrauding the state into the payment in support of said schools, of more than is contemplated by the spirit and tenor of this chapter, shall be punished by a fine not less than five hundred dollars, or by imprisonment in the county jail for not less than one year.

SEC. 36. The trustees of any academy or other corporation formed for educational purposes may surrender the property belonging to said academy or corporation, of every kind, real, personal, and mixed, or any part thereof, by a majority vote of such of said trustees as reside in *this* [the] state, to the aldermen of any city, the selectmen of any town, or the assessors of any plantation, or the

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Towns may contract with and pay academies for tuition of scholars. 1873, c. 124, §7.

—entitled to state aid for expenditure.

Superintending school committee to make annual return to state supt. 1880, c. 229, §3.

State superintendent to certify amounts to which towns are entitled.

—appeal.

Governor and council to certify amount to treasurer.

Penalty for defrauding state.

Trustees of academies, &c., may surrender property to establish free high schools. 1874, c. 216, §1.

CHAP. 11. trustees of any school fund in any town in which said academy or corporation is situated, for the purpose of turning the same into a free high school as hereinafter provided, and said aldermen, selectmen, assessors, or said trustees, as the case may be, for the time being, shall be a board of trustees to take and hold said property for the purpose of maintaining a free high school forever; and it shall be the duty of said officers or trustees upon receiving said property to use proper diligence to make the same produce income for the support of said free high school.

Trustees of
free high
schools,
duties of.

Property,
how con-
veyed.
1874,c.216,§2.

SEC. 37. When such vote is passed as provided in the preceding section, *it shall be the duty of* the treasurer of said trustees *to* [shall] convey, assign and deliver to the municipal officers of said city, town or plantation, or said trustees of any school fund, all property, real, personal, and mixed, belonging to said academy or corporation for the purposes indicated by said section and the two following.

Income of
property,
how applied.
1873,c.115,§3.

SEC. 38. *It shall be the duty of* the municipality accepting the property in trust, as named in section thirty-six, *to* [shall] apply the income of said property towards the support of a free high school, to be kept within said municipality, at least twenty-two weeks in each year, and *to* provide suitable accommodations for the same, and the superintending school committee or supervisor of schools in said municipality shall determine the qualifications necessary to entitle any one wishing to enter or attend said free high school, and no one shall *be entitled to* attend said school without the certificate of said officers to that effect.

—qualifica-
tion of
pupils, how
determined.

Tuition to be
paid by non-
residents.
1873,c.115,§4.

SEC. 39. All scholars residing within the municipality afore-said, having the certificate named in the preceding section, may attend said school without tuition fee, and all scholars not residents of said municipality, wishing to attend said school, may do so upon such terms and conditions as said school officers may impose.

POWERS AND OBLIGATIONS OF SCHOOL DISTRICTS.

School dis-
tricts are
corpora-
tions.

SEC. 40. School districts, whether a part of one or more towns, that have exercised the privileges of a district for one year, shall be presumed to be legally organized; and all districts legally organized shall be corporations with power to hold and apply real and personal estate for the support of schools therein, and to sue and be sued. Executions against them may be satisfied as executions against towns are; and in all suits or business, they may be described by their numbers as fixed by the town, by the name which they have assumed, or if they have no certain name, by an appropriate general description. (a)

Executions
against them
how satis-
fied.
R.S.,c.11,§16.

(a) 17 Me., 103; 22 Me., 566; 23 Me., 545; 35 Me., 396; 38 Me., 34; 39 Me., 187; 46 Me., 224; 51 Me., 102; 63 Me., 243.

SEC. 41. Any person qualified to vote in town affairs shall be a legal voter in his school district. CHAP. 11.
Who are legal voters.
R.S., c. 11, § 17.

SEC. 42. School district meetings may be called by the agent, on the written application of three or more legal voters, stating the reasons and objects thereof. When there is no agent, or when he neglects or refuses, they may be called by the municipal officers, or any justice of the peace, on like application. Notice of meetings, how given.
R.S., c. 11, § 18.

SEC. 43. On receiving such application, the agent or municipal officers, or justice of the peace, as the case may be, shall cause notices specifying the time, place, and purposes of the meeting, seven days before the time appointed, to be posted up in two or more public places in the district, one of which must be on the school-house, if there is any, or published in a newspaper, if any, printed in the town. The certificate of such agent or municipal officers, justice of the peace, or of any person required by their warrant to give notice, returned at the time and place of meeting, shall be evidence of the notice therein stated to have been given. (a) Return of proper officer evidence of notice.
R.S., c. 11, § 19.

SEC. 44. Meetings of any school district in this state which prior to the twentieth day of March, eighteen hundred and sixty, were duly called by the selectmen of any town, or by the agent or agents of such district, without an application in writing, signed by any number of the legal voters thereof, and stating the reasons and objects of such meeting, are hereby declared as legal and valid as they would have been if called upon such application. Meetings of school districts made valid.
R.S., c. 11, § 20.

SEC. 45. The district, at a legal meeting, may determine the manner of notifying its future meetings. (b) How notified.
R.S., c. 11, § 21.

SEC. 46. At such meeting, a moderator shall be chosen, and have the same powers and duties as a moderator of a town meeting, but need not be sworn; and at the first meeting every year, a clerk shall be chosen, be duly sworn by the moderator or a justice of the peace, record all votes passed at district meetings during the year, and until another is chosen in his place and sworn, may certify copies from the records of such district, and correct any errors, as provided in section nine of chapter three. Moderator to be chosen.
R.S., c. 11, § 22.
See c. 3, § 23.

Clerk sworn.
4 Me., 46.
28 Me., 203.
38 Me., 170.
30 Me., 558.
44 Me., 384.
65 Me., 556.

SEC. 47. Every school district at its annual meeting, shall choose a school agent by ballot, unless chosen by the town; and may fill a vacancy in that office at a meeting called for that purpose. Choose agents.
R.S., c. 11, § 23.
See §§ 74, 93, 94, 95.

SEC. 48. A school district at any legal meeting called for the purpose, shall have power: Powers of a district.
R.S., c. 11, § 24.

First—To raise money for erecting, repairing, renting, purchasing and removing such school-houses and out-buildings as the wants May raise money.
See §§ 70, 75 to 84, 93, item 2.

(a) 44 Me., 385. The annual meeting in March or April, may be called by the agent without application. See § 93, item 1. 4 Me., 46; 20 Me., 441; 28 Me., 202; 38 Me., 169; 51 Me., 102; 60 Me., 334.

(b) 4 Me., 46; 66 Me., 588. 2 Cush., 419.

CHAP. II.

7 Me., 121.
22 Me., 569.
24 Me., 350.
33 Me., 171.
38 Me., 35, 170.
41 Me., 247.
60 Me., 404.

Locate
school
houses.

Sell them.
22 Me., 569.

Regulate ad-
missions to
schools.

Instruct
committee
or super-
visor when
schools shall
commence,
&c.
1881, c. 24.

Use of
school-
house.

Graded dis-
trict schools.
R.S., c. 11, § 25.
See § 6.

Committee
to superin-
tend money
affairs.
R.S., c. 11, § 26.

Minority dis-
satisfied,
may appeal
to town.
R.S., c. 11, § 27.
39 Me., 186.

Proceedings
in such cases.

of the district require; for purchasing or renting land for them to stand upon, and for yards and play grounds; for purchasing a library, utensils, black-boards, globes, maps and other useful apparatus; for providing water for school-houses by means of wells or aqueducts, with necessary conveniences for the health and comfort of teacher and pupils; and for enclosing the grounds and appurtenances of the school-houses.

Second—To determine where their school-houses shall be located. (*a*)

Third—To sell and dispose of any school-house or other property, if necessary.

Fourth—To determine at what age the youth therein may be admitted into the schools kept by a master or mistress, and whether, and upon what terms, scholars may be admitted into their schools from other towns or places.

Fifth—To instruct the superintending school committee or supervisor at what time the schools shall commence; and the schools shall commence and continue as voted by the district, unless, in the opinion of the superintending school committee or supervisor, it would be detrimental to the best interests of the district on account of any contagious disease or other good reason.

Sixth—To allow the school-house to be used for meetings of religious worship, lectures and other similar purposes.

SEC. 49. Any school district maintaining graded schools, may raise for the support of schools therein a sum of money not exceeding that which it receives from the town in addition thereto.

SEC. 50. A district may choose a committee to superintend the expenditure of money legally raised by it, to examine and allow accounts, and to draw orders on the town treasurer for the amount of money raised. (*b*)

SEC. 51. When at a meeting of a school district legally called for raising money for any particular purpose, a majority of the legal voters present are opposed to raising a sum sufficient, in the opinion of the minority, for such purpose, the municipal officers, on written application of five or more voters, made within thirty days after such meeting, shall insert in their warrant for calling the next town meeting on town affairs, an article requiring the opinion of the town on the disagreement; and if the town thinks it necessary or expedient, they may require a sum sufficient for such purpose, if exceeding what the district was willing to raise, to be assessed on the polls and estates therein; and it shall be assessed, collected and paid over, as if originally raised by the dis-

(*a*) 39 Me., 558; 60 Me., 405, 542; 65 Me., 187.

(*b*) 7 Me., 120; 12 Me., 297; 17 Me., 323; 28 Me., 200; 38 Me., 170; 39 Me., 222; 63 Me., 264, 265.

trict; and thereupon the municipal officers shall appoint, in writing, three suitable inhabitants of said district, a committee to superintend the expenditure of the money for such purpose, and they shall have all the powers of a committee chosen by the district, in pursuance of the provisions hereof.

SEC. 52. When in the opinion of the superintending school committee, any school district in their town unreasonably neglects or refuses to raise money for erecting, repairing, renting or purchasing a school-house or school-houses and out-buildings, such as the wants of the district require, or for purchasing or renting land for them to stand upon and for yards and play grounds, the municipal officers, upon the written application of the superintending school committee, shall insert in their warrant for calling the next town meeting for town affairs, an article to see if the town will vote to raise money in such school district for the purposes above named. And any sum or sums of money so voted to be raised shall be assessed upon the polls and estates therein and collected and paid over as if originally raised by the district. And thereupon the municipal officers shall appoint three suitable inhabitants of the town a committee to superintend the expenditure of the money for such purpose, and they shall have all the powers of a committee chosen by the district pursuant to law.

SEC. 53. In school districts not having any legal voters to transact district business, money may be raised and expended in the manner and for the purposes specified in the foregoing section.

SEC. 54. Two or more districts, by vote at their district meetings, may unite to support a union school for the more advanced scholars, and appropriate therefor a portion of the school money assigned to each district. But if more than one fourth of the voters present and voting at any meeting, object, only the per capita share of the scholars attending such union school, shall be so appropriated, without the written assent of the superintending school committee.

SEC. 55. Two or more school districts may unite for the purpose of establishing and maintaining a system of graded free schools, for such a period of time as they may determine, when a majority of the voters present and voting at a meeting of each district, legally called for the purpose, so determines; and the clerk of each district shall forthwith furnish the town clerk with a certified copy of such votes, and he shall enter said votes upon the town records; and thereafter such districts shall constitute one district, to be known by the name that the inhabitants thereof adopt; and have all the rights and powers, and be subject to all the liabilities of other school districts for said time; and the town shall not alter or divide it, without the consent of a majority of

CHAP. 11.

When the erection, repairing, renting or purchasing of a school-house may be ordered and completed by the town.
R.S., c. 11, § 28.
60 Me., 404.
63 Me., 262, 264.

Same, in districts having no voters.
R.S., c. 11, § 29.
See § 95.

Districts may unite for support of union school.
R.S., c. 11, § 30.

Provision if one-fourth object.

School districts may unite to maintain graded schools.
1877, c. 205.

Proceedings in such cases.
35 Me., 397.
46 Me., 221.

CHAP. 11.

Districts maintaining schools, may raise money.

Location of school-houses, how determined, in case of disagreement. R.S., c. 11, § 32. See § 72. 60 Me., 334, 405-6, 542-4.

Proceedings. 65 Me., 188-9, 191.

Towns may lay out school-house lots in certain cases. 1873, c. 100. 52 Me., 146. 60 Me., 405, 542-5. 67 Me., 283-6.

Damages, how appraised. —how paid.

Lot to revert to owner if not occupied for two years.

its voters during said time ; and at the expiration of said time each of said districts shall resume its district organization, unless a majority of the voters in each district shall vote to continue the united district ; and at its annual meeting, it may raise money for the support of its schools, in addition to what it receives from the town, and not exceeding three fifths of that sum. And any school district maintaining graded schools may raise money for the support of its schools as provided in this section for districts composed of two or more districts.

SEC. 56. At any district meeting called for the purpose of removing a school-house, or locating one to be erected, if more than one third of the voters present and voting, object thereto, the clerk shall make a record of the fact ; and the municipal officers, on written application of any three or more of said voters, or any committee of the district, made within thirty days thereafterwards, shall, as soon as may be, appoint a time and place in the district to hear the parties, and give such notice as is required for a district meeting ; and after such hearing, they may decide where the school-house shall be placed ; and shall, within ten days, give a certificate of their determination to the clerk of the district, who shall forthwith enter it on his records ; and the district shall proceed to erect, or remove the school-house, as if determined by a sufficient majority of the voters present at said meeting ; but no such officer residing in the district, shall have any voice in such determination ; and when a majority of them reside therein, or do not agree, the superintending school committee shall do all the duties herein required of the municipal officers ; and if the district refuses or neglects for sixty days, to carry into effect such determination, the municipal officers or superintending school committee at the expense of the district, shall, if need be, purchase a lot for said house, and cause it to be erected or removed thereon.

SEC. 57. When a location for the erection or removal of a school house and necessary buildings has been legally designated, and the owner thereof refuses to sell, or asks an unreasonable price for it, in the opinion of the municipal officers, or resides without the limits of this state, and has no authorized agent or attorney within the same, they may lay out a school-house lot, not exceeding one hundred square rods, and appraise the damages, as is provided for laying out town ways and appraising the damages therefor ; and on payment or tender of such damages, or if such owner shall not reside within this state, upon depositing such damages in the treasury of such town or district for his use, the town or district designating it may take such lot to be held and used for the purposes aforesaid ; and when such school-house as is required of the town or district has ceased to be thereon for

two years, it shall revert to the owner, his heirs or assigns. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a school-house and necessary buildings, and for necessary play grounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling house.

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Land may be taken for school-house lot, play grounds, &c., not within fifty feet of a dwelling.

SEC. 58. If the owner is aggrieved at the location of the lot, or the damages awarded, he may, within one year thereafter, apply to the county commissioners, and have the matter tried by a jury who may change the location and assess the damages, and the proceedings shall be conducted as in case of damages for laying out highways. If the damages are increased, or the location changed, such town or district shall pay the damages and costs; otherwise the costs shall be paid by the applicant.

If owner is aggrieved, issue may be tried by jury. R.S., c. 11, § 34. See § 72. 60 Me., 335, 542-4. 63 Me., 192.

SEC. 59. Any town or school district which, by its town or district officers or by a committee, *have* [has] designated, located and described a lot upon which to erect, move or repair a school-house, and from any mistake or omission *have* [has] so far failed to comply with the *statutes* [law] as to render such location invalid, may upon application to the selectmen of said town, have the lot, so designated or described, re-appraised by the selectmen of said town upon petition of three legal voters and tax-payers of said district in which such location has been [made] or attempted to be made as provided by *statute*. [law.]

School-house lots, erroneous location of, re-established and made valid. 1873, c. 144, § 1.

SEC. 60. The selectmen of any town to whom application has been made, in writing, to appraise a lot as provided in the preceding section, shall forthwith give not less than seven nor more than twenty days' notice, to the clerk of said district and to the owner of such real estate, or [to] the person or persons having the same in charge, of the time and place by them fixed for such hearing, and shall after examination and hearing of all interested, appraise the lot as set out and affix a fair value upon the same, exclusive of all improvements made by said district or town, either by buildings or otherwise; and shall as soon as practicable, notify the district clerk, and the person or persons interested in said estate who *were* [had been] notified as provided in this section, of the sum at which said lot has been appraised.

Notice of appraisal and hearing to be given. 1873, c. 144, § 2.

SEC. 61. The sum fixed as the value of said lot shall be assessed, collected and paid over as provided in section forty-eight.

Sum, how assessed and collected. 1873, c. 144, § 3.

SEC. 62. Any sum which has been tendered and is in the hands or under the control of the persons owning or having charge of such land, shall be allowed in payment of said appraisal.

Tender to be allowed in payment. 1873, c. 144, § 4.

SEC. 63. In case the district, or persons owning or having charge of the land on which such location is made, are dissatisfied with such appraisal, [either party] may within ten days take an

Either party may appeal. 1873, c. 144, § 5.

CHAP. 11. appeal to the county commissioners of the county in which the land lies, by filing a copy of the proceedings with the claim of an appeal with the commissioners of the county, and the determination of a majority of said commissioners not residents of the district in which said location is made, shall be final.

Improve-
ments enure
to town or
district.
1873, c. 144, § 6.

SEC. 64. When any school district or town shall have erected or moved [a building] upon such lot or shall have in any way improved the same, such improvement shall enure solely to the benefit of such town or district, and the same may be as completely occupied and controlled by such town or district as *they* [it] would have [been] if such location had been in strict conformity to *the statutes*. [law.]

Tax not
affected by
error in
location.
1873, c. 144, § 7.
Plan to be
approved by
S. S. com-
mittee.
R. S., c. 11, § 35.
Summer
schools.
R. S., c. 11, § 36.

SEC. 65. The legality of a tax assessed to build, repair or remove a school-house and to pay for a lot, shall not be affected by any mistake or error in [the] designation or location of a lot.

SEC. 66. A plan for the erection or reconstruction of a school-house voted by a district, shall first be approved by the superintending school committee.

SEC. 67. A school district at a legal meeting, may determine what proportion of their school money shall be expended for the support of a summer school; and the superintending school committee or supervisor shall expend it accordingly, if practicable.

Master and
mistress'
schools.
R. S., c. 11, § 37.

SEC. 68. When the school is kept in part by a mistress, and in part by a master, the district may determine by vote, or [may] authorize the superintending school committee to determine, from time to time, what description of scholars shall attend each.

Districts
may choose
committee
to classify
scholars.
R. S., c. 11, § 38.
See § 87,
item 11.

SEC. 69. Each district where more than one school is kept at the same time, may choose annually, or one third in each year, a committee to determine what description of scholars shall attend each school, to classify said scholars, and to transfer them from school to school; and unless such election is for one year only, they shall at their first meeting, determine their respective terms of office by lot, and certify the result to the district clerk; they or the district shall fill vacancies as they occur; and they shall transmit a copy of their annual report, if printed, to the superintendent of common schools.

Districts
may pur-
chase
library.
R. S., c. 11, § 39.
See § 93,
item 2.

SEC. 70. A district may appropriate not exceeding one tenth of its school money for any year, to purchase a school library and apparatus for the use of the schools therein, and [may] make proper rules for the preservation and management thereof. Adjacent districts may, by vote of each, unite for the purpose aforesaid.

SCHOOL DISTRICTS FORMED FROM TWO OR MORE TOWNS.

Two or more
towns may
concur in es-
tablishing
districts.

SEC. 71. Two or more adjoining towns may concur in establishing school districts from parts of each when convenient, in determining their limits, and in altering and discontinuing them; and

they and their officers, except as herein otherwise provided, may exercise the powers and duties relating thereto, that a town may relating to its own districts. If such district has existed fifteen years, either town may disconnect its part, without the concurrence of the others, by leaving all the district property to what remains.

CHAP. 11.
R.S., c. 11, §40.
See § 1.

SEC. 72. The superintending school committee, municipal officers, assessors, treasurer, collector, and constables of the town where the school-house of such district is situated, or has been located, or where the school is kept; or if there is no such school-house or school, said officers of the oldest town from which a part of such district is taken, shall have all the powers and perform all the duties relating to it, that they have and perform relating to districts wholly in their own town; and such assessors shall assess all taxes, voted by such district, according to a valuation made by them, uniform throughout the district. The powers specified in section fifty-six, may be exercised in such district by the concurrent votes of said towns, or the joint acts of the municipal officers or superintending school committees thereof, and application shall be made to each of them accordingly. The provisions of sections fifty-seven and fifty-eight shall also apply to such districts.

How such districts shall be superintended.
R.S., c. 11, §41.
63 Me., 244.

SEC. 73. The assessors of each town from which a part of such district is taken, shall annually apportion to it a share of the school money of their town, according to the number of scholars in such districts living in their town.

Assessors to apportion money to such districts.
R.S., c. 11, §42.

SEC. 74. Such district shall annually choose its agent, and his contract shall bind each town in proportion to and not exceeding the amount which it is required to pay him as aforesaid; and all agents and officers thereof shall have the same powers and privileges and perform the same duties as in districts wholly in one town.

Such district shall choose its agent.
R.S., c. 11, §43.
See §§ 4, 23.
Powers of its officers.

ASSESSMENT AND COLLECTION OF MONEY RAISED OR BORROWED BY DISTRICTS.

SEC. 75. When a district votes to raise money for any legal purpose its clerk shall forthwith, or within the time prescribed by the district, certify the amount thereof to the assessors of the town, and the time when raised; and within sixty days after receiving such certificate they shall assess it as they do town taxes, on the polls and estates of the residents and owners in the district at the time of raising said money, whether wholly in their town or not, and on the non-resident real estate in the district. They shall then make their warrant in due form of law, directed to any collector of their town or of the district, if any, if not to a constable,

School district taxes, how assessed and collected.
1874, c. 163.
12 Me., 258.
15 Me., 260.
28 Me., 203.
31 Me., 284.
33 Me., 241.
35 Me., 397.
38 Me., 169.
39 Me., 187.
41 Me., 505.
51 Me., 102.
60 Me., 280.

CHAP. 11. authorizing and requiring him to levy and collect such tax and pay it within the time limited in the warrant to the town treasurer; and they shall give a certificate of the assessment to such treasurer, and may abate such taxes as in the case of town taxes.

Assessors authorized to assess 5 per cent. overlay.
1874, c. 162, § 1.

SEC. 76. The assessors may include in their assessment such sum over and above the sum committed to them to assess, not exceeding five per centum thereof, as a fractional division thereof renders necessary, and certify that fact to the town treasurer.

Assessment of school district tax, how paid.
1874, c. 162, § 2.

SEC. 77. The expense of assessing and collecting any school district tax shall be paid by the district, and the treasurer of the town shall pay said expenses out of the money of the district, upon the order of the selectmen of the town.

District taxes assessed without authority.
R.S., c. 11, § 45.

SEC. 78. All the provisions of section one hundred and thirty-nine of the sixth chapter, and any and all other statutes relating to the same subject shall apply to the case of taxes assessed by or for school-districts, so far as the same are applicable; but the district and not the town shall be liable.

Powers and duties of collectors; their compensation.
R.S., c. 11, § 46.
31 Me., 281.
41 Me., 247.
67 Me., 240.

SEC. 79. The collector or constable, and the town treasurer, or treasurer and collector, if one person is both, shall each have the same powers and be subject to the same duties and obligations relating to district taxes, as relating to town taxes; and they and the assessors shall be allowed by the district for the services herein required, a compensation proportionate to what they receive from the town for similar services.

Money at disposal of district committee.

SEC. 80. The money so raised and paid shall be at the disposal of the district committee, provided for in section fifty.

R.S., c. 11, § 47.
District may borrow money to build school-house.
R.S., c. 11, § 48.

SEC. 81. A district, at a legal meeting called for that purpose, by a vote of two thirds of the voters present and voting, may borrow money for erecting a school-house, and buying a lot therefor, on a time not exceeding ten years, payable in equal annual instalments, but for no other purpose, and in no other manner; and when they do so, the clerk shall forthwith certify such vote to the assessors and treasurer of the town.

District may appoint agent to contract loan.
R.S., c. 11, § 49.

SEC. 82. The district may appoint an agent or agents to contract such loan, who may bind the district, and give the necessary security therefor, a copy of which shall be filed by him with the town clerk, and entered on the town records. The money thus procured shall be received by the town treasurer, applied for the purposes aforesaid, and paid out in the same manner as money raised by taxation for the same purposes.

Duties of assessors in such cases.
R.S., c. 11, § 50.

SEC. 83. At each annual assessment of town taxes after such loan, the assessors of the town shall assess the amount of the instalment and interest for that year, on the polls and estates in the district, as if the district had voted to raise it, and it shall, in

like manner, be collected and paid to the town treasurer, who shall pay each instalment and interest as it becomes due, on demand of the owner of the security.

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SEC. 84. A district voting to raise a sum of money exceeding three hundred dollars under the provisions hereof, may elect a collector by ballot, who shall give bond to the inhabitants thereof, with sufficient sureties, approved by the municipal officers; have the same powers and be subject to the same duties and obligations as a collector of town taxes; and receive such compensation for collecting and paying over such taxes as the district votes at the meeting when he is chosen. The district clerk shall file a certified copy of his election with the town clerk, who shall record it, and such record shall be evidence of the collector's election by the district.

District may elect collector when sum raised exceeds three hundred dollars. R.S., c. 11, § 51.

POWERS AND DUTIES OF SUPERINTENDING SCHOOL COMMITTEES.

SEC. 85. Members of superintending school committees and supervisors shall be duly sworn.

Officers to be sworn. R.S., c. 11, § 52.

SEC. 86. Superintending school committees, at their first meeting, shall designate by lot one of their number to hold office three years, and another two years, and certify such designation to the town clerk, to be by him recorded. The third member shall hold office one year; and each member elected to fill the place of one whose term expires, shall hold office three years. They shall fill all vacancies in their number until the next annual town meeting. Two members shall constitute a quorum; but if there is but one in office, he may fill vacancies; *provided*, however, that if the one thus remaining in office shall decline or neglect to fill the vacancies existing in the board, the municipal officers shall fill said vacancies. The municipal officers shall fill all vacancies arising in the office of supervisor until the next annual election.

Superintending school committees when first chosen shall arrange terms of office. 1880, c. 171.

Vacancies, how filled.

SEC. 87. Superintending school committees shall perform the following duties:

Duties. R.S., c. 11, § 54.

First—They shall appoint suitable times and places for the examination of candidates proposing to teach in town, and give notice thereof by posting the same in two or more public places within the town at least three weeks before the time of said examination, or the publication for a like length of time of said notice in one or more of the county newspapers having the largest circulation in the county. They shall employ teachers for the several districts in the town, and notify the several school agents of the teachers employed and the compensation agreed to be paid; and in the absence of any agreement to the contrary, five and

Appoint time and place for examination of teachers. See §§ 67, 95.

4 Mo., 45. See § 5, § 93, item 6. School week and month.

CHAP. 11. one half days shall constitute the school week, and four weeks shall constitute a school month.

Instructors of youth, examination of.
1873, c. 120.

Second—On satisfactory evidence that a candidate possesses a good moral character, and a temper and disposition suitable to be an instructor of youth, they shall examine him in reading, spelling, English grammar, geography, history, arithmetic, book-keeping and physiology, and such other branches as they may desire to introduce into public schools, and particularly in the school for which he is examined; and also as to capacity for the government thereof.

Certificate to teachers.
1871, c. 215.
20 Me., 40,
155.
26 Me., 59.
27 Me., 277.
See § 98.

Third—They shall give to each candidate found competent a certificate that he is qualified to govern said school and instruct in the branches above named and such other branches as may be necessary to be taught therein, or may render valid by indorsement any graded certificates issued to teachers by normal school principals, county supervisors or state superintendent of common schools.

Direct course of instruction and text books.
38 Me., 395.

Fourth—Direct the general course of instruction, and select a uniform system of text-books, due notice of which shall be given; and any text-book thus introduced, shall not be changed for five years thereafter unless by a vote of the town; and any person violating the provisions hereof shall be punished by fine not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved. And when said committee has made such selection of school-books, they may contract, under section eight, with the publishers for the purchase and delivery thereof; make such rules as they deem effectual for their preservation and return; or if they are kept for sale, may regulate the sale and appoint an agent to keep and sell them, fix the retail price which shall be marked on the title page of each book.

Purchase and sale of books, how regulated.

Examine schools.

Fifth—Examine the several schools, and inquire into the regulations and discipline thereof, and the proficiency of the scholars therein, for which purpose one or more of the committee shall visit each school at least twice in summer and twice in winter; and use their influence to secure the regular attendance at school of the youth in their town.

May dismiss teachers for sufficient cause.
3 Me., 453.
16 Me., 185.

Sixth—After due notice and investigation, they shall dismiss any teacher, although having the requisite certificate, who is found incapable or unfit to teach, or whose services they deem unprofitable to the school; and give to said teacher a certificate of dismissal and of the reasons therefor, a copy of which they shall retain, and immediately notify the district agent of such dismissal, which shall not deprive the teacher of compensation for previous services.

Expel scholars.

Seventh—Expel from a school any obstinately disobedient and

disorderly scholar, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment.

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38 Me., 391.

Eighth—Exclude from the public schools, if they deem expedient, any person who is not vaccinated, though otherwise entitled by law to admission thereto.

—exclude scholars not vaccinated.

Ninth—Direct or approve in writing the expenditure of school money apportioned to inhabitants not included in any district.

—direct expenditures. See § 2.

Tenth—Prescribe the sum, on the payment of which persons of the required age, resident on territory, the jurisdiction of which has been ceded to the United States, included in or surrounded by a school district shall be entitled to attend school in such district; and when such territory adjoins two or more districts, they shall designate the one where they may attend.

—prescribe sums to be paid in certain cases.

Eleventh—Determine what description of scholars shall attend each school, classify them, and transfer them from school to school in districts where more than one school is kept at the same time and no district committee is elected, and may authorize the admission of scholars in one district into the schools of another district.

—classify scholars. See §§ 68, 69.

Twelfth—At the annual town meeting, they shall make a written report of the condition of the schools for the past year, the proficiency made by the pupils, and the success attending the modes of instruction and government of the teachers; they shall transmit a copy thereof to the superintendent of common schools.

—shall make annual report.

SEC. 88. They shall annually make out a statement containing the following particulars:

Annual statement. R.S., c. 11, § 55.

First—The amount of money raised and expended for the support of schools, designating what part is raised by taxes, and what part from other funds, and how such funds accrued.

Particulars.

Second—The number of school districts and parts of districts in their town.

Third—The number of children between four and twenty-one years of age, belonging to their town in each district, on the first day of April preceding.

Fourth—The number of such children who reside on islands, or in any other part of the town not in any district.

Fifth—The whole number and the average number of scholars attending the summer schools; the whole number and the average number of scholars attending the winter schools, and also the total number of different scholars attending school two weeks or more of the preceding year as shall appear from the teachers' registers returnable to said officers agreeably to section ninety-six.

—return of scholars. 1873, c. 134.

Sixth—The average length of the summer schools in weeks;

CHAP. 11. the average length of the winter schools in weeks; the average length of the schools for the year.

Seventh—The number of male teachers and the number of female teachers employed in the public schools during any part of the year.

Eighth—The wages of male teachers per month, and the wages of female teachers per week, exclusive of board.

—returns to
superinten-
dent of com-
mon schools.

Ninth—They shall give in their returns, the number of scholars as they existed on the first day of April next preceding the time of making said returns, and full and complete answers to the inquiries contained in the blank forms furnished them under the provisions of law; certify that such statement is true and correct, according to their best knowledge and belief; and transmit it to the office of the superintendent of common schools, on or before the first day of May in each year. When by reason of removal, resignation or death, but one member of the committee remains, he shall make said returns.

If agent ne-
glects to
make return
of scholars,
S.S. commit-
tee must.
R.S., c. 11, § 56.
1876, c. 142.

SEC. 89. If any school agent neglects to return under oath made before a justice of the peace, the scholars in his district, the superintending school committee shall immediately make such enumeration and be paid a reasonable sum therefor, to be taken from the amount to be apportioned to the district of such delinquent agent.

Committee
to return list
of scholars in
each district
to assessors.
R.S., c. 11, § 57.
1876, c. 142.

SEC. 90. They shall return under oath made before a justice of the peace, to the assessors on or before the fifteenth day of May, annually, the number of scholars in each school district, according to the enumeration provided for in sections eighty-nine and ninety-four.

Committee
to furnish
books if par-
ents or guar-
dians ne-
glect.
R.S., c. 11, § 58.
Delinquents
may be tax-
ed therefor.

SEC. 91. If any parent, master or guardian, after notice from the teacher of a school that a child under his care is deficient of the necessary school books, refuses or neglects to furnish such child with the books required, the superintending school committee, on being notified thereof by the teacher, shall furnish them at the expense of the town; and such expense may be added to the next town tax of the parent, master or guardian.

Compensa-
tion of S. S.
committee.
R.S., c. 11, § 59.

SEC. 92. Superintending school committees and supervisors shall be paid for their services, on satisfying the municipal officers that they have made the returns to the superintendent of common schools required by law, one dollar and fifty cents a day and all necessary travelling expenses, and no more unless ordered by the town.

POWERS AND DUTIES OF SCHOOL AGENTS.

Agents to be
sworn; pow-
ers and
duties.

SEC. 93. Each school agent elected by the town or district, shall be duly sworn by the moderator, town or district clerk, or a

justice of the peace, and continue in office one year, and until another is chosen and qualified in his stead; and his duties and powers shall be as follows:

First—In the month of March or April, annually, to call a district meeting for the choice of an agent, and for other business, by causing notice to be given as provided in this chapter, which meeting shall be called by the agent without application therefor.

Second—To provide fuel and utensils necessary for the schools, and make repairs upon the school-houses and out-buildings, and procure insurance of the same if the district so direct; but no more than one-tenth of the money apportioned to the district shall be expended for such repairs in one year, exclusive of fuel and insurance.

Third—He shall, within the year for which he is chosen, perform all the duties required of him by law, and if he refuses or neglects so to do, as far as practicable, the municipal officers, on complaint of any inhabitant of the district, and after due notice and investigation, may appoint a special agent to discharge such duties, who shall be duly sworn, have all the powers and perform all the duties of school agent for the district.

Fourth—To return to the municipal officers, prior to the expiration of his term of service, an account of his official expenditures with the necessary vouchers therefor.

Fifth—To return under oath made before a justice of the peace, to the assessors in the month of April, annually, a certified list of children in his district between four and twenty-one years of age as they existed on the first day of said month, exclusive of those coming from other places, where they belong, to attend any college or academy, or to labor in any factory therein.

Sixth—When school district agents are empowered by the town to employ teachers before the commencement of a term of school, they shall give written notice to some member of the superintending school committee or to the supervisor, when it is to commence, whether to be taught by a master or mistress, and how long it is expected to continue.

SEC. 94. Each school agent shall return under oath as aforesaid to the superintending school committee, in the month of April, annually, a certified list of the names and ages of all persons in his district, from four to twenty-one years, as they existed on the first day of said month, leaving out of said enumeration, all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

95. In school districts not having legal voters, the superintending school committee of the town are hereby empowered and

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R.S., c. 11, § 60.
See §§ 4, 47,
74, 94, 95.

20 Me., 441.
23 Me., 545.
26 Me., 58.

—to call
school meet-
ings.

See §§ 42, 43.

—provide
fuel, &c.
24 Me., 350.

See § 95.

If agent
neglects,
special
agent may
be appoint-
ed.

To account
for expen-
ditures.
See § 95.

—to return
certified lists
of children
to assessors.
See § 15.
1876, c. 142.

—to notify
committee
or supervis-
or about
schools.
1872, c. 87, § 1.
See § 6.

Agents to re-
turn list of
persons from
four to twenty-
one years
of age to S.S.
committee.
R.S., c. 11, § 61.
1876, c. 142.
See §§ 15, 89,
93, item 5.

S.S. commit-
tee may per-
form duties
of agent.

CHAP. 11. required to perform the duties imposed upon school agents by the second and fourth specifications of section ninety-three.
 R.S., c. 11, § 62.
 See § 53.

DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

SEC. 96. Every teacher of a public school shall keep a school register, containing the names of all the scholars who enter the school, their ages, the date of each scholar's entering and leaving, the number of days each attended, the length of the school, the teacher's wages, a list of text-books used, and all other facts required by the blank form furnished under the provisions of law; such register shall at all times be open to the inspection of the school committee, and be returned to them at the close of the school. No teacher shall be entitled to pay for his services, until the register of his school, properly filled up, completed, and signed, is deposited with the school committee, or with a person designated by them to receive it.

Teachers to keep school register.
 R.S., c. 11, § 63.

Not to be paid till register is completed.

SEC. 97. The presidents, professors, and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity, and a universal benevolence; sobriety, industry, and frugality; chastity, moderation, and temperance; and all other virtues, which are the ornaments of human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, and secure the blessings of liberty, and promote their future happiness; and the tendency of the opposite vices, to slavery, degradation and ruin.

Instructors of colleges, &c., to inculcate morality, justice and patriotism.
 R.S., c. 11, § 64.

SEC. 98. Any person who teaches a district school without first obtaining a certificate from the superintending school committee of the town, shall forfeit not exceeding the sum contracted for his daily wages, for each day he so teaches, and shall be barred from receiving any pay therefor; and no certificate shall be valid for more than one year without the approval of the superintending school committee annually indorsed thereon.

Forfeitures for teaching without certificate.
 R.S., c. 11, § 65.
 See § 87, item 5.
 20 Me., 155.
 37 Me., 368.

SCHOOLS IN PLANTATIONS.

SEC. 99. Plantations have the same powers and liabilities as towns, for the formation of districts, electing committees or supervisors, treasurers, collectors, and school agents, and for raising, assessing and collecting school money, not exceeding one dollar for each inhabitant, to be apportioned and expended as in towns; and the districts therein shall elect school-district officers, whose

Powers of plantations to form school districts.
 R.S., c. 11, § 66.
 61 Me., 449.

CHAP. 11.

powers and duties shall be the same as those of like officers in towns. The assessors of plantations may take a census of the inhabitants thereof, at the expense of the plantation, and when so taken, the money raised therein for schools shall be upon the basis of such census and not upon the census of the state.

SEC. 100. School district meetings shall be called by the assessors of the plantation, on the written application of three or more legal voters in the district, stating the reasons and objects thereof, and notice shall be given as for meetings in town districts.

District meeting, how called.
R.S., c. 11, § 67.

SEC. 101. Such districts, at meetings called for the purpose, may raise money and choose committees to hire, buy or build a school-house for their use; and the plantation assessors shall make a valuation of the real and personal estate in the district, whether owned by residents or not, including wild lands, and assess the money so raised on the polls and estates, and commit the tax to the collector, who shall collect it and pay it to the treasurer.

School districts may raise money and choose committee to provide school-houses.
R.S., c. 11, § 68.
See §§ 6, 48, item 1.

STATE SUPERINTENDENT OF COMMON SCHOOLS.

SEC. 102. The governor and council shall appoint a state superintendent of common schools, who shall be duly sworn and [shall] continue in office three years, or during the pleasure of the executive; and when a vacancy occurs, a new appointment shall be made for a like term.

Appointment and term of office.
R.S., c. 11, § 69.
1879, c. 150, § 10.

SEC. 103. An office shall be provided for the state superintendent at the seat of government, where he shall preserve all school reports of this state and of other states which may be sent to his office, the returns of the superintending school committees of the various towns, and such books, apparatus, maps, charts, works on education, plans for school buildings, models, and other articles of interest to school officers and teachers as may be procured without expense to the state.

To have an office at the capital.
R.S., c. 11, § 70.

SEC. 104. The duties of the state superintendent shall be as follows:

Duties.
R.S., c. 11, § 71.

First.—To exercise a general supervision of all the public schools of the state, and to advise and direct the town committees in the discharge of their duties, by circular letters and personal conference, devoting all his time to the duties of his office.

—to exercise general supervision of schools.

Second.—To obtain information as to the school systems of other states and countries, and the condition and progress of common school education throughout the world; to disseminate this information, together with such practical hints upon the conduct of schools and the true theory of education as observation and investigation shall convince him to be important, by public addresses, circulars, and articles prepared for the press; and to do all in his power to awaken and sustain an interest in education among the

—obtain and disseminate information relating to school systems, &c.

CHAP. 11. people of the state, and to stimulate teachers to well directed efforts in their work.

—take necessary measures for holding state educational conventions.

Third.—To take such measures as he may deem necessary to secure the holding of a state educational convention once each year, with a view of bringing together the teachers, school committees, and friends of education generally, for the purposes of consultation with reference to the interest of common schools and the most approved method of instruction.

—may hold county institutes.

Fourth.—In case sufficient encouragement is afforded by the citizens, to hold in each county once during each year a public meeting or institute for teachers and educators.

—to publish abstract of proceedings of such conventions.

Fifth.—To prepare and cause to be printed and distributed such portions of the proceedings of county and state institutes or teacher's conventions as he may deem important in the furtherance of the interests of education.

—prescribe studies to be taught.

Sixth.—To prescribe the studies that shall be taught in the common schools of this state, reserving to town committees the right to prescribe additional studies.

—to be superintendent of normal schools.

Seventh.—To act as superintendent of the state normal schools, and perform the duties imposed upon the superintendent of common schools by section one hundred and twelve.

—make report to governor and council annually.
1880, c. 239, § 28.

Eighth.—Annually, to make a report to the governor and council of the result of his inquiries and investigations, and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment will best promote the improvement of common schools.

Salary \$1000.
Clerk hire, \$500.
1879, c. 150, § 10.

SEC. 105. The annual salary of the state superintendent shall be one thousand dollars, together with clerk hire not to exceed the sum of five hundred dollars per annum, to be paid quarterly, on the first days of April, July, October and January.

Superintendent to prepare and forward to town clerk blanks for school returns.
R.S., c. 11, § 73.

SEC. 106. The superintendent of common schools shall prepare and print blank forms for all returns required by law, or deemed by him necessary, and shall, on the first day of March in each year, forward to the clerk[s] of the several cities, towns, and plantations, blanks for the annual school return, and registers for the school year commencing on the first day of April following; and said clerk shall forthwith deliver the same to the superintending school committee of his city, town or plantation.

To notify delinquent school committees; also to return to state treasurer no. of children between 4 and 21.
R.S., c. 11, § 74.

SEC. 107. The superintendent of common schools [He] shall, on the first day of June, notify the school committee of any town whose returns were not received at his office in May, and shall annually ascertain on the first day of July, the number of children between four and twenty-one years of age, in the towns from which returns are received, and furnish a list thereof to the state treasurer.

NORMAL SCHOOLS.

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SEC. 108. The northern normal school at Farmington, in the county of Franklin, the eastern normal school at Castine, in the county of Hancock, and the western normal school at Gorham, in the county of Cumberland, shall remain as now established, and be conducted for the purposes and upon the principles herein set forth.

Three normal schools where located.
R.S., c. 11, § 83.
1878, c. 44.

First—They shall be thoroughly devoted to the work of training teachers for their professional labors.

Their objects.

Second—The course of study shall include the common English branches in thorough reviews, and such of the higher branches as are especially adapted to prepare teachers to conduct the mental, moral and physical education of their pupils.

Third—The art of school management, including the best methods of government and instruction, shall have a prominent place in the daily exercise of said schools.

Fourth—Said normal schools, while teaching the fundamental truths of Christianity, and the great principles of morality, recognized by statute, shall be free from all denominational teachings, and open to persons of different religious connections on terms of entire equality.

Christianity and morality to be taught.

Fifth—It shall be the duty of the principals of the normal schools and of all other schools in which normal departments are supported, wholly or in part by the state, to keep a school register containing the names of all students entering such schools or departments, the date of entering and leaving, their ages, number of days attendance, the length of the school term, list of text books used, and all other information required in blanks to be furnished from the office of the state superintendent of common schools. The register and blanks thus furnished and kept shall be returned annually to the state superintendent of common schools on or prior to the first day of December, and the information so furnished shall appear in his annual school report, for the use and benefit of the legislature.

Principals of normal schools or normal departments in other schools, required to forward to superintendent statistics of students therein; and the information to be laid before the legislature.
1872, c. 11.

SEC. 109. The course of study shall occupy two years with suitable vacations; and together with the terms of admission shall be arranged by the superintendent of schools, subject to the approval of the governor and council. The trustees of the state normal schools may arrange for a course of study in said schools to occupy three years, for such students as elect to pursue the same.

Course of study, arranged by superintendent.
R.S., c. 11, § 84.
Trustees may extend it.
1874, c. 190.

SEC. 110. Any student who shall complete the course of study prescribed, and otherwise comply with the regulations of the school, shall receive a diploma certifying the same.

Diplomas provided for.
R.S., c. 11, § 85.

CHAP. 11.

Applicants
for admis-
sion, qualifi-
cation of.
R.S., c. 11, § 86.

Tuition.

Trustees of
normal
schools, ap-
pointment
of, &c.
1873, c. 114.

—term.

—compensa-
tion.

—powers
and duties
of.

—report of.

Annual ap-
propriation
of \$19,000.
1881, c. 96, § 1.
Treasurer to
deduct same
from school
moneys.
1881, c. 96, § 2.
Governor,
&c., may
draw war-
rants in fav-
or of trust-
tees.
1873, c. 114.

Forfeitures,
how recover-
ed and ap-
propriated.
R.S., c. 11, § 88.

Penalty of
town for ne-
glect to ex-
pend money.

SEC. 111. Applicants for admission to said schools shall be sixteen years of age if females, and seventeen if males, and shall signify their intention to become teachers and shall come under obligation to teach in our own state for at least one year, and in case they receive the diploma mentioned in the preceding section, two years after they shall have graduated; and on these conditions shall be received without charge for tuition; each pupil shall pay one dollar and fifty cents for incidental expenses of the school.

SEC. 112. The normal schools established by the state shall be under the direction of a board of seven trustees, five of whom shall be appointed by the governor, by and with the advice and consent of the council, for a term of not more than three years under one appointment; and the governor and superintendent of common schools shall, by virtue of their office, be members of the board. The five trustees appointed by the governor shall each be allowed ten cents a mile for actual travel each way, and two dollars a day for their services when employed. Said board of trustees shall have charge of the general interests of the state normal schools; shall see that the affairs of the same are conducted as required by law and by such by-laws as the board may adopt; employ teachers and lecturers for the same; and annually on the first day of December lay before the governor and council, for the information of the legislature, a financial statement, furnishing an accurate detailed account of the receipts and expenditures for the school-year preceding.

SEC. 113. For the support of the three normal schools nineteen thousand dollars is annually appropriated, to be expended under the direction of the normal school trustees, and the treasurer of state is authorized and directed to deduct said sum from any of the school moneys raised for the support of common schools in the state, for said purpose. The governor and council may, from time to time, as they think proper, draw warrants on the treasurer of state in favor of the trustees, for the money so appropriated.

PENAL PROVISIONS AFFECTING SCHOOLS.

SEC. 114. All forfeitures arising under this chapter, not otherwise provided for, may be recovered by indictment, and shall be paid into the treasury of the town where they occurred, for the support of schools therein, in addition to the amount required by law to be raised; but the costs of prosecution shall be paid into the county treasury; and if any town neglects for one year, so to expend such money, it shall forfeit a sum equal thereto, to the use of any person suing therefor in an action of debt.

SEC. 115. If any person, whether *he is* a scholar or not, enters any school-house or any other place of instruction, during or out of school hours, while the teacher or any pupil is there, and willfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures; or willfully interrupts a school by prowling about the building, making noises, throwing missiles at the school-house, or in any way disturbing the school, he shall forfeit not less than two nor more than twenty dollars, to be recovered as aforesaid, or by complaint before a trial justice.

CHAP. II.

Penalty for disturbing schools.
R.S., c. 11, § 89.
27 Me., 278.
35 Me., 197.

SEC. 116. If a minor injures or aids in injuring any school-house, out-buildings, utensils or appurtenances belonging thereto; defaces the walls, benches, seats, or other parts of said buildings by marks, cuts or otherwise; or injures or destroys any property belonging to a school district, such district by its agent or committee, may recover of his parent or guardian, in an action of debt, double the amount of damages occasioned thereby.

Parents or guardians liable.
R.S., c. 11, § 90.

—double damages.

SEC. 117. Whoever *shall* deface[s] the walls, benches, seats, blackboards, or other parts of any school-house or out-buildings belonging thereto, by *making thereon* obscene pictures, language, marks or descriptions, *or by writing thereon obscene language*, shall be punished by fine not exceeding ten dollars; *and municipal and police courts and trial justices shall have jurisdiction thereof* on complaint made within one year after the commission of the offence.

Penalty for defacing school-houses, out-buildings, &c.
1874, c. 165.
Sec. c. 124, § 13.

STATE SCHOOL FUNDS.

SEC. 118. The treasurer of state shall keep a separate account of all moneys received from the sales of lands appropriated for the support of schools *in this state* or from the notes taken therefor, and of any other moneys appropriated for the same purpose; and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent. of the amount of such fund, and also all money received by the state from the tax on banks, shall be annually appropriated to the support of common schools, and distributed among the several towns according to the number of children therein between four and twenty-one years of age.

Permanent school fund.
R.S., c. 11, § 91.

SEC. 119. The treasurer shall, immediately after the first day of July, apportion to the towns all state school funds for the year, according to the list of children furnished by the superintendent of common schools, as provided in section one hundred and seven. The number of scholars belonging to a town from which a return has not been received, shall be reckoned by taking the number used as the basis of the last apportionment, and deducting all scholars

Treasurer to apportion school funds.
R.S., c. 11, § 92.
See §§ 6, 88, item 9.

Basis when returns are not received.

CHAP. 11. set off to other towns, or incorporated into a new town within a year, and one tenth of the remainder, and the residue shall be the basis of the new apportionment. Immediately after making the apportionment, the treasurer shall notify each town of its proportion; which shall not be paid to any town until its return is made to the superintendent of common schools.

Not to be paid until return is made.

Mill tax for support of schools.
1872, c. 43, § 1.
68 Me., 582,
586.

SEC. 120. A tax of one mill on a dollar shall annually be assessed upon all the property in the state according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

How assessed and collected.
1872, c. 43, § 2.

SEC. 121. This tax shall be assessed and collected in the same manner as other state taxes, and be paid into the state treasury and designated as the school mill fund.

To be distributed in January, annually.
1872, c. 77.

SEC. 122. This fund shall be distributed, by the state treasurer on the first day of January, annually, to the several cities, towns and plantations *of the state* according to the number of scholars [there-]in *each city, town or plantation*, as the same shall appear from the official return made to the office of the state superintendent of common schools for the preceding year.

Any portion unexpended to be added to permanent school fund.
1872, c. 43, § 4.

SEC. 123. All *and every portion* of the school mill fund not distributed or expended during the financial year shall at *the* [its] close *of each financial year* be added to the permanent school fund.

PROVISIONS RESPECTING LITERARY INSTITUTIONS.

Presidents of colleges, tenure of office.
R.S., c. 11, § 93.

SEC. 124. The presidents of colleges in this state are removable at the pleasure of the trustees and overseers, whose concurrence is necessary for their election.

Fees for degrees conferred.
R.S., c. 11, § 94.

SEC. 125. No officer of a college shall receive as perquisites any fees paid for a diploma or medical degree conferred by such college, but they shall be paid into *the* [its] treasury for the use of the college.

Innholders, stable-keepers, and certain others not to give credit to students.
R.S., c. 11, § 95.
—penalty.

SEC. 126. If an innholder, confectioner, or keeper of a shop, boarding house, or livery stable, gives credit for food, drink, or horse or carriage hire to any pupil of a college or literary institution in violation of its rules, or without the consent of its president or other officer authorized thereto by its government, he shall forfeit a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the treasurer of such institution; half to its use, and half to the use of the town where it is located; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

SCHOOL FOR THE DEAF.

CHAP. 11.

SEC. 127. The governor, with the approval of the council, is authorized to send such deaf persons as he may deem fit subjects for instruction at the expense of the state, to the American Asylum at Hartford, or to the Portland School for the Deaf at Portland, as the parents or guardian may designate in their written application for aid.

Governor and council may send deaf persons to Hartford Asylum or to Portland school for deaf.
1879, c. 110, § 1.

SEC. 128. The governor is authorized to draw his warrant for such sums as shall be necessary to pay for the instruction and support of such pupils as may be sent to said institutions, respectively, pursuant to the provisions of the preceding section, the same not to exceed one hundred and seventy-five dollars per year for each pupil.

Governor to pay for instruction, &c., by warrant.
1879, c. 110, § 2.
Not over \$175.00 a year per pupil.

SEC. 129. The following blank forms shall be used in all applications:

Form of application.
1879, c. 110, § 3.

, 18 .

To His Excellency, the Governor of the State of Maine:

I, ———, of the town of ———, in the county of ———, and State of Maine, respectfully represent to your Excellency that my ———, aged ——— years, is deaf, and cannot be properly instructed in the public schools of this state; and that I am unable, in addition to my other necessary expenditures, to defray the expense attending ——— instruction and support. I therefore respectfully request that your Excellency will send ——— either to the American Asylum at Hartford, or to the Portland School for the Deaf at Portland, Maine.

(Signed) ———.

, 18 .

The undersigned, being acquainted with ———, a resident of the ——— of ———, are of the opinion that the foregoing statement made by ——— is true, and that ——— is entitled to the benefit of the legislative appropriation for the education of deaf persons.

(Signed)

—————, Mayor	}	of the city of ———.
—————,		
—————,		
—————,		
—————,		
—————,		
—————,	} Aldermen	
—————,		
or ———,	}	Selectmen of the town of ———.
—————,		
—————,		

CHAP. 11.

, 18 .

I hereby certify that the above named ———, a deaf person, is free from all contagious diseases, and, as I believe, from all immoralities of conduct; is neither sickly nor mentally weak, and is a fit subject for instruction at the expense of the state.

(Signed)

———, M. D.

Questions to be answered by the parent or guardian :

1. Name of parents.
2. Residence.
3. Birthplace of parents.
4. Were they deaf and dumb ?
5. Have they other children deaf and dumb ?
6. Name of child.
7. Birthplace of child.
8. Was the child born deaf and dumb ?
9. Has the child ever spoken ?
10. If it has, when was hearing lost ?
11. What was the cause ?
12. Has the child ever been to school ?
13. How much has the child been taught ?
14. Do you prefer to have the child sent to the American Asylum at Hartford, or the Portland school for the Deaf at Portland, Maine ?
15. Is the child mentally weak ?
16. Does the child now speak ; if so, how many words ?
17. Remarks.

CHAPTER 12.

PARISHES, MEETING-HOUSES, MINISTERIAL AND SCHOOL LANDS,
AND FUNDS ARISING THEREFROM.

PARISHES.

- SEC. 1. Mode of calling a meeting to form a parish; seven days notice to be given.
2. Organization; name; declared a parish with parish powers.
 3. Power to hold property to the amount of \$3,000, and to establish by-laws.
 4. Annual and other meetings. Officers; assessors to manage prudential concerns.
 5. Powers of moderator.
 6. When meetings may be called.
 7. How meetings may be called, if assessors refuse.
 8. Parish meetings, how called in case none have been held for three years.
 9. Parishes may raise money to build, repair, or remove houses of public worship, and for parish charges.
 10. How assessed on pews.
 11. Payment enforced by sale of pews; treasurer to pay owner the overplus.
 12. When current expenses are assessed on pews, how a pew owner, not occupying it, may escape payment of his tax for one year.
 13. Parishes may procure insurance on meeting-houses; in case of loss, insurance how applied.
 14. Manner of admission to a parish by vote at a legal meeting.
 15. Persons residing in parishes having state funds, to be deemed members thereof; may become members of other parishes by giving written notice.
 16. No person compelled to belong to a parish; manner of withdrawal.
 17. Territorial parishes continued; parish set off from town, remainder to constitute first parish.
 18. Certain persons not entitled to vote at parish meeting.
 19. Church wardens, deacons, ministers and elders to be deemed corporations. May take in succession, donations of real and personal estate.
 20. Ministers and officers of religious societies without settled minister may take donations, and prosecute and defend suits respecting them.
 21. Conveyances; if made by ministers to be limited to time of ministry, if by officers to term of office.
 22. Records of parishes open to inspection. Clerk to furnish attested copies of records.
 23. Parishes may appoint their treasurer, collectors, and authorize discounts. Assessors to give treasurer warrants.
 24. Overseers of monthly quaker meetings to hold grants as a corporation. May convey and manage donations. Annual income not to be over \$5,000. Legislature may modify powers.

MEETING-HOUSES.

- SEC. 25. Parishes may become owners of pews; proceedings.
26. Owners of pews dissenting; proceedings.

- CHAP. 12. SEC. 27. Persons may incorporate to hold a meeting-house.
28. Owners may repair or dispose of meeting-houses; meeting how called.
29. Appraisal; proceeds of sale, how disposed of; pews, how disposed of, in case of repairing or re-building; taxes may be raised and agents appointed to sell.
30. Proprietors dissenting, entitled to appraised value of their interest, deducting debts.
31. Owners of meeting-houses and of pews therein may incorporate themselves.
32. Mode of calling a meeting for that purpose. Manner of organizing.
33. Corporate rights and powers.
34. Meeting of pew holders, &c., how called in case no meeting has been held for three years.
35. How minority of different denominations may obtain division of time.
36. Mode of proceeding.
37. Proportion of minority to be appraised.
38. Expenses, how paid.
39. Minority may occupy their portion of time, unless majority will purchase.

MINISTERIAL AND SCHOOL LANDS, AND FUNDS ARISING THEREFROM.

- SEC. 40. Fee in ministerial and school lands, how vested.
41. Selectmen, town clerk, and treasurer to be trustees.
42. Trustees shall choose their officers annually.
43. Powers of such trustees.
44. Funds to be placed on interest.
45. Trustees may hold estate for use of the ministry and schools.
46. Income of funded property, how applied.
47. Incorporated trustees may transfer funds to selectmen, clerk and treasurer by consent of the town.
48. Trustees to account annually to the town.
49. If lands are vested in a parish, the assessors, clerk and treasurer to be trustees.
50. First meeting of trustees, how called.
51. Lots reserved for public uses may be located by a committee appointed by the S. J. Court.
52. Committee to be sworn.
53. Notice of appointment and meeting.
54. Committee to make return to next term of court.

PARISHES AND RELIGIOUS SOCIETIES.

Mode of calling a meeting to form a parish.

Seven days notice to be given.

R.S., c. 12, § 1.
66 Me., 107.

Organization; name;

SEC. 1. Any persons of the age of twenty-one years or more, desirous of becoming an incorporated parish or religious society, may apply to a justice of the peace of the county in which a majority of them reside, who shall issue his warrant to one of them, directing him to notify the other applicants to meet at some proper place expressed in such warrant; and he shall give notice of such meeting seven days at least before holding the same, by posting a notification thereof on the outer door of the meeting house or place of public worship of such society, if any, otherwise at such place as the justice appoints.

SEC. 2. Such persons so assembled may choose a clerk and

other needful parish officers, and shall thereupon be a corporation, bear the name they assume, and have all the powers of parishes and religious societies.

SEC. 3. Every parish may take by gift or purchase any real or personal estate, until the clear annual income thereof amounts to three thousand dollars; and convey the same; and establish by-laws not repugnant to the laws of the state.

SEC. 4. The annual or other meetings of such parish may be called by its assessors, or clerk, to be held at the time and place in the town where they are usually held; and [they shall be] notified as prescribed in the first section, or in the manner agreed on by its vote; and at such meeting, they may choose a clerk, who shall be sworn, two or more assessors, a collector, treasurer, standing committee, and all other needful officers. The assessors shall manage the prudential concerns of the parish, when no other persons are appointed for that purpose, and shall be duly sworn.

SEC. 5. The moderator of any meeting shall have power to preserve order, manage the business, and administer the oath to the clerk and the assessors.

SEC. 6. When five members of any parish in writing request the assessors to call a meeting, or insert any particular article in the warrant therefor, they shall do so.

SEC. 7. If they unreasonably refuse to do so, any justice of the peace in the county on like application may issue his warrant to one of the applicants, who shall notify such meeting as prescribed in the first section, or as agreed on by parish vote.

SEC. 8. When there has been no meeting of such parish or society for three years, a meeting may be called as provided in section thirty-four.

SEC. 9. Every parish, at a legal meeting, may raise money for the support of the public ministry of religion, for building, repairing, or removing houses of public worship, and for other necessary parish charges; and it may be assessed and collected as state taxes are.

SEC. 10. When a house of public worship belongs to a parish, or it and the fee of the land, on which it stands, is vested in trustees for the use of a parish, such parish may assess any money raised as aforesaid, wholly or partly, on the pews or seats, whether owned by members of such parish or religious society or not; and the owners may be present and vote in raising such money.

SEC. 11. When taxes on pews and seats remain unpaid for six months after their assessment, the treasurer shall sell them at auction, first posting notice thereof at the principal outer door of such house of worship, three weeks before the time of sale, stating

CHAP. 12.

R.S., c. 12, § 2.
19 Me., 21.
66 Me., 107.

May hold property and pass by-laws.
R.S., c. 12, § 3.
1873, c. 143.
66 Me., 107.

Meetings, how called.
R.S., c. 12, § 4.
6 Me., 450.
66 Me., 107.

Powers of moderator.
R.S., c. 12, § 5.
66 Me., 107.

When meetings may be called.
R.S., c. 12, § 6.

How meetings called, if assessors refuse.
R.S., c. 12, § 7.

When no meeting for three years, how called.
R.S., c. 12, § 8.

For what purposes may raise money.
R.S., c. 12, § 9.
6 Me., 173.

How assessed on pews.
R.S., c. 12, § 10.
5 Me., 220.

Payment enforced by sale of pews.
Overplus paid to pew owner.

CHAP. 12. the numbers, if any, of the pews or seats and the amount of tax on each; and shall execute and deliver a deed thereof to the purchaser, and pay to the owner the overplus, after deducting the amount of tax and incidental charges.

R.S., c. 12, § 11.

When pew owner not occupying his pew may notify his intention not to occupy for a year. 1879, c. 153. Thereafter not liable to tax.

No right to vote at annual meeting.

Parish or church may let his pew. But not sell it for that year's taxes.

Parishes may procure insurance; in cases of loss, how applied. R.S., c. 12, § 13.

Admission to a parish. R.S., c. 12, § 14. 1881, c. 32.

Persons deemed members. 2 Me., 70. 7 Me., 416. R.S., c. 12, § 15. 1881, c. 32.

Connection how dissolved.

SEC. 12. Whenever any parish or church shall raise their current expenses by assessment on the pews of the church, any owner of a pew or pews in said church, who shall not occupy said pew or pews, either by himself or family, or rent the same, may give a written notice to the clerk of the parish or church, or to the parish committee or assessors of his, her or their intention, not to occupy said pew or pews for the term of one year following the next annual meeting of said parish or church, in which case the owner of said pew or pews shall not be liable for the payment of any tax that may be assessed on said pew or pews during said year, neither shall he have the right of acting and voting at said annual meeting unless he retains a pew for the occupancy of himself and family, and the parish or church shall have a right to let said pew or pews during said year, and appropriate the amount received therefrom to the current expenses of the parish or church, and said parish or church shall not sell said pew or pews for taxes assessed that year.

SEC. 13. A parish in the actual occupancy of a church, meeting-house, or other building used for religious purposes may insure it against loss by fire. And in case of such loss the company insuring shall not deny the occupancy of the parish, its legal existence, or its right to maintain an action on the policy. The money so recovered shall be held by the parish in trust for repairing or restoring the building and [shall be] so applied.

SEC. 14. A person of either sex, twenty-one years of age and upwards, may become a member of a parish or religious society by vote thereof at a legal meeting.

SEC. 15. Any such person residing in a local parish holding funds derived from this state or Massachusetts, shall be deemed a member of it, until he dissolves the connection; and any such person having resided in such parish one year, and after he has arrived to the age of majority, without either giving written notice to its clerk of his consent to be a member thereof, or paying a tax or subscription according to the mode the said parish may have adopted to raise money for lawful purposes, shall be deemed to have thereby dissolved his connection therewith; and said connection shall remain dissolved, and said person shall not be taxable until he renews the connection by giving written notice to its clerk of his consent to be a member of said parish; and any person residing in a local parish may become a member of such parish not deriving funds from the state, by giving written notice

to its clerk of his intention to do so within one year after he is of age or removes thereto. CHAP. 12.

SEC. 16. No such person shall be a member of a parish or religious society without his consent; and any person may dissolve his connection therewith by leaving with its clerk a certificate of his intention to do so; and all his liability for future expenses shall thereby cease; but he may be taxed for money previously raised, except in case of removal from a local parish.

No person compelled to belong to a parish.
Withdrawal.
R.S., c. 12, §16.
6 Me., 266,
451.
1881, c. 32.

SEC. 17. No territorial parish is hereby dissolved; and when one or more parishes are set off from a town, or incorporated therein, as aforesaid, the remaining part shall be the first parish.

Territorial parishes continued.
R.S., c. 12, §17.

SEC. 18. No person shall vote in meetings of any territorial parish who is not the owner or occupant of a pew in its house of worship, nor contributes to its support.

Who cannot vote at parish meetings.
R.S., c. 12, §18.

SEC. 19. The church wardens of Episcopal churches, the stewards or trustees of the Methodist Episcopal church, and the deacons of all other protestant churches, are so far corporations as to take, in succession, all grants and donations of real and personal estate, made to their churches, or to them and their successors; and if the ministers, elders or vestry are joined with them in such grants or donations, the two classes of officers shall be corporations for that purpose. Such corporations are also invested with the power to organize as corporations, and to make such contracts in relation to such estate, its improvement or disposition, as they may be authorized under the rules of their church to make, or be instructed to make by the church or society for which they hold such estate in trust, which contracts may be enforced by or against them, as in other cases; *provided*, however, that no disposition of such estate shall be made inconsistent with the terms of the grant by which it is held.

Officers of churches are corporations for certain purposes.
1881, c. 61.
1 Me., 216,
280.
3 Me., 347.
6 Me., 357.
15 Me., 416.
66 Me., 108.
71 Me., 474,
476-7.
—may organize as corporations and make contracts.

Proviso.

SEC. 20. The ministers of a parish or religious society, and the deacons, elders, trustees, stewards and other presiding officers of a religious society or church having by its usages no settled minister, may take, in succession, any estate granted to the minister and his successors, or for the use of the ministry, or poor of the church; and may prosecute and defend all suits respecting it, but they shall not so take, while the clear annual income of prior grants is three thousand dollars.

Ministers and officers of religious societies, powers of.
R.S., c. 12, §20.
4 Me., 375.
5 Me., 221.
19 Me., 291.
26 Me., 512.
66 Me., 108.

SEC. 21. No conveyance of such estate by a minister shall be valid longer than he is in the ministry; or by such deacons or other officers, longer than they are in office, if made by them without consent of the church, or by church wardens without the consent of the vestry.

Power to convey such lands, limited.
R.S., c. 12, §21.
66 Me., 108.

SEC. 22. The records of a parish shall be open to the inspection of its members and to clerks of other parishes; and each clerk

Parish records open to inspection.

CHAP. 12. shall furnish attested copies thereof, on request, for a reasonable R.S., c. 12, § 22. compensation.

Parishes may appoint treasurer, collector and allow discount.
R.S., c. 12, § 23.

SEC. 23. When a parish or religious society lawfully raises money by taxation, it may appoint its treasurer a collector of taxes, who shall have the same powers as a town treasurer who is collector; and it may allow a similar discount on taxes paid within [the] time fixed by it at a legal meeting, and the treasurer shall give like public notice thereof; and all other taxes shall be collected by him as town taxes are. When such treasurer and collector is qualified, the assessors shall deposit with him a list of the taxes with their warrant for their collection.

Overseers of monthly quaker meetings to hold grants as a corporation.

SEC. 24. The overseers of each monthly meeting of the quakers may take and hold, in succession, all grants of real, personal, or mixed estate made to them, to or for the use of their monthly meetings, to the preparative meetings constituting them, or to the poor thereof; and also all grants of real estate situated within the limits of their monthly meetings, and donations of personal estate given by persons living within said limits, made to or for the use of any of the quarterly meetings of said quakers, to said overseers for their use, or to the poor thereof; and may convey and manage such estate according to the terms and conditions on which it was given; and may sue in their own names for any right that has vested in any of the said grantees, or donees; *provided*, the annual income thereof to one meeting for such uses does not exceed five thousand dollars. These powers may be enlarged, restrained or repealed by the legislature.

Powers may be enlarged.
R.S., c. 12, § 24.

MEETING-HOUSES.

Parish may become owner of pews.
Proceedings.
R.S., c. 12, § 25.

SEC. 25. When it is deemed expedient by any organized parish to become the owner of the pews in any meeting-house used by it as a place of regular worship, a meeting of the owners and occupants thereof may be called as provided in section six, and a majority of such pew owners and occupants may vote to convey the pews by them owned or occupied, to such parish.

Owner of pew dissenting, proceedings.
R.S., c. 12, § 26.

SEC. 26. Any owner or occupant of a pew in such meeting-house, who shall express his dissent from such vote, in writing, to the parish clerk within one month from such meeting, shall have his pew appraised as provided in section twenty-nine, and the appraised value shall be tendered to him, and he shall then deliver a deed of such pew to the parish. If such dissent is not expressed, said pew shall be forever forfeited to the parish.

Persons may incorporate to hold a meeting-house.

SEC. 27. Any persons, for the purpose of erecting a meeting-house, or the majority in interest of the owners of a meeting-house, not a parish, may incorporate themselves the same as parishes

may; and choose all officers and do all other acts that a parish may lawfully do.

SEC. 28. A majority of the pew owners or proprietors of a meeting-house present at a legal meeting called for that purpose may repair, remodel, or sell and convey their house or the land used with it, or remove or rebuild it. Any meeting relating thereto may be called as provided in section thirty-one; or by publishing the warrant in a newspaper printed in the county, at least fourteen days before the meeting.

SEC. 29. Before such alteration or sale is made an appraisal of the relative value of the pews shall be made by three discreet persons, under oath, to be elected by ballot at a legal meeting of said owners or proprietors. If a sale of said house and land is made, it may be private or public, as such meeting determines, and the proceeds shall be applied to pay the expenses of said sale and the debts and just claims against the property; and the balance shall be paid to the pew owners or proprietors, in proportion to their interests by the appraisal. If the meeting-house is altered or rebuilt, the appraisers, after the work is completed, shall assign to the former pew holders pews, to conform as near as practicable to those previously held by them; and the other pews may be sold to defray the expenses of the repairs and alterations, or otherwise disposed of as the proprietors or pew owners [may] determine. They may choose officers, raise and assess taxes on the pews, and collect them for the purpose of making such repairs and alterations, and do all things that a parish can lawfully do, and appoint some suitable agent or agents to make such sale and conveyance, or repairs and alterations, and a treasurer or trustees to receive and distribute the proceeds of sale in manner aforesaid.

SEC. 30. When it is decided to repair, remodel, or rebuild a meeting-house, any owner or proprietor dissenting from the action of a majority and declining to take any interest in the house as altered, may demand and receive of such majority the appraised value of his interest, after deducting his proportion of debts against the property, to be recovered in an action for money had and received; which shall not be commenced till thirty days after such demand, nor after the lapse of a year after notice is posted three successive weeks on the meeting-house door and some other conspicuous place in its precinct, stating the persons to whom the money is to be paid, the amount [payable] to each, and the time limited for payment. If said sums are not demanded within said time, it is forfeited to the majority for parish uses. But the provisions of this section shall not apply to any case where the

CHAP. 12.

R.S., c. 12, § 27.
66 Me., 401.

Owners may repair or dispose of meeting-houses.

Warrant for calling meeting.

R.S., c. 12, § 28.

Appraisal, proceeds of sale, how disposed of; pews, how disposed of, in case of repairing or rebuilding; taxes may be raised and agents appointed to make sale.
R.S., c. 12, § 29.

Proprietors dissenting, entitled to appraised value of their interest.
1872, c. 48.

Limitation.

CHAP. 12. repairs decided to be made are only such as may be necessary to keep such meeting-house in a tenable condition.

Owners of meeting-houses and pews therein may incorporate themselves.
R.S., c. 12, § 31.
Mode of calling a meeting for that purpose.

SEC. 31. The owners of a meeting-house or building for public worship, and the pew owners, may be incorporated, when any three or more of them apply to a justice of the peace therefor, who shall issue his warrant to one of them stating the time, place and purpose of the meeting, and directing him to notify said owners by posting up a certified copy of it fourteen days on the principal outer door of such building and in one or more other public places in the same town.

Manner of organizing and becoming incorporated.
R.S., c. 12, § 32.

SEC. 32. When so assembled, they may choose a moderator and clerk, who shall perform the usual duties of such officers; and thereupon said owners shall be a corporation, and [be] known by such name as they adopt, and [they] may agree on the mode of calling future meetings.

Corporate rights and powers.
R.S., c. 12, § 33.
59 Me., 253.

SEC. 33. Such corporation, by a major vote of its members, may use and control the meeting-house or building for public worship partly or wholly owned by them, as they please; but nothing in this and the two preceding sections shall affect the rights of owners of houses of worship, built by different religious denominations.

Meetings of owners of meeting-houses, how called.
R.S., c. 12, § 34.

SEC. 34. When there has been no meeting of the incorporated pew owners, or proprietors or owners of a meeting-house, or building for public worship, for three years, a meeting may be called on application of three or more members thereof to a justice of the peace, who shall issue his warrant to one of them, stating the time, place and purposes of the meeting, directing him to notify such meeting by posting up a certified copy of said warrant, three weeks before the time of meeting, on the principal outer door of such meeting-house or building, and in one or more public places in the same town, and publishing it in a newspaper published in the county, if any, otherwise in an adjoining county, or in the state paper.

Minority of different denominations may have division of time, and how obtained.
R.S., c. 12, § 35.
59 Me., 252.

SEC. 35. When a house of public worship is owned by persons of different denominations, and when an organized society, or its members own five pews therein, one or more of the minority owning not less than five pews may apply to a justice of the peace and quorum to obtain a division of the time of occupying the house; and he shall call a meeting of the owners by posting up a notice in a public place in or about the house, thirty days at least before the meeting, stating the time, place and object of the meeting.

Mode of proceeding.
R.S., c. 12, § 36.
59 Me., 252.

SEC. 36. At such meeting the owners, who are not applicants, or if they refuse or neglect, the justice who called the meeting, may designate another justice, and the two may appoint a third

person, who is disinterested, and not an inhabitant of the town in which the house is located, or belonging to the denomination of either party interested; and the three shall be a board, before which the owners may exhibit the amount they own in the house; and the minority owning at least five pews shall have their part allotted to them, as nearly as may be, in proportion to the amount they own in the house; and the board shall designate which weeks in each year the minority if they please, may occupy the house; if they do not, the majority may [occupy it].

SEC. 37. The board shall appraise the value of the minority's proportion of the house, make a record of their proceedings, and within ten days cause it to be transcribed into the records of the town where the house is.

Proportion of minority to be appraised.
R.S., c. 12, § 37.
59 Me., 252.

SEC. 38. All their reasonable expenses shall be paid by the person or persons who requested the division; but the above provisions shall not affect any agreement now in force as to the mode of occupying such house.

Expenses, how paid.
R.S., c. 12, § 38.

SEC. 39. The minority may occupy the house their allotted time, unless the majority purchase their interest, by paying the minority the sum at which it was appraised by the board; but if the minority decline so to sell, they shall not avail themselves of the provisions of the four preceding sections.

Minority may occupy their proportion of time unless majority will purchase.
R.S., c. 12, § 39.

MINISTERIAL AND SCHOOL LANDS, AND FUNDS ARISING THEREFROM.

SEC. 40. Where lands have been granted or reserved for the use of the ministry, or first settled minister, or for the use of schools, in any town in this state, and the fee in these lands has not vested in some particular parish within such town, or in some individual, it shall vest in the inhabitants of such town and not in any particular parish therein, for such uses.

Fee in ministerial lands, how vested.
R.S., c. 12, § 40.
1 Me., 281.
15 Me., 419.
See c. 5, §§ 9, to 23.

SEC. 41. The municipal officers, town clerk and treasurer of each town where no other trustees are lawfully appointed for that purpose, shall be a corporation and trustees of such ministerial and school funds forever, with the usual powers granted to similar corporations.

Selectmen, town clerk and treasurer to be trustees.
R.S., c. 12, § 41.

SEC. 42. They shall annually elect a president, clerk and treasurer; the treasurer shall give bond with sufficient sureties in the opinion of the trustees, for the faithful discharge of his duty; and the clerk shall be duly sworn.

Trustees shall choose officers annually.
R.S., c. 12, § 42.

SEC. 43. They may sell and convey all such ministerial and school lands belonging to and lying in their town; and the treasurer's deed thereof duly executed by order of the trustees, shall pass the estate.

Powers of such trustee.
R.S., c. 12, § 43.
29 Me., 46.

SEC. 44. As soon as may be, they shall place the proceeds of

Funds to be placed on

CHAP. 12.
interest.
R.S., c. 12, § 44.

Trustees
may hold es-
tate for use
of the minis-
try and
schools.
R.S., c. 12, § 45.

Income of
funded prop-
erty, how
applied.
R.S., c. 12, § 46.

Incorporat-
ed trustees
may transfer
funds to se-
lectmen,
clerk and
treasurer by
consent of
the town.
R.S., c. 12, § 47.

Trustees to
account an-
nually to the
town.
R.S., c. 12, § 48.

If lands are
vested in a
parish, the
assessors,
clerk and
treasurer to
be trustees.
R.S., c. 12, § 49.

First meet-
ing of trus-
tees, how
called.
R.S., c. 12, § 50.

Lots reserv-
ed for public
uses, loca-
tion of, by
committee
appointed by
S. J. C.
1872, c. 65, § 1.

sale at interest secured by mortgage of real estate of twice the value of the principal, or by bond or note with sufficient sureties, or invest them in bank stock or public securities.

SEC. 45. They may take and hold real or personal estate, by gift, grant, or otherwise, for the use of the ministry in their towns, the annual income of which does not exceed one thousand dollars; and for the use of schools, the annual income of which does not exceed the sum, which their town is bound to raise for the same use.

SEC. 46. The income of the fund, arising from the sale of lands under section forty-three, and from the rents and profits of real and personal estate held under section forty-five, shall be annually applied to the support of public schools in the town, and expended as other school money is.

SEC. 47. The trustees of any ministerial or school fund in this state, incorporated by the legislature of Massachusetts, may by consent of the town for whose use the fund was established, transfer it to the municipal officers, clerk, and treasurer thereof, who are hereby made trustees thereof; and the income shall be annually applied and expended as provided in the preceding section.

SEC. 48. At each annual meeting of their town, the trustees shall exhibit an account of their proceedings, and a statement of the funds, receipts, and expenditures, and of the application thereof to said uses.

SEC. 49. When such lands are vested in a parish, the assessors, clerk, and treasurer, where no other trustees are appointed for that purpose, shall be a corporation and trustees of such ministerial fund forever, with like powers and under like liabilities, as the municipal officers, town clerk, and treasurer; pay the annual income of such lands and of the proceeds of their sale according to the terms of the grants and reservations by which they were so vested; and at each annual meeting for choice of parish officers, exhibit an account of their proceedings, and a statement of funds, receipts, and expenditures.

SEC. 50. The first meeting of the trustees constituted by sections forty-one and forty-nine in any year, may be called by seven days personal notice of the time and place thereof, given by one of them to all the others.

SEC. 51. When in the grant of any townships or parts of townships certain portions are reserved for public uses, and such portions have not been located in severalty prior to the incorporation of [the] same into a town, the supreme judicial court in the county where the land lies, on application of the assessors of the town, may appoint three disinterested persons of the county, and

issue its warrant under seal of the court to them, requiring them as soon as may be to locate such reserved portion according to the terms of the grant, and if the use or purpose of the reservation is prescribed in the grant, they shall set off and locate the lots accordingly, designating the use or purpose for which each lot is so reserved and located.

CHAP. 13.

SEC. 52. Said committee before acting under such warrant, shall be sworn before a justice of the peace to the faithful discharge of the duty assigned them, and a certificate thereof shall be indorsed on the warrant.

Committee
to be sworn.
1872, c. 65, § 2.

SEC. 53. They shall also give notice of their appointment, and of the time and place of their meeting to execute the same, by publishing the same in some newspaper in the state to be designated by the court, and by posting up written notifications in two or more public places in the same town, at least thirty days next prior to their making such location.

Notice of ap-
pointment
and meeting.
1872, c. 65, § 3.

SEC. 54. They shall under their hands make return of said warrant and their doings thereon, to the next supreme judicial court in the county, after having completed the service; which being accepted by the court and recorded in the registry of deeds of the same county within six months, shall be a legal assignment and location of such reserved proportions, for the uses designated; and thereafter the lands so set off and located, shall be under the care and oversight of the trustees of the ministerial and school funds of the town, with all the powers and subject to the duties prescribed in this chapter, including the power to sell and convey the same.

Return of
the doings
of the com-
mittee.
1872, c. 65, § 4.

CHAPTER 13.

PRACTICE OF MEDICINE AND SURGERY.

- SEC. 1. When a dead body may be delivered to a physician or surgeon.
2. When the body of a deceased convict is so delivered for advancement of anatomical science, bond is required. Penalty.
 3. Unclaimed bodies are subject to the use of the Medical School of Maine for anatomical purposes.
 4. Municipal officers to notify officers of school, and to deliver subjects on request.
 5. Secretary of school to preserve such subjects without dissection for thirty days, and to identify them by public record.
 6. Subject may be claimed within said time.
 7. Penalty for violation of sections five and six.
 8. Penalty for unlawful possession of a subject.
 9. Irregular practitioners cannot collect bills without certificate of character.

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A body may be delivered to physician, if person has consented.
1881, c. 93, § 2.

When convict's body may be used for anatomical purposes.
R.S., c. 13, § 2.

Persons entitled to receive such bodies.

Condition.

Bond to be given.

—sum collected on such bonds to be used for support of poor.

Unclaimed bodies to be subject to use of medical school of Maine.
1881, c. 93, § 3.

Municipal officers to notify and deliver bodies to officers of school.
1881, c. 93, § 4.

—bond to be given.

—penalty for violation.

SEC. 1. If any person resident in *this* [the] state, requests or consents *during his life* that his body may be delivered to a regular physician or surgeon, for the advancement of anatomical science, after his death, it may be used for that purpose, unless some kindred or family connection makes objection.

SEC. 2. When any person convicted of crime dies, or is executed, in the state prison or any jail, the warden or keepers shall, on request, deliver his body to instructors in medical schools established by law, if requested by them, otherwise to any regular physician or surgeon for anatomical purposes in *this* [the] state, unless at any time the deceased requested to be buried, or within three days after his death any kindred or friend requests to have *it* [such body] buried. Before receiving such body, the physician or surgeon shall give bond to the treasurer of the town where the body is, in a sum not less than one hundred dollars, with sufficient sureties approved by a majority of the municipal officers, that *such body* [it] shall only be used for anatomical purposes in *this* [the] state, and *that* after such use, shall be decently buried; and if the conditions of such bond are broken, such treasurer shall enforce its payment; and the proceeds thereof shall be applied to the support of the poor in his town.

SEC. 3. The body of any person dying in *this* [the] state, which shall not be claimed, reasonable notice being given for burial by the family or next of kin of such person, shall be subject to the use of the Medical School of Maine, for anatomical purposes, as hereinafter provided, and if, at any time said school shall receive a greater number of bodies than it needs for the instruction of its students, it *shall be authorized to* [may] deliver the excess to any regular physician or surgeon, for the same purpose, in *this* [the] state.

SEC. 4. Persons having the care of such bodies shall forthwith notify the municipal officers of the town in which such bodies are, and upon the reception of such notice *the municipal* [said] officers *of such town* shall immediately notify, by mail or otherwise, the officers of said school stating the age and sex of the deceased, and the cause of death, if known, and on request of the officers of said school, if made within two days after receiving such notice, said municipal officers shall deliver such body to the officers of such school, or to any regular physician or surgeon by them designated to receive the same; but before receiving any such body, said medical school, physician or surgeon, shall give bond to the treasurer of such town, as provided in section two. Any person who shall knowingly violate the provisions of this section shall forfeit *the sum of* thirty dollars, to be recovered by an action of debt, one half to the use of the prosecutor, and one half to the use of said school.

SEC. 5. Whenever the body of any person dying in *this* [the] state, shall come into the possession of the officers of said school, the secretary of the faculty thereof shall cause such body to be embalmed without delay, and preserved without dissection for thirty days. If the subject's name is unknown, the body shall be identified by a sufficient description, to be recorded by the secretary in a book kept for that purpose *which shall be open to public inspection.*

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Secretary of school to preserve such subjects for 30 days. 1881, c. 94, § 1.

Identification to be recorded.

SEC. 6. Any of the family or next of kin of such subject, may claim the body for burial within said thirty days, and the same shall be delivered to them for said purpose on demand.

May be claimed for burial within time. 1881, c. 94, § 2.

SEC. 7. Any violation of the two preceding sections shall be punished by a fine not exceeding one thousand dollars.

Penalty for violation. 1881, c. 94, § 3.

SEC. 8. Whoever willfully and knowingly shall have in his possession, for anatomical purposes, the body of any person dying within *this* [the] state, or any part thereof, unless the same shall be obtained in the manner provided by the first four sections of this chapter, shall be punished by imprisonment for not more than five years, or by fine not exceeding three thousand dollars.

Penalty for having illegal possession of a body for anatomical purposes. 1881, c. 93, § 1.

SEC. 9. No person *except a physician or surgeon who commenced practice prior to February sixteenth, eighteen hundred and thirty-one, or has** [who has not] received a medical degree at a public medical institution in the United States, or a license from the Maine Medical Association, shall recover any compensation for medical or surgical services, unless previous to such services, he had obtained a certificate of good moral character from the municipal officers of the town where he then resided.

Irregular practitioners cannot collect bills without certificate of character. R.S., c. 13, § 3. 3 Me., 25. 18 Me., 271. 25 Me., 107. 28 Me., 100. 45 Me., 409. 51 Me., 598. 59 Me., 182.

* [NOTE. This clause seems to have become obsolete.]

CHAPTER 14.

CONTAGIOUS DISEASES.

POWERS AND DUTIES OF MUNICIPAL OFFICERS.

- SEC. 1. Precautions against infected persons; duty of municipal officers.
2. Precautions against persons arriving from infected places.
3. Restrictions on such persons; may be removed if refractory; penalty if they return.
4. Precautions authorized in border towns.

REMOVAL OF INFECTED PERSONS AND GOODS.

- SEC. 5. Process for removal or separate accommodation of infected persons.
- 6, 7. Process for securing infected articles.

- CHAP. 14. SEC. 8. Powers of officers in executing such process.
9. Expenses, how paid.
10. Compensation of men or property impressed.
11. Adjournment of courts because of danger from infection.

REMOVAL OF INFECTED PRISONERS.

- SEC. 12. Removal of infected prisoners from places of confinement.
13. Order for removal, how returned. Removal not an escape.

HEALTH COMMITTEE OR OFFICER.

- SEC. 14. Health committee, how chosen; their duties.
15. If no committee chosen, selectmen to perform the duties.
16. May order removal of private nuisances; proceedings thereon.

INFECTED VESSELS. QUARANTINE.

- SEC. 17. Masters, &c., of vessels may be examined on oath in certain cases.
18. Vessels with infected persons to anchor at a distance from towns.
19. Penalty for violation of the foregoing provision.
20. Selectmen may establish quarantine regulations.
21. Duty of pilots to give notice thereof.
22. Punishment for violation or evasion of quarantine, after notice.
23. Selectmen to furnish signals, to be kept hoisted by master. Restrictions on persons visiting vessels at quarantine.
24. Health committee may exercise authority of selectmen relating to quarantine.
25. Quarantine expenses, how paid.

TOWN HOSPITALS.

- SEC. 26. Hospitals may be established. Restrictions as to location thereof.
27. Restrictions on inoculation with the small pox.
28. Physicians and others liable to hospital regulations.
29. Hospitals to be provided on breaking out of infectious diseases; regulations.
30. Precautions to prevent the spread of such diseases.
31. Penalty for violation of hospital regulations by physician or inmate.

GENERAL PROVISIONS.

- SEC. 32. Householders and physicians to give notice of infectious diseases under their care.
33. Forfeitures, how recovered and appropriated.

BOARD OF HEALTH.

- SEC. 34. Towns may choose a board of health; their powers and duties.
35. Free vaccination to be provided annually in each town.
36. By-laws may be established.

CONTAGIOUS DISEASES AMONG CATTLE.

- SEC. 37. Cattle infected by contagious diseases to be isolated by city and town officers. Maintenance, when paid. Owners may be directed to isolate their cattle. Damages or loss, how paid.
38. Animals to be examined; to be killed if necessary.
39. Cattle killed to be appraised.
40. Departure of cattle from inclosure may be prohibited, &c.
41. Passage of animals, how regulated.
42. Regulations to be recorded and published.
43. Sale of infected animals prohibited.

SEC. 44. Disobedience of orders of selectmen and mayor and aldermen, how punished. CHAP. 14.

45. Knowledge of disease to be reported.
46. Forfeiture for neglect or refusal of town or city officers, to perform certain duties.
47. Appraisals of animals, how made.
48. Land, how taken for enclosure.
49. Notice to governor and secretary of board of agriculture.
50. Commissioners may be appointed to make regulations, &c.
51. Such regulations to supersede all others.
52. Losses and damages, how ascertained and paid.
53. Commissioners to keep a record and make return biennially to the legislature.
54. Commission may be terminated by governor and council.
55. The preceding eighteen sections apply to horses infected with glanders, &c.

POWERS AND DUTIES OF MUNICIPAL OFFICERS.

SEC. 1. When any person is or has recently been infected with any disease or sickness dangerous to the public health, the municipal officers of the town where he is, shall provide for the safety of the inhabitants, as they think best, by removing him to a separate house, if it can be done without great danger to his health, and by providing nurses and other assistants and necessities; at his charge or that of his parent or master, if able, otherwise, [at] that of the town to which he belongs.

Precautions
against in-
fected per-
sons.
R.S., c. 14, § 1.
19 Me., 223.
28 Me., 257.
45 Me., 409.
52 Me., 119.
66 Me., 61,
62, 72.
67 Me., 371.

SEC. 2. When any infectious or malignant distemper is known to exist in any place out of the state, the municipal officers of any town in the state, by giving [such] public notice therein as they find convenient, may require any person coming from such place to inform one of them or the town clerk of their arrival and from what place; and if he does not, within two hours after his arrival, or after actual notice of such requirement, give such information, he shall forfeit one hundred dollars to the use of the town.

Precautions
against per-
sons arriving
from infected
places.
R.S., c. 14, § 2.

SEC. 3. Said officers may prohibit a person, required to give such information, from going to any part of their town where they think his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of either of said officers, may issue his warrant to any proper officer or other person named therein, and cause him to be removed out of the state; and if during the prevalence of such distemper in the place where he resides, he returns to any town in this state, without the license of the municipal officers thereof, he shall forfeit not exceeding four hundred dollars.

Restrictions
on such per-
sons; may be
removed if
refractory.

Penalty if
they return.
R.S., c. 14, § 3.

SEC. 4. The municipal officers of any town near to or adjoin- Precautions

CHAP. 14.

authorized
in border
towns.
R.S., c. 14, § 4.

ing the line of the state, may appoint, by writing under their hands, suitable persons to attend at any places by which travellers may pass into such town from infected places in other states or provinces; who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from travelling until licensed thereto by a justice of the peace in the county, or [by] one of said officers; and any such passenger who without such license travels in this state, except to return by the most direct way to the state or province whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit not exceeding one hundred dollars.

REMOVAL OF INFECTED PERSONS AND GOODS.

Process for
removal or
separate ac-
commoda-
tion of infect-
ed persons.
R.S., c. 14, § 5.
66 Me., 72, 73,
314, 315.

SEC. 5. Any two justices of the peace may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the municipal officers of the town where he is; or to impress and take up convenient houses, lodgings, nurses, attendants, and other necessities for the accommodation, safety and relief of the sick.

Process for
securing in-
fected arti-
cles.
R.S., c. 14, § 6.

SEC. 6. When on the application of the municipal officers of a town, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods of any kind within such town are infected with any malignant contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as the justice thinks necessary, to secure such infected articles, and to post said men as a guard over the house or place where the articles are lodged, who shall prevent any persons removing or coming near such articles, until due inquiry is made into the circumstances thereof.

Justice may
by warrant
require offi-
cers to re-
move them
to suitable
places.
R.S., c. 14, § 7.

SEC. 7. He may by the same warrant, if it appears to him necessary, require said officers, under the direction of the municipal officers, to impress and take up convenient houses or stores for the safe keeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the municipal officers think they are free from infection.

Powers of of-
ficers in exe-
cuting such
process.
R.S., c. 14, § 8.

SEC. 8. Said officers, if need be, may break open any house, shop, or other place mentioned in the warrant where infected articles are, and require such aid as is necessary to execute it; and all persons at the command of *either of said officers* [any such officer], under a penalty of not exceeding ten dollars, shall assist in such execution.

Expenses,
how paid.
R.S., c. 14, § 9.

SEC. 9. The charges of securing such infected articles and of transporting and purifying them shall be paid by the owners thereof, at the price determined by the municipal officers.

SEC. 10. When the officer impresses or takes up any houses, stores, lodging, or other necessities, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed. CHAP. 14.
Compensation for men or property impressed.
R.S., c. 14, § 10.
65 Me., 404.

SEC. 11. When a malignant infectious distemper prevails in any town wherein the supreme judicial court, [the superior court], or court of county commissioners is to be held, said courts may be adjourned and held in any town in said county, by proclamation made in such public manner as the courts judge best, as near their usual place of meeting as they think safety permits. Adjournment of courts because of danger from infection.
R.S., c. 14, § 11.

REMOVAL OF INFECTED PRISONERS.

SEC. 12. When any person in jail, house of correction, or workhouse, is attacked with any disease, which the municipal officers of his town, by medical advice, consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement. Removal of infected prisoners from places of confinement.
R.S., c. 14, § 12.

SEC. 13. If he was committed by order of a court or under a judicial process, the order for his removal, or a copy thereof attested by the municipal officers, shall be returned by them with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape. Order for removal, how returned.
Such removal not an escape.
R.S., c. 14, § 13.

HEALTH COMMITTEE OR OFFICER.

SEC. 14. A town at its annual meeting, may choose a health committee of not less than three nor more than nine, or one person to be a health officer; who shall remove, at the expense of their town, all filth found in any place therein, which, in their judgment, endangers the *lives* [life] or health of any inhabitant; and require the owner or occupant, when they think necessary, to remove or discontinue any drain or other source of filth. Health committee, how chosen; their duties.
R.S., c. 14, § 14.
See §§ 24, 34.

SEC. 15. If any town, at its annual meeting, omits to choose such committee or officer, the municipal officers shall be a health committee, and have all their powers and perform all their duties. If no committee, selectmen to perform duties.
R.S., c. 14, § 15.

SEC. 16. When any source of filth, or other cause of sickness is found on private property, the owner or occupant thereof shall, within twenty-four hours after notice from the said committee or officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he shall forfeit not exceeding one hundred dollars; and said committee or officer shall May order removal of private nuisances; proceedings thereon.
R.S., c. 14, § 16.
See c. 17, § 20.

CHAP. 14. cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it.

57 Me., 438,
440.
65 Me., 436.

INFECTED VESSELS. QUARANTINE.

Masters, &c., of vessels may be examined on oath in certain cases. R.S., c. 14, § 17. SEC. 17. If a master, seaman, or passenger of a vessel, in which there is, or has lately been, or is suspected to have been, any infection, or which has come from a port where any infectious distemper prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the municipal officers of the town to which such vessel comes, which oath either of said officers may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months.

Vessels with infected persons to anchor at a distance from towns. R.S., c. 14, § 18. 45 Me., 503. SEC. 18. When a vessel arrives at a port in this state, having on board any person infected with a malignant disease, the master, commander, or pilot thereof shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in the port; and no person or thing on board shall be brought on shore, until the municipal officers give their written permit therefor.

Penalty for violation of this provision. R.S., c. 14, § 19. SEC. 19. For the willful violation of the provisions of the preceding section, such master or commander shall forfeit not exceeding two hundred, and the pilot not exceeding fifty dollars for each offence.

Selectmen may establish quarantine regulations. Penalty for breach thereof. R.S., c. 14, § 20. SEC. 20. The municipal officers of a seaport town may cause any vessel arriving there to perform quarantine at such place and under such regulations as they may judge expedient, when they think the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months.

Duty of pilots to give notice thereof. R.S., c. 14, § 21. SEC. 21. When such officers of a seaport town think it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port; who shall make it known to the master of all vessels which they board. If any pilot neglects to do so, or contrary thereto pilots any vessels up to said seaport town, he shall forfeit not exceeding one hundred dollars.

Punishment for violation or evasion of quarantine, after notice. R.S., c. 14, § 22. SEC. 22. When the master or commander of a vessel takes it up to any seaport town after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed; or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the

municipal officers, he shall be punished as provided in section CHAP. 14.
twenty.

SEC. 23. The municipal officers of every seaport town requiring vessels to perform quarantine shall provide, at the expense of such town, a suitable number of red flags at least three yards in length; and the master of every vessel ordered to perform quarantine shall cause one of them to be continually kept, during the term thereof, at the head of the mainmast of his vessel; and no person shall go on board such vessel during said term unless by permission of said officers; if he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel; and shall there be detained by force, if necessary, until duly discharged by said officers.

Selectmen to furnish signals.

Restrictions of persons visiting vessels at quarantine.
R.S., c. 14, § 23.

SEC. 24. In every seaport town where there is a health committee or officer, he may perform all the duties and exercise all the authority of the municipal officers in requiring vessels to perform quarantine.

Health committee.
Quarantine.
R.S., c. 14, § 24.
See §§ 14, 15, 34.

SEC. 25. All expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by him, or the owner of the vessel, or goods, as the case may be.

Expenses, how paid.
R.S., c. 14, § 25.

TOWN HOSPITALS.

SEC. 26. A town may establish therein one or more hospitals for the reception of persons having the small pox or other disease dangerous to the public health; or its municipal officers may license any building therein as a hospital, to be under the control of said officers; but no such hospital shall be within one hundred rods of an inhabited dwelling house in an adjoining town without the consent of its municipal officers.

Hospitals may be established.
Restrictions as to location.
R.S., c. 14, § 26.

SEC. 27. If any person inoculates himself or any other person, or suffers himself to be inoculated with the small pox, unless at some lawful hospital, he shall forfeit not exceeding one hundred dollars for each offence.

Inoculation with small pox restricted.
R.S., c. 14, § 27.

SEC. 28. When a hospital is so established or licensed, the physicians, the persons inoculated or sick therein, the nurses, attendants, and all persons who come within its limits, and all furniture or other articles used or brought there, shall be subject to the regulations made by the municipal officers.

Physicians and others liable to hospital regulations.
R.S., c. 14, § 28.

SEC. 29. When the small pox or any other disease dangerous to the public health breaks out in a town, the municipal officers shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; and such hospitals and places shall be subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto,

Hospitals to be provided on breaking out of infectious diseases; regulations.
R.S., c. 14, § 29.
66 Me., 72.

CHAP. 14. unless their condition will not admit of it without imminent danger; in that case, the house or place where the sick *is*, [are] shall be deemed a hospital for every purpose aforesaid; and all persons residing in or in any way concerned with it shall be subject to hospital regulations.

Precautions to prevent the spread of such diseases.
R.S., c. 14, § 30.
28 Me., 257.
64 Me., 121.

SEC. 30. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and to give public notice of infected places to travellers, by displaying red flags at proper distances, and by all other means most effectual, in their judgment, for the common safety.

Penalty for violation of hospital regulations by persons subject thereto.
R.S., c. 14, § 31.

SEC. 31. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith, violates any lawful regulation in relation thereto, with respect to himself or his or another's property, he shall forfeit not less than ten, nor more than one hundred dollars, for each offence.

GENERAL PROVISIONS.

Householders and physicians to give notice of infectious diseases under their care.
R.S., c. 14, § 32.
Forfeiture, how recovered and appropriated.
R.S., c. 14, § 33.

SEC. 32. When a householder or physician knows that a person under his care is taken sick of any such disease, he shall immediately give notice thereof to the municipal officers of the town where such person is; and if he neglects it he shall forfeit not less than ten, nor more than thirty dollars.

SEC. 33. All forfeitures mentioned in the preceding sections, except otherwise provided, shall inure to the use of the town where the offence is committed.

BOARD OF HEALTH.

Board of health; their powers and duties.
R.S., c. 14, § 34.
See §§ 14, 15, 24.

SEC. 34. A town may choose a board of health of not less than three nor more than nine persons, who shall have all the powers, and be subject to all the duties, restrictions, liabilities and penalties of the municipal officers, and [of the] health committee or officer.

Free vaccination provided annually in each town.
1873, c. 149.

SEC. 35. The mayor and aldermen of any city, and the selectmen of any town or plantation, shall annually, on the first of March, in each year, or oftener as they may deem prudent, provide for the free vaccination with the cow pox, of all the inhabitants over two years of age, within their respective localities, the same to be done under the care of skilled practising physicians, and under such circumstances and restrictions as the said authorities may adopt for the effectual vaccination of said inhabitants.

Town by-laws.
R.S., c. 14, § 36.

SEC. 36. Towns may establish by-laws for the preservation of health, and for protection against infectious diseases.

CONTAGIOUS DISEASES AMONG CATTLE.

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SEC. 37. The municipal officers of towns, in case of the existence of the disease called lung murrain or pleuro pneumonia, or any other contagious disease, shall cause the cattle in their towns infected, or which have been exposed to infection, to be secured or collected in some suitable place or places therein, and kept isolated; and when taken from the possession of their owners, one fifth of the expense thereof is to be paid by the town, and four fifths at the expense of the state, such isolation to continue so long as the existence of such disease or other circumstances render it necessary; or they may direct the owners thereof to isolate such cattle upon their own premises, and any damage or loss sustained thereby shall be paid as aforesaid.

Cattle infected by contagious diseases to be isolated by town officers.
R.S., c. 14, § 37.

Their maintenance.
Owners to isolate their cattle.

Damage or loss how paid.

SEC. 38. The municipal officers, shall within twenty-four hours after they have notice of the existence of such disease, or have reason to believe that it exists, cause the suspected animals to be examined by a veterinary surgeon or physician by them selected, and if they are adjudged diseased, they may order them to be forthwith killed and buried at the expense of such town.

Animals to be examined.
R.S., c. 14, § 38.

And killed if necessary.

SEC. 39. When so killed they shall cause them to be appraised by three competent and disinterested men, under oath, at the value thereof at the time of the appraisal, and the amount thereof shall be paid as provided in section thirty-seven.

Cattle killed to be appraised.
R.S., c. 14, § 39.

SEC. 40. They may prohibit the departure of cattle from any inclosure, and exclude cattle therefrom.

Further powers of town officers.
R.S., c. 14, § 40.

SEC. 41. They may make regulations in writing to regulate or prohibit the passage from, to or through their towns, or from place to place therein, of any neat cattle, and may arrest and detain, at the cost of the owners thereof, all cattle found passing in violation of such regulations, and may take all other necessary measures for the enforcement of such prohibition, and for preventing the spread of any such disease among the cattle in their towns, and the immediate vicinity thereof.

Passage of animals, how regulated.
R.S., c. 14, § 41.

SEC. 42. Such regulations shall be recorded in the records of their towns, and shall be published in such towns in such manner as such regulations provide.

Regulations to be recorded and published.
R.S., c. 14, § 42.

SEC. 43. Any person who sells or disposes of any animal infected or known to have been exposed to infection, within one year after such exposure, without the knowledge or consent of the municipal officers, shall be punished by fine not exceeding five hundred dollars or by imprisonment not exceeding one year.

Sale of infected animals prohibited.
R.S., c. 14, § 43.
Penalty.

SEC. 44. Any person disobeying the orders of said municipal officers, made in conformity with the fortieth section, or driving or transporting any neat cattle contrary to the regulations made,

Disobedience of municipal orders.
R.S., c. 14, § 44.

CHAP. 14. so recorded and published, shall be punished as provided in section
Punished. forty-three.

Knowledge or suspicion of disease to be reported. R.S., c. 14, § 45. Penalty. SEC. 45. Whoever knows or has reason to suspect the existence of any fatal contagious disease among the cattle in his possession or under his care, shall forthwith give notice thereof to the municipal officers, and for failure to do so, shall be punished as provided in section forty-three.

Neglect or refusal of town officers to comply. R.S., c. 14, § 46. Penalty for. SEC. 46. Any town whose officers shall neglect or refuse to carry into effect the provisions of sections thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two and forty-three, shall forfeit a sum not exceeding five hundred dollars for each day's neglect.

Appraisals how made. To whom certified. R.S., c. 14, § 47. SEC. 47. All appraisals made under the provisions of section thirty-nine shall be in writing and signed by the appraisers, and shall be certified by the municipal officers to the governor and council, and to the treasurers of their towns.

Further powers of municipal officers. R.S., c. 14, § 48. SEC. 48. The municipal officers of towns may, when they deem it necessary to carry into effect the purposes of this chapter, take and hold possession for a term not exceeding one year, of any land within their towns without buildings other than barns thereon, for inclosing and isolating any cattle, and they shall cause the damages sustained by the owners in consequence thereof, to be appraised by the assessors thereof, and they shall further cause a description of such land, setting forth the boundaries thereof, and the area as nearly as may be estimated, together with said appraisal, to be entered in the records of the town. The amount of said appraisal shall be paid as provided in the thirty-seventh section in such sums and at such times as they may order. If such owner is dissatisfied with the appraisal, he may, in an action of the case, recover from the town a fair compensation for the damages sustained by him; but no costs shall be taxed, unless the damages recovered in such action, exclusive of interest, exceed the appraisal of the assessors. And the state shall reimburse any town four fifths of any sum so recovered.

Damage to owners to be appraised.

Description of land and appraisal to be recorded.

Amount of appraisal, how paid.

Owners dissatisfied may maintain action.

Amount to be reimbursed.

Notice to governor and board of agriculture. R.S., c. 14, § 49. Or to commissioners. SEC. 49. Whenever such disease exists in any town, the municipal officers shall forthwith give notice thereof to the governor and secretary of the board of agriculture; but if commissioners have been appointed as hereinafter provided, such notice shall be given to them.

Commission may be appointed. Powers of. R.S., c. 14, § 50. SEC. 50. The governor may, when he deems it expedient, appoint commissioners who shall have full power to make all necessary regulations, and to issue summary orders relative thereto, for the treatment and extirpation of any contagious disease among cattle, and may direct the municipal officers to enforce and carry them into effect; and any such officer or other person refusing or neglecting to enforce, carry out and comply with any regulations

Neglect or refusal to obey, how punished.

of the commissioners shall be punished by fine as provided in CHAP. 15.
section forty-three.

SEC. 51. When said commissioners shall make and publish any regulations, they shall supersede the regulations made by the municipal officers, during the time those made by the commissioners are in force. Commissioners' regulations supercede.
R.S., c. 14, § 51.

SEC. 52. All losses and damages and reasonable expenses sustained in consequence of the execution of the orders of said commissioners, shall be appraised as provided in the thirty-ninth section, and paid as provided in the thirty-seventh section. Losses and damages, how ascertained.
How paid.
R.S., c. 14, § 52.

SEC. 53. The commissioners shall keep record of their doings, and make report thereof to the next session of the legislature, on or before the tenth day of January, one thousand eight hundred and eighty-one and biennially thereafter unless sooner required by the governor; and such record, or an abstract thereof shall be printed in the annual volume of transactions of the state board of agriculture. Commissioners to keep record and make return to legislature.
R.S., c. 14, § 53.
1880, c. 239,
§ 29.

SEC. 54. The governor, with the advice and consent of the council, may terminate the commission when, in his judgment, the public safety may permit. Commission terminated by gov., &c.
R.S., c. 14, § 54.

SEC. 55. Sections thirty-seven to fifty-four, inclusive, shall apply to horses infected with glanders, or any other contagious disease. Sec's 37 to 54 apply to diseased horses.
1879, c. 147.

CHAPTER 15.

BURYING GROUNDS.

- SEC. 1. Towns may purchase lands for burying grounds.
2. Proceedings to incorporate proprietors of burying grounds. Mode of organization, as a corporation.
3. Grounds to be fenced within one year.
4. Towns and parishes to fence ancient burying grounds.
5. Penalty, if selectmen or other officers neglect their duty.
6. Grounds to be fenced, and inalienable and indivisible, except by unanimous consent. Description to be recorded.
7. Land appropriated by individual for burying ground, exempt from attachment, and inalienable.
8. Cemetery lots exempt from attachment and sale on execution, or by executor, &c.
9. When municipal officers may enlarge any public cemetery. Limitation.
10. Notice of hearing how given and served.
11. Damages for land taken, how assessed. Return to be filed with town clerk. Town to vote thereon at annual meeting.
12. Land owner aggrieved, remedy for.
13. How a private cemetery may become public. Proviso.

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Towns may buy land.
R.S., c. 15, § 1.
Persons may incorporate.
Organization.
R.S., c. 15, § 2.

Grounds to be fenced within one year.
R.S., c. 15, § 3.

Towns and parishes to fence ancient burying grounds.
R.S., c. 15, § 4.

Penalty for neglect of selectmen or other officers.
R.S., c. 15, § 5.

Grounds to be fenced, and inalienable and indivisible, except by unanimous consent.
Description to be recorded.
R.S., c. 15, § 6.

Land appropriated by individuals for burying grounds, exempt from attachment and inalienable.
R.S., c. 15, § 7.

Lots in cemeteries exempt from attachment, &c.
1874, c. 155.

SEC. 1. All towns may raise and assess money necessary for purchasing and suitably fencing land for a burying ground.

SEC. 2. Persons twenty-one years of age or more may incorporate themselves for the purpose of purchasing land for a burying ground, as provided in sections one and two of chapter fifty-five ; and proceed in the manner and have the powers provided in section three thereof.

SEC. 3. Such corporation, within one year after its organization, shall make a substantial fence around the burying ground, and keep it constantly in repair, under a penalty not exceeding one hundred dollars ; which shall be laid out under the direction of the municipal officers in keeping the fence in repair.

SEC. 4. Each town, parish, or religious society, to which any ancient or public burying yard belongs, shall keep a substantial fence around it in good repair ; and by neglecting so to do, shall forfeit not exceeding one hundred dollars, to be applied as prescribed in the preceding section.

SEC. 5. If the municipal officers of a town, or the treasurer or committee of a parish or religious society, neglect so to apply the said fines when recovered under their authority, they shall each forfeit the amount thereof, to be recovered by action of debt by any person suing therefor.

SEC. 6. When any persons appropriate a piece of land for a burying ground containing not more than half an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all ; and be kept fenced and occupied as a burying ground ; and they shall cause a written description of it, under their hands, attested by two disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies, or by the clerk of the town where it is situated.

SEC. 7. When an individual appropriates a piece of land for a family burying ground containing not more than one fourth of an acre ; causes a description of it to be recorded in the registry of deeds of the same county, or by the clerk of the town where it is situated, and incloses it with a substantial fence, it shall be exempt from attachment and execution ; and no subsequent conveyance of it shall be valid, while any person is interred therein ; but it shall remain to him and his heirs as a burial place forever. Said clerks shall receive fifty cents for recording such deed.

SEC. 8. Lots in public or private cemeteries are exempt from attachment and levy on execution, and from liability to be sold by executors and administrators of insolvent estates, for the payment of debts and charges of administration. But only one lot shall be so exempt for any one person.

SEC. 9. The municipal officers of any town [may,] on petition of ten voters, enlarge any public cemetery or burying yard within their town, by taking land of adjacent owners, to be paid for by the town, when in their judgment public necessity requires it, *provided*, that the limits thereof shall not be extended nearer any dwelling-house than twenty-five rods, against the written protest of the owner, made to said officers at the time of the hearing on said petition.

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When town officers may enlarge public cemetery. 1879, c. 141. Not less than twenty-five rods from dwelling, against owner's protest.

SEC. 10. Notice of a time and place for said hearing shall be given by posting written notices thereof, signed by [said] officers at least seven days prior thereto, in two public places in said town; and a copy of such notice and of the petition shall be served on the owners of the land to be taken at least ten days before the day of hearing.

Notice of, to be given. 1874, c. 241.

SEC. 11. If the municipal officers at such hearing grant the prayer of the petitioners, they shall then determine what land shall be taken and assess the damages suffered by each person thereby, and make a written return of their proceedings, specifying the land taken and the damages awarded each person, and file the same with the town clerk; and such cemetery or burying yard shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting.

Land taken, damages how determined. 1874, c. 241. —return to be filed with town clerk. Town to vote thereon at annual meeting.

SEC. 12. Any person aggrieved by the amount of damages awarded, on petition to the county commissioners, may have them assessed in the manner provided respecting highways.

Persons aggrieved, remedy for. 1874, c. 241.

SEC. 13. Any private cemetery or burying ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated, may, by vote of such town within one month after the recording of such agreement by the town clerk, become public, and subject to all the provisions of law relating to public cemeteries or burying grounds; *provided* such agreement shall not be in conflict with the terms of any conveyance or devise of land for the purposes of a burying ground.

How private cemetery may become public. 1881, c. 3.

Proviso.

CHAP. 16.

CHAPTER 16.

DRAINS AND COMMON SEWERS.

- SEC. 1. Penalty for laying drains in highways or streets without consent of municipal officers.
2. Municipal officers authorized to construct public drains.
3. Damages, how assessed and paid.
4. Private drains, regulations, application for permits.
5. Amount to be paid for permit, how adjusted.
6. Drains heretofore constructed, how maintained and managed.
7. Penalty for connecting private drains with public without permit.
8. Penalty for violation of permit.
9. Drains to be kept in repair. Penalty for neglect.
10. Record of proceedings to be kept, and officers of town to control prosecutions.
11. Sum for permit to be paid in sixty days. Fees of arbitrators, how determined.
12. Private drains, how repaired, in case of neglect of owners.
13. Penalty for willfully or carelessly injuring public drains.
14. All who enter a private drain to pay their proportion.
15. To be paid in ten days after notice.
16. Notice to be given before opening for repair.
17. Drains and ditches authorized.
18. Petitions to county commissioners, what to be set forth, and bond for costs.
19. Commissioners to order notice, service and publication of notice. Committee of reviews, notice to be given, and report.
20. Commissioners, may consider report at next term after it is received.
21. Final report to be recorded and damages tendered.
22. Repairs, how to be made.
23. Damages how to be settled.
24. Punishment for injury to works.

Penalty for laying drains in highways without consent.
R.S., c. 16, § 1.

Public drains, authority for laying.
R.S., c. 16, § 2.
56 Me., 410.
Expense and control.
Notice.
Damages.
R.S., c. 16, § 3.
51 Me., 523.
56 Me., 409.
67 Me., 63.

Private drains, ap-

SEC. 1. Whoever digs up the ground in a highway or street for laying or repairing any drain or common sewer without the written consent of the municipal officers, shall forfeit for each offence four dollars to the use of the town.

SEC. 2. The municipal officers of a town may construct public drains or sewers along or across any public way therein, and through any lands of persons or corporations, when they deem it necessary for public convenience or health, at the expense of the town; and they shall be under their control.

SEC. 3. When the land is so taken, notice shall first be given, and damages assessed and paid therefor as is provided for the location of town ways.

SEC. 4. Abutters upon the line of a public drain, and the owners of contiguous private drains, may enter and connect with it, on written application to the municipal officers, distinctly describ-

ing the land to which it applies, and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains, as they deem expedient.

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lication for
permits.
R.S., c. 16, § 4.

Regulations.

SEC. 5. If any person is dissatisfied with the sum [which] he is required to pay to enter a public drain, and within ten days after notice thereof, requests in writing to have it determined by arbitration, *the* said officers shall nominate six persons, two of whom, selected by the applicant, with a third person, selected by himself, may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

Amount to
be paid for
permits, how
adjusted.
R.S., c. 16, § 5.

SEC. 6. All drains, heretofore made at the expense of a town, shall be maintained, managed, controlled and entered the same as if made under the provisions of this chapter, subject to the rights of private persons therein.

Drains here-
tofore laid,
how man-
aged.
R.S., c. 16, § 6.

SEC. 7. If any person connects a private drain with a public drain, or enters it by a side drain, without a permit, the municipal officers may forthwith destroy such connection; and such person shall forfeit to the use of the town where the offence is committed, not exceeding two hundred dollars, to be recovered by indictment, or action of debt.

Penalty for
connecting
private
drains with
public, with-
out permit.
R.S., c. 16, § 7.

SEC. 8. If any person willfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited; and such person, his heirs and assigns, shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits any nuisance, shall be liable therefor notwithstanding any thing herein contained.

Penalty for
violation of
permit.
R.S., c. 16, § 8.
57 Me., 438.

SEC. 9. After a public drain is constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town, so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but it may be altered from its former course, or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the town for his damages thereby sustained.

Drains to be
kept in re-
pair; penalty
for neglect.
R.S., c. 16, § 9.
56 Me., 409.
66 Me., 155.

SEC. 10. All proceedings of the municipal officers as aforesaid shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands, to which they apply. Said officers shall have *the* exclusive direction, on behalf of their town, of all prosecutions under this chapter.

Proceedings
to be record-
ed; and town
officers to
control pros-
ecutions.
R.S., c. 16, § 10.

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Sum for permit to be paid in sixty days.
R.S., c. 16, § 11.
—fees of arbitrators, how determined.

Private drain, how repaired, in case of owner's neglect.
R.S., c. 16, § 12.
51 Me., 523, 539.

Penalty for willfully or carelessly injuring public drains.
R.S., c. 16, § 13.

All who enter a private drain to pay their proportion.
R.S., c. 16, § 14.

To be paid in ten days after notice.
R.S., c. 16, § 15.

Notice to be given before opening for repairs.
R.S., c. 16, § 16.

Drains authorized.
R.S., c. 16, § 17.

Petition to co. comm'rs, what to be set forth in; bond for costs.

SEC. 11. If any person, after the sum to be paid by him for a permit has been determined by arbitration, neglects to pay it within sixty days after notice thereof, with the fees of the arbitrators, he shall have no benefit of such determination, or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required; and their award shall be returned by them to the town clerk, and recorded with the proceedings of said officers in establishing such drains.

SEC. 12. If a private drain in a town becomes so obstructed or out of repair as to injure any street or highway therein, and the persons using it unreasonably neglect to repair such injury, after notice by the street commissioner or highway surveyor, it shall be repaired by the town, and the expense thereof may be recovered to the use of the town in an action *of* [on] the case against any one or more of the persons using such drain.

SEC. 13. If any person willfully or carelessly does an injury or causes any obstruction to such public drain or its outlet, or to any street or highway culvert leading into it, he shall be liable in an action *of* [on] the case for double the amount of injury and damages thereby caused, to the use of the town where it is located, in addition to all other legal penalties therefor.

SEC. 14. When a person, at his own expense, lays a common drain or sewer, all who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers, subject to appeal to the county commissioners.

SEC. 15. The municipal officers shall notify each person to whom he is to pay, and the amount; and if not paid in ten days, he shall pay double the amount with cost.

SEC. 16. Before any such drain is opened for repairs, all persons interested shall have seven days' notice thereof, given as the municipal officers direct; and if any one objects *to it* and said officers think his objection reasonable, he shall not be liable to any expense thereof; if not [thought] reasonable, or [if] *none* [no objection] is made within three days, they may give written permission to proceed.

SEC. 17. Persons or corporations possessing land, swamp, meadow, quammies or mines, which by reason of adjacent lands or highways, cannot be approached, drained or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

SEC. 18. The party desiring to make such drains and ditches shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, *and* the situation of the adjoining lands, and the names of

the parties interested, if known, accompanied by a bond approved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages. CHAP. 16.
R.S., c. 16, § 18.

SEC. 19. Said commissioners thereupon, shall order notice to be given to all the parties named therein, by serving on them an attested copy thereof with the order thereon, fourteen days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three nor more than five disinterested persons, and fix their compensation per day, who shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same, in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands will be likely to sustain, and report the same with all their proceedings to said commissioners; but before the said committee proceeds to said examination they shall give ten days' notice of the time and place of their meeting, by posting up notifications thereof in two public places, in the town in which said lands lie. Commissioners to order notice.
How to be served and published.
R.S., c. 16, § 19.

May appoint committee of review, proceedings of committee, notice to be given, report.

SEC. 20. At the meeting of said commissioners next after the report of the committee is received, they may, if deemed reasonable, accept such report. Report, when considered.
R.S., c. 16, § 20.

SEC. 21. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated. Final report to be recorded and damages tendered.
R.S., c. 16, § 21.

SEC. 22. The owners of a drain or ditch constructed for the purposes above named, or any one of them, benefited thereby, may, from time to time, improve, deepen, and repair the same in such a manner as shall be necessary to make them effective, and shall have the right to remove and use any rock, earth or other material which shall be necessary in making such improvements, and to enter upon the lands through which such drains or ditches pass, for that purpose. Repairs, how to be made.
R.S., c. 16, § 22.

SEC. 23. All damages sustained by any person by reason of such improvement, [including] the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the person, persons or corporations taking said rock, earth, or other material, in an action on the case, or upon application to the county commissioners at the election of the party injured, and in case he shall elect the latter, the same proceedings shall be had Damages, how to be settled.
R.S., c. 16, § 23.

CHAP. 17. for the purpose of ascertaining such damage, and to recover the same, as are now provided in estimating damage by a jury in case of laying out public highways.

Drains, how
protected.
R.S., c. 16, § 24.

SEC. 24. Any person doing damage to such works shall be punished as provided in chapter one hundred and twenty-seven, for offences of like nature.

CHAPTER 17.

NUISANCES.

- SEC. 1. Certain places declared nuisances.
2. Punishment for keeping such nuisances.
3. Lease to a tenant keeping a nuisance, void.
4. Liability of owners of buildings, knowingly allowing nuisances.
5. Certain nuisances described.
6. Places to be assigned for unwholesome employments.
7. Proceedings when places so assigned become offensive.
8. When buildings for the manufacture of gunpowder shall be deemed nuisances.
9. Burning bricks in parts of a town prohibited by vote.
10. Water mills and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.
11. Punishment for nuisances, on conviction; abatement thereof.
12. Action for damages, whether nuisances are public or private.
13. Process for abatement of a nuisance.
14. Warrant to be stayed, if defendant gives security to discontinue the nuisance.
15. Expenses of abatement to be defrayed from materials, if sufficient; otherwise, as in case of execution.
16. Equity jurisdiction of supreme judicial court. Injunction may issue from court where a suit for nuisance is pending.
17. Stationary steam engine not to be used without license.
18. Duty of town officers on application for a license.
19. Such engine erected without license to be deemed a nuisance.
20. Power of town officers to remove such engine.
21. Steam boilers to be provided with fusible safety plug.
22. Penalty for removing such plug, or using steam boiler without such plug.
23. Blasting rocks; notice to be given.
24. Violation, penalty for.
25. Municipal officers may license the building or extension of wharves and fish weirs in tide waters. Notice and proceedings.
26. Proceedings, if tide waters lie between two towns. No wharf shall be extended beyond wharf lines.
27. Proceedings, &c. to be recorded. Fees.
28. Foregoing provisions inapplicable to certain weirs.
29. What buildings may be adjudged nuisances. Proceedings.
30. Appeals allowed and proceedings thereon.

SEC. 31. Verdict and proceedings thereafter.

32. Costs, how to be paid.

33. Sections 29, 30, 31 and 32, not to be in force in any town unless adopted.

CHAP. 17.

SEC. 1. All places used as houses of ill-fame, resorted to for lewdness or gambling, [or] for the illegal sale or keeping of intoxicating liquors, all houses, shops or places where intoxicating liquors are sold for tipping purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drank, or dispensed in any manner not provided for by law, are common nuisances.

What are common nuisances.
1880, c. 247, § 1.
1873, c. 152.
63 Me., 219.
64 Me., 529.
65 Me., 295,
430.
66 Me., 419.
67 Me., 125.
69 Me., 136.

SEC. 2. Any person keeping or maintaining any such nuisance, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the county jail not more than one year.

Punishment.
R. S., c. 17, § 2.
64 Me., 529.
65 Me., 295.
68 Me., 545.

SEC. 3. If any *person being a* tenant or occupant, under any lawful title, of any building or tenement not owned by him, uses it or any part thereof for any purpose named in the first section, [he] forfeits his right thereto, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided in the ninety-fourth chapter.

Lease void.
R. S., c. 17, § 3.
Owner may enter.
R. S., c. 94,
applicable.
56 Me., 323.

SEC. 4. If any person knowingly lets any building or tenement owned by him, or under his control, for any of the purposes in the first section named, or knowingly permits the same or part thereof to be so used, [he] shall be deemed guilty of aiding in the maintenance of a nuisance, and be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

Liability of owner.
R. S., c. 17, § 4.
67 Me., 125.

SEC. 5. The erection, continuance or use of any building or other place for the exercise of a trade, employment, or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or [of] the public; causing or suffering any offal, filth, or noisome substance to be collected, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water; corrupting, or rendering unwholesome, or impure, the water of a river, stream, or pond; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or incumbering by fences, buildings, or otherwise, the highways, private ways, streets, alleys, commons, common landing places, or burying grounds, shall be deemed nuisances within the limitations and exceptions hereafter mentioned.

Punishment.

Certain nuisances described.
R. S., c. 17, § 5.
7 Me., 156.
17 Me., 294.
26 Me., 132.
30 Me., 74.
32 Me., 85.
37 Me., 362.
42 Me., 156,
527.
43 Me., 201.
47 Me., 162.
49 Me., 30.
51 Me., 504.
57 Me., 403,
404.
58 Me., 48.
59 Me., 367.
60 Me., 194.
65 Me., 435,
438.
68 Me., 545.
69 Me., 512.

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Places to be assigned for unwholesome employments.
R.S., c. 17, § 6.
84 Me., 40.
65 Me., 485.

Proceedings when places so assigned become offensive.
R.S., c. 17, § 7.

When buildings for manufacture of gunpowder shall be deemed nuisances.
1877, c. 219.
See c. 26, § 24.

Burning bricks in parts of a town prohibited by vote; nuisances.
R.S., c. 17, § 9.

Mills and dams on streams, and fences and buildings fronting on public ways, sometimes not nuisances.
R.S., c. 17, § 10.
6 Me., 123.
7 Me., 156.
8 Me., 145.
24 Me., 233.
60 Me., 194.

SEC. 6. The municipal officers of a town, when they judge it necessary, may assign some place or places therein for the exercise of any trade, employment, or manufacture aforesaid, and forbid *their* [its] exercise in other places, under penalty of being deemed public or common nuisances and [the liability] *liable* to be dealt with as such. All such assignments shall be entered in the records of the town, and may be revoked when said officers judge proper.

SEC. 7. When any place or building so assigned becomes a nuisance, offensive to the neighborhood, or injurious to the public health, any person may complain thereof to the supreme judicial court, and if after notice to the party complained of, the truth of the complaint is admitted by default, or made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for such purposes, under a penalty not exceeding one hundred dollars for each month's continuance after such prohibition, to the use of said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; *and* [but] if the jury, on said trial, acquits the defendant, he shall recover costs of the complainant.

SEC. 8. If a person carries on the business of manufacturing gunpowder, or of mixing or grinding the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

SEC. 9. A town, at its annual meeting, may prohibit the burning of bricks, or the erecting of brick kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick kiln to be forthwith removed, at the expense of the owner thereof; and the offender shall be liable to a fine not exceeding two hundred dollars to the use of said town; and if said bricks or brick kiln are not removed before a conviction, the court may issue a warrant for the removal thereof, or stay it as hereafter provided.

SEC. 10. The erecting and maintaining of water mills and dams to raise water for working them upon or across streams not navigable, as provided in the chapter relating thereto, shall not be deemed nuisances, unless they become offensive to the neighborhood or injurious to the public health, or unless they occasion injuries or annoyances of a kind not authorized by said chapter. Fences and buildings fronting on public ways, commons, or lands appropriated to public use, shall not be deemed nuisances, when they have been erected for the times and in the manner provided in section one hundred and one, chapter eighteen.

SEC. 11. Whoever is convicted of erecting, causing or continuing a public or common nuisance, as herein described or at common law, where no other punishment is specially provided, may be punished by a fine not exceeding one hundred dollars; and the court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as hereafter provided.

SEC. 12. Any person injured in his comfort, property, or the enjoyment of his estate by a common and public, or a private nuisance, may maintain against the guilty party an action on the case to recover his damages, unless it is otherwise specially provided by law.

SEC. 13. When, on indictment, complaint, or action, any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs, for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant; and after inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following:

“STATE OF MAINE.

“—, ss. To the sheriff of our county of —, or either of his deputies, Greeting.

“Whereas, by the consideration of our honorable — court, at a term begun and held at —, within and for the said county, upon indictment,” (or “complaint,” or “action in favor of A. B.,” as the case may be,) “C. D., of —, &c., was adjudged guilty of erecting,” [“causing,” or “continuing,”] “a certain nuisance, being a building in —, in said county, and for —,” (or “fence,” or other thing, describing particularly the nuisance and the place,) “which nuisance was ordered by said court to be abated and removed: We therefore command you forthwith to cause said nuisance to be abated and removed; and also that you levy of the materials by you so removed, and of the goods, chattels, and lands of the said C. D., a sum sufficient to defray the expense of removing and abating the same, not to exceed the sum of — dollars,” (the sum estimated by the court,) “together with your lawful fees, and thirty-three cents more for this writ. And, for want of such goods and estate to satisfy said sums, we command you to take the body of the said C. D., and him commit unto our jail in —, in said county, and there detain till he pay such sums or is legally discharged. And make return of this warrant, with your doings thereon, within thirty days. Witness, A. B., Esq., at —, this — day of —, in the year of our Lord —.

“J. S., Clerk.”

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Punishment;
abatement of
nuisance.

R.S., c. 17, § 11.
21 Me., 9, 85.
30 Me., 78.

Action for
damages.

R.S., c. 17, § 12.
44 Me., 156.
49 Me., 30.
51 Me., 504.
57 Me., 377.

Process for
abatement of
nuisance.

R.S., c. 17, § 13.
12 Me., 361.
24 Me., 233.
37 Me., 362.

CHAP. 17.

And when the conviction is upon an action before a [trial] justice *of the peace*, and no appeal is made, the justice, after estimating the sum necessary to defray the expense of removing or abating the nuisance, may issue a like warrant, making corresponding alterations in its form.

Warrant to be stayed, if defendant gives security to discontinue the nuisance.
R.S., c. 17, § 14.

SEC. 14. Instead of issuing such warrant, the court or justice may order it to be stayed on motion of the defendant, and on his entering into recognizance in such sum and with such surety as the court or justice directs, in case of an indictment, to the state, or in case of a complaint or action, to the plaintiff, conditioned that the defendant will discontinue said nuisance, or that within a time limited by the court and not exceeding six months, he will cause it to be abated and removed, as either is directed by the court; and on failing to perform such condition, the recognizance shall be deemed forfeited, and the court, or any justice thereof, in term time or in vacation, or said [trial] justice on being satisfied of such default, may forthwith issue the warrant and scire facias on the recognizance.

Expenses of abatement to be defrayed from materials, if sufficient; otherwise, as in case of execution.
R.S., c. 17, § 15.

SEC. 15. The expense of abating a nuisance by virtue of a warrant shall be collected by the officer as damages and costs are collected on execution; except that the materials of any buildings, fences, or other things removed as a nuisance, may be first levied upon and sold by the officer, and the proceeds, if any remain after paying the expense of removal, shall be paid by the officer, on demand, to the defendant or the owner of such property; and if said proceeds are not sufficient to satisfy the expenses, the officer shall collect the residue as aforesaid. A person committed to jail on such warrant, may have the privilege of the oath for the relief of poor debtors, as if he had been committed on execution. If said expense cannot be collected of the defendant, it shall be paid as costs in criminal prosecutions.

Equity jurisdiction of S. J. Court, &c.
R.S., c. 17, § 16.
60 Me., 194.

SEC. 16. Any court of record, before which an indictment, complaint, or action for a nuisance is pending, may, in any county, issue an injunction to stay or prevent such nuisance, and make such orders and decrees for enforcing or dissolving it, as justice and equity require.

Stationary steam engine not to be used without license.
R.S., c. 17, § 17.
65 Me., 435.

SEC. 17. No stationary steam engine shall be erected in a town, unless the municipal officers have previously granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provisions as to height of chimneys or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license is to be granted on written application, and recorded in the town records,

and a certified copy of it furnished, without charge, to the person or persons applying for the license. CHAP. 17.

SEC. 18. When application is made for such license, said officers shall assign a time and place for its consideration, and give public notice thereof at least fourteen days beforehand as they think proper, at the expense of the applicant, that all persons interested may be heard before granting a license.

Duty of town officers on application for a license. R.S., c. 17, § 18.

SEC. 19. Any such engine erected without a license shall be deemed a common nuisance without any other proof than its use.

Unlicensed engine. R.S., c. 17, § 19. 65 Me., 435.

SEC. 20. Said officers shall have the same authority to abate and remove a steam engine, erected without license, as is given to the health committee or health officer in chapter fourteen for the removal or discontinuance of the nuisances therein mentioned.

Officers may remove it. R.S., c. 17, § 20. See c. 14, § 16. 65 Me., 435.

SEC. 21. No person or corporation shall manufacture, sell, use or cause to be used any steam boiler in this state, unless it is provided with a fusible safety plug, made of lead or some other equally fusible material, not less than one half inch in diameter, which shall be placed in the roof of the fire box, when a fire box is used ; and in all cases, shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the top of the water line as any part of the fire surface thereof ; and for this purpose it shall be lawful to use Ashcroft's "protected safety fusible plug."

Steam boilers to be provided with safety fusible plugs. R.S., c. 17, § 21.

SEC. 22. If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures, or sells a steam boiler unprovided with such safety fusible plug, the offender shall be punished by a fine not exceeding one thousand dollars.

Penalty for violation. R.S., c. 17, § 22.

SEC. 23. Persons engaged in blasting lime-rocks or other rocks, before each explosion shall give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion ; and no such explosion shall be made after sunset.

Blasting rocks, notice to be given. R.S., c. 17, § 23.

SEC. 24. Whoever violates the provisions of the preceding section, shall pay five dollars for each offence, in an action of debt to the use of the person suing therefor, and all damages caused by any explosion ; and if the persons engaged in blasting rocks are unable, or after judgment and execution, avoid payment of the fine, damages and costs, by the poor debtors' oath, the owners of the quarry, in whose employment they were, shall be liable for the same.

Violation, penalty for. R.S., c. 17, § 24.

SEC. 25. Any person intending to build or extend any wharf or fish weir in tide waters, within the limits of any city or town, may make application in writing to the municipal officers thereof,

Application for license to build or extend wharves

CHAP. 17.

and fish
weirs.
1876, c. 78, § 1.
68 Me., 259,
261.

Notice to be
given.

Notice and
proceedings.

Waters lying
between two
towns.

Wharf lines,
extension of,
prohibited.
1876, c. 78, § 2.

Application
and proceed-
ings to be
recorded.

Compensa-
tion to offi-
cers.
1876, c. 78, § 3.

Certain
weirs ex-
cepted.
1877, c. 164.

Dangerous
buildings
may be ad-
judged nui-
sances, pro-
ceedings.
R.S., c. 17, § 26.
Powers of
municipal
officers.

Owner to be
served with
a copy of or-
der; return
of service.
See c. 3, § 57,
item seven.

Nuisance
may be
abated.

stating the location, limits and boundaries, as near as may be, of such intended erection or extension, and asking license for the same. Upon receiving such application, said officers shall give at least three days public notice thereof, and shall therein designate a day on which they shall meet on or near the premises described, and examine the same. If upon such examination and hearing of all parties interested, said officers shall decide that such erection or extension would not be an obstruction to navigation, or an injury to the rights of others, and shall determine to allow the same, they shall issue a license under their hands to the applicant, authorizing him to make said erection or extension, and to maintain the same within the limits mentioned in said license.

SEC. 26. In any river or tide water lying between two towns or cities, no such wharf or fish weir shall be erected without the approval and consent of the municipal officers of both said towns or cities; and in no case shall any wharf be extended beyond any wharf lines heretofore legally established.

SEC. 27. The application and petition aforesaid, together with the notice and proceedings thereon, shall be recorded in said town, and also the license granted. A reasonable compensation shall be paid by said petitioner to the municipal officers for their services and expenses, and to the clerk for recording, and if license is granted, an additional sum of five dollars therefor shall be paid by the said petitioner into the treasury of said town.

SEC. 28. No fish weirs shall hereafter be erected, or wharf extended, erected or maintained, except in accordance with the provisions of this chapter; *provided*, that nothing therein shall be so construed as to apply to fish weirs, the materials of which are wholly or chiefly removed annually.

SEC. 29. When the municipal officers of any town after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the state paper, and after a hearing of the matter, shall adjudge the same to be a nuisance, or dangerous, they may make and record an order, prescribing what disposition shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if resident within the state, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown, or resides without the state, such notice shall be given by publication in the state paper, or in a paper published in the county, three weeks successively. If no application is made to the supreme judicial court, or a justice thereof, as is hereafter provided, the municipal officers of such town, shall cause said

nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand, or may be recovered of such person by an action for money paid.

SEC. 30. Any owner aggrieved by any such order, may apply to the supreme judicial court, if in session in the county, or to any justice thereof in vacation, for a jury, and such court or justice shall forthwith order a warrant for a jury to issue, to be impanelled by the sheriff as is provided by section ten of the eighteenth chapter. Such application shall be made within five days after such order is served on such owner, and the jury shall be impanelled within seven days from the issuing of the warrant.

SEC. 31. The jury may find a verdict, affirming or annulling the said order, or making alterations therein, which shall be returned forthwith to the justice issuing the warrant. He may accept or reject it and issue a new warrant. If the court is not in session the action shall be entered on the docket of the preceding term. Exceptions if taken by either party may be allowed, or execution may issue, as of that term, and if the verdict is finally accepted, the justice may issue the proper process for enforcing it.

SEC. 32. If the verdict affirms such order, costs shall be recovered by the town against the applicant. If it annuls such order in whole, costs shall be recovered by the applicant against such town, and in case it shall alter it in part, the court may render such judgment as to costs as justice requires.

SEC. 33. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.

CHAP. 18.

Owner to pay expense. Payment enforced.

Owner may apply to supreme court, for a jury. R.S., c. 17, § 27. Jury, how impanelled. Application, when made.

Verdict. R.S., c. 17, § 28. Return of. May be accepted or rejected. Action, how entered. Exceptions.

Verdict enforced. Costs, how paid. R.S., c. 17, § 29.

§§ 29-32 require vote of town. R.S., c. 17, § 30.

CHAPTER 18.

WAYS.

LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

- SEC. 1. Commissioners' power; petition how framed.
 2. Notice how given, proved, recorded.
 3. Costs paid by petitioners on failure. Distress warrant may be issued.
 4. Duties of commissioners at time of hearing, and in laying out or altering ways.
 5. Return when made, disposal of it. Petitions for increase of damages, when presented. Damages awarded under first eighteen sections, to be paid into county treasury.
 6. Proceedings, when petitions are presented, before and after hearing.
 7. Damages when to be paid; to whom awarded.

- CHAP. 18. SEC. 8. Petitions for increase of damages, proceedings on them.
9. Not abated by death, all interested may join in them.
 10. Jury how summoned, parties notified.
 11. County attorney to be notified and attend.
 12. Who presides; he and jurors and witnesses to be sworn. Duties of person presiding.
 13. Proceedings of jury, officer's duty. Proceedings in supreme court on verdict. Clerk of court to certify to commissioners. Proceedings when no verdict. Costs, how adjusted.
 14. Time allowed for removing growth, for payment of damages, for making the way.
 15. Way discontinued before damages paid, proceedings.
 16. Highways, when county commissioners may re-locate doubtful boundaries of. Town officers to preserve road monuments.
 17. Petitions respecting ways in different counties. Proceedings on them. Notices.
 18. Proceedings continued and closed.

TOWN AND PRIVATE WAYS.

- SEC. 19. Powers of municipal officers respecting town and private ways. Notice how given.
20. Municipal officers may lay out ways for hauling merchandise, hay, wood or lumber. Return expenses of such location. Town not liable for damages on such way.
 21. Municipal officers lay out, towns accept.
 22. Towns may discontinue town and private ways; establish side-walks; plant trees.
 23. Damages, how estimated and paid.
 24. Selectmen refusing, proceedings. Damages and costs in such case.
 25. When such way shall be opened.
 26. Towns refusing, proceedings.
 27. Petition for increase of damages; when filed, notice and proceedings.
 28. Town ways acted upon by county commissioners, cannot be acted on by towns for what time.
 29. Grading, county commissioners may direct amount of, and may order half the expense to be paid by town.
 30. When and within what time a town may reinstate a town way discontinued by commissioners on appeal.
 31. Damages for location, &c., of way, how estimated and paid. Proviso.
 32. Land not to be taken from railroad without notice and hearing.

WAYS ACROSS RAILROADS.

- SEC. 33. Ways across railroads, how laid out. When not at grade, R. R. commissioners adjust expense. Appeal and proceedings. Costs.
34. How such ways already laid out shall be maintained.

ASSESSMENT OF DAMAGES UPON ABUTTORS ON CITY STREETS.

- SEC. 35. Damages for laying out, &c. city streets may be assessed on abuttors. Notice.
36. Abuttors to be notified of assessment.
 37. Abuttors entitled to a committee or jury on appeal.
 38. If no appeal is taken, lots may be sold at auction for unpaid assessment. Two years' redemption. Twelve per cent. interest and costs.
 39. Or town treasurer may sue abuttor.

WHEN WAYS ARE TO BE OPENED.

- SEC. 40. On discontinuance of highway, commissioners to fix the time therefor. Ways not opened in six years, discontinued.

SEC. 41. Ways opened by an agent appointed by commissioners, if towns neglect. Expenses, how paid. CHAP. 18.

42. Proceedings authorized in case the record of location is lost or disregarded.

43. Plantations have powers and may proceed as towns.

ACTIONS FOR DAMAGES AND COSTS.

SEC. 44. Damages, how recovered.

WAYS IN PLACES NOT INCORPORATED.

SEC. 45. County commissioners may lay out ways in places not incorporated; expenses, by whom paid.

46. Notice of hearing, how given.

47. Ways, how to be laid out.

48. Parties aggrieved may appeal to the S. J. Court. Proceedings.

49. But one petition for same road to be made the same year.

50. Commissioners may lay out, alter or discontinue highways, through towns, plantations and unincorporated tracts, on same petition.

51. Petition for increase of damages may be filed within sixty days.

WAYS IN INCORPORATED PLACES.

SEC. 52. Appeal how made and prosecuted, proceedings stayed.

53. On appeal committee appointed, proceedings. No person appearing, judgment of commissioners may be affirmed.

54. Judgment, when reversed, and when not; proceedings. Costs. Compensation to committee.

55. When committee must be sworn.

LIABILITY FOR REPAIR OF WAYS AND FOR INJURIES.

SEC. 56. Ways to be kept open and in repair. Penalty.

57. Petition to county commissioners after five days notice to delinquent town. Proceedings.

58. Petition may be presented at a session or in vacation.

59. Commissioners may appoint agent to repair way, if town neglects. Commissioners may issue warrant of distress.

60. Ways between towns, how divided. Liability of towns.

61. Same. Commissioners may make and record division.

62. Municipal officers to assign limits to surveyors by May tenth. When surveyors, municipal officers may delegate their powers.

63. Towns to raise money. Lists delivered to surveyors by May tenth, and two thirds expended by July first.

64. Surveyors' duties.

65. Snow to be trodden down; sudden injuries repaired.

66. Mail routes; apparatus to be kept for opening.

67. Surveyors make return of delinquents to assessors.

68. Trees may be planted.

69. Materials may be taken from lands not inclosed or planted.

70. Road commissioners and highway surveyors to examine roads monthly, between April and November. Penalty for neglect.

71. Water courses not to be made to do injury. Remedy.

72. Streets raised or lowered, injury how compensated.

73. When surveyors may expend more than taxes.

74. Towns may assess for bridges and ways as for other expenses.

75. Wide wheels, and watering troughs, abatement for. Town officers may establish drinking troughs and fountains.

76. Ways may be opened and repaired by contract, and tax collected.

77. Surveyors to exhibit bills to selectmen July first.

78. Surveyors to pay balance in their hands to treasurer.

79. Road commissioners may be chosen, duties.

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- SEC. 80. Road commissioners, powers and duties.
81. Non-residents and absentees, how notified.
82. Taxes of delinquents, how collected.
83. Towns may allow discount for money. Commissioner to give bond, keep accounts.
84. Liability for injuries through defective highways. Authorities entitled to twenty-four hours actual notice of defect. Claimant must make written claim within fourteen days. Damages for loss of life. View may be ordered by court.
85. Repair within six years, proof of way.
86. Injured party, knowing defect, cannot recover without previous notice to officers. Damages in any case limited to \$2,000.
87. Slippery sidewalk no cause of action to pedestrian.
88. *Right of action denied to certain aliens.*
89. Railroad company may defend suit against town for defective railroad crossing.
90. Liability of railroad company.
91. Notice to company.
92. No liability when weight of load exceeds six tons.
93. One indictment only at a term; highway includes other ways.
94. Surveyors responsible for defects in case of neglect.
95. Fines, appropriated for repairs of ways; agents to expend; their duties.
96. Fines certified by clerk of courts to assessors; their duties; fines.
97. Fines to be collected if way is not repaired in four months.
98. Gates, bars and fences on ways may be removed. Person aggrieved may have remedy.
99. Logs and lumber to be removed by surveyors, proceedings. Person by whose neglect left, to be liable.
100. Persons convicted of placing nuisance, to pay, when materials do not.
101. Buildings and fences existing twenty and forty years, effect.
102. Towns required to maintain guide posts at crossing of ways. Penalty for neglect.
103. Municipal officers to erect guide posts. Penalty for neglect. Plantations.
104. Excavations near ways, how to be made; responsibilities respecting them by persons and towns.
105. Ice bridges may be made and protected; consent of land owners to be first obtained.

REPAIR OF PRIVATE WAYS OWNED IN COMMON.

- SEC. 106. Owners of private ways and bridges may call meetings, choose clerk and surveyor.
107. Surveyors' duties, penalty for neglect of owners to pay.
108. Owners may make contracts for repairs, cause money to be assessed and collected as taxes for highways.
109. Penalties, how appropriated, process to collect them; not abated by death of owners.

LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

- SEC. 1. County commissioners may lay out, alter or discontinue highways leading from town to town, and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter or discontinue county roads within the limits thereof. Responsible persons may

County commissioners may lay out, discontinue, &c., all county roads.
1875, c. 25, § 1.

present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description, without adhering strictly to its bounds. (*a*)

SEC. 2. Being satisfied, that the petitioners are responsible, and that an inquiry into the merits is expedient, they shall cause thirty days notice to be given of the time and place of their meeting, by posting copies of the petition, with their order thereon, in three public places in each town in which any part of the way may be, and serving one on the clerks of such towns, and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested, and evidence thereof.

SEC. 3. When their decision is against the prayer of the petitioners, they shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it; and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

SEC. 4. They shall meet, at the time and place appointed, and view the way, and there, or at a place in the vicinity, hear the parties interested. If they judge the way to be of common convenience and necessity, or that any existing way shall be altered, graded or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way, and state in their return when it is to be done, the names of the persons to whom damages are allowed, the amount allowed to each, and when to be paid. When the way has been finally established and opened to travel, they shall cause durable monuments to be erected at the angles thereof. (*b*)

SEC. 5. Their return, made at their next regular session after the hearing, is to be placed on file, and to remain in the custody of their clerk for inspection without record. The case is then to be continued to their next regular term; when, or before *then*, all persons aggrieved by their estimate of damages, shall present

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59 Me., 89.

Notice, how given, proved and recorded.
R.S., c. 18, § 2.
19 Me., 343.
30 Me., 305.
68 Me., 406,
407, 497.

Costs paid by petitioners on failure.
R.S., c. 18, § 2.
2 Me., 53.
3 Me., 105.
68 Me., 497.

County commissioners to hear parties.
1875, c. 25, § 2.
—may lay out, grade, alter or discontinue a way.
—their return.
—shall erect durable monuments.
See § 17.

Return.

Petitions for increase of damages, when presented.

(*a*) Authority of commissioners. 11 Me., 276; 15 Me., 22; 19 Me., 343; 26 Me., 356, 408; 31 Me., 270; 32 Me., 568; 39 Me., 584; 40 Me., 437; 42 Me., 400. Petition. 2 Me., 53; 3 Me., 105; 26 Me., 356, 408; 32 Me., 568; 37 Me., 119; 59 Me., 80, 368, 452; 61 Me., 440; 68 Me., 497.

(*b*) Return. 12 Me., 210; 14 Me., 343; (see 25 Me., 303;) 23 Me., 11, 513; 26 Me., 408; 30 Me., 305; 35 Me., 377; 37 Me., 559; 49 Me., 145; 51 Me., 384. Angles and monuments. 25 Me., 304; (see 14 Me., 343;) 35 Me., 377; 49 Me., 148.

Validity of proceedings. 8 Me., 272, 293; 11 Me., 473; 19 Me., 343; 23 Me., 11, 513; 24 Me., 152; 26 Me., 356, 408; 30 Me., 306; 31 Me., 270; 32 Me., 568; 37 Me., 119, 559; 42 Me., 400; 49 Me., 145; 52 Me., 27. Damages. 19 Me., 315; 45 Me., 424; 49 Me., 145; 52 Me., 27; 54 Me., 479; 60 Me., 540; 61 Me., 442; 63 Me., 28; 68 Me., 407.

CHAP. 18. their petitions for redress. If no such petition is then presented or pending, the proceedings shall be closed, recorded, and become effectual; and all claims for damages not allowed by them be forever barred; and all damages awarded under the first eighteen sections [of this chapter], shall be paid out of the county treasury. (a)

Proceedings before and after decision respecting increase of damages. R.S., c. 18, § 6. 63 Me., 28, 30.

SEC. 6. When a petition for increase of damages is presented within the time allowed, the case is to be further continued until a final decision respecting damages is made. If they then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners, or any part thereof, designating what part, is not granted for that reason. Upon such judgment, no damages are to be allowed for that part of the prayer of the petitioners not granted, but the costs are to be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly. And the whole proceedings are to be recorded and become effectual.

Damages. R.S., c. 18, § 7. 54 Me., 479. 71 Me., 140-3.

SEC. 7. Payment of damages may be suspended until the land, for which they are assessed, is taken. They 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.

Petition for increase of damages. Proceedings. 1875, c. 25, § 9.

SEC. 8. When a petition is presented for an increase of damages, an agreement may be made and entered of record to increase the damages, or to submit the matter to a committee, who shall notify and hear the parties and make return of their decision, which being accepted, shall be conclusive. When no such agreement is made, a jury is to be summoned, whose verdict, returned, accepted, and recorded, is conclusive. The committee or jury may decide upon the title of any petitioner, so far as it respects damages. (b)

Committee, by agreement, else jury. R.S., c. 18, § 7.

SEC. 9. Persons may join or sever in such petitions, presented on account of the same way; and when several such petitions are pending they may all be ordered to be submitted to the same jury; and the costs may be equitably apportioned. Petitions are not abated by the death of the petitioners. The survivors may continue to prosecute; those interested in the estate taken may appear and become parties, or may enter their acceptance of the

Who may join in such petitions; not abated by death.

Who may become parties. R.S., c. 18, § 9. 52 Me., 586. 67 Me., 292.

(a) Filing and recording return. 31 Me., 272; 32 Me., 568; 42 Me., 399; 5 Me., 391; 63 Me., 28.

Close of proceedings. 23 Me., 11; 25 Me., 304; 30 Me., 306; 59 Me., 391; 63 Me., 28.

(b) 11 Me., 265; 12 Me., 213; 21 Me., 391. See c. 1, § 4, rule 3. 19 Me., 343; 39 Me., 222; 51 Me., 37; 52 Me., 27, 586; 54 Me., 479; 59 Me., 519; 63 Me., 150; 65 Me., 593; 67 Me., 292.

damages awarded. These provisions apply also to petitions for increase of damages respecting streets in cities. CHAP. 18.

SEC. 10. When a jury is required, a warrant is to be issued to a proper officer requiring him to notify the parties named in it, and to summon a jury of twelve men, making application to the municipal officers of two or more towns in the county, in which no part of the land taken is situated, who shall draw from the jury box as many jurors as are required, not exceeding nine from one town. Jurors shall be drawn, summoned, and returns thereof made, as in other cases, except that notice to them need not be given more than twenty-four hours before the time for their attendance. When a full jury is not obtained from those drawn, on account of interest or absence, the officer attending may return talesmen.

Jury, how summoned.
Parties notified.
R.S., c. 18, § 10.
64 Me., 506.
67 Me., 292.
70 Me., 339.

SEC. 11. When a county is liable for damages, the county attorney is to be notified by such committee or officer, and is to appear in behalf of the county before such committee or jury at the time and place of hearing.

County attorney to be notified and be present.
R.S., c. 18, § 11.

SEC. 12. The commissioners shall appoint a person well versed in law to preside at the view and hearing; and if from any cause he does not attend at the time and place appointed therefor, the officer who summoned the jury, shall adjourn the view and hearing, till such person does attend or another is appointed and attends in his place; and the person so presiding shall be sworn, and allowed a compensation to be determined as hereinafter provided; shall make a certified report of the evidence introduced before him and return the same to the court; administer an oath to the jurors, for the faithful discharge of their duties; swear the witnesses; keep order and direct the course of the proceedings; decide all questions of law arising on the trial which would be proper for the decision of a judge; instruct the jury upon any question of law when requested by either party; and certify to the court with the verdict, the substance of any decision or instruction by him given, when any party shall request it.

Commissioners may appoint person to preside.
R.S., c. 18, § 12.
68 Me., 551.

In case of his non-attendance, officer to adjourn.
Evidence to be reported to court.

Jurors and witnesses to be sworn.

Duties of person presiding.

54 Me., 479.
60 Me., 495.
61 Me., 303.
63 Me., 387.
64 Me., 506.

SEC. 13. The jury are to view the premises, hear the testimony and arguments of the parties or their counsel, and render a verdict signed by all of them, which is to be inclosed in an envelope with an indorsement thereon stating the contents, and *is to be* delivered to the officer having charge of them, who is to return it to the supreme judicial court, at the next term thereof to be held in the same county, with his doings, stating his own travel and attendance and that of each juror. Said court shall receive said verdict and the certificate and report of the person presiding. Either party interested therein may file a written motion to set aside said verdict for the same cause that a verdict rendered in court may be

Jury to view premises, hear testimony and arguments and render sealed verdict to be returned to S. J. Court.
1880, c. 242.
24 Me., 153.
28 Me., 123.
52 Me., 586.
54 Me., 479.
59 Me., 519.
61 Me., 303.
63 Me., 387.
64 Me., 130.

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65 Me., 231,
593.

68 Me., 551.
Proceedings
if parties
agree.

Proceedings
in case of
disagree-
ment of
parties.

Determina-
tion by com-
mittee.

Clerk of
courts to
certify ver-
dict or re-
port with ad-
judication.

Proceedings
when no ver-
dict is ren-
dered.

Costs, how
adjusted.

Court to fix
compensa-
tion of com-
mittee or
jury.

Time allow-
ed for remov-
ing growth,
and opening
way.
R.S., c. 18, § 14.

Way discon-
tinued be-
fore damages
paid, pro-
ceedings.
R.S., c. 18, § 15.

Co. com'rs
to preserve
boundaries
of highways
by durable
monuments.
1872, c. 58, § 1.

set aside. The court shall hear any competent evidence relating to the same, and, by agreement of the parties, adjudicate thereon, confirm the verdict, or set it aside for good cause, reserving the right to except as in other cases. If the parties do not agree to an adjudication by the court, the case shall be reported by the objecting party, otherwise by the party filing the motion, to the law court for judgment upon the law and the facts; and the law court may, upon motion and report of the evidence, set aside a verdict and order a new trial as in other cases. If the matter is determined by a committee, as provided in this chapter, their report shall be made to the next term of said court held in that county, and like proceedings shall be had thereon as on a verdict returned as aforesaid. The clerk of said court shall certify such verdict or report, as the case may be, with the final adjudication of the court thereon, to the commissioners at their next meeting after such adjudication, who shall record the same; and if the jury shall not have agreed on a verdict, or the verdict or report [has] been set aside by the court to which it was returned, or upon exceptions, the commissioners, on application therefor, shall order a new jury, or the parties may agree upon a new committee; and thereupon like proceedings shall be had as are herein provided. The party prevailing shall recover costs, to be taxed and allowed by the court to which the verdict or report is returned and certified with it to the commissioners; except that the costs shall not be recovered by the party claiming damages, but by the other party, if upon appeal taken as provided in this chapter, by either party, said claimant shall fail to recover and have adjudged to him, a greater sum as damages than was allowed to him by the commissioners; and said court shall determine the compensation of the committee, and of the persons presiding at the trial by jury.

SEC. 14. The owners of lands taken are allowed one year after the proceedings are finally closed to take off timber, wood, or any erection thereon. A time not exceeding three years is to be allowed for making and opening the way. (a)

SEC. 15. When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as before stated.

SEC. 16. When from decay, removal or destruction of monuments or from other causes, the true boundaries of highways duly located are doubtful, uncertain or lost, the county commissioners

(a) 8 Me., 137; 39 Me., 115; 64 Me., 409.

of the county wherein such highway is located, upon the petition of the municipal officers of the town wherein the same lies shall, after notice of the same to be given as is required for the location of new ways, proceed to examine said highway and hear the parties, and shall locate and define the limits and boundaries thereof and cause durable monuments to be erected at the angles thereof, and if any real estate is damaged by said action, the commissioners shall award damages to the owner as in laying out new highways. Said municipal officers are required to maintain all road monuments, and forthwith to replace them when destroyed.

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Municipal officers to preserve and replace them.
1872, c. 58, § 2.
See § 4.

WAYS IN TWO OR MORE COUNTIES.

SEC. 17. When a petition is presented respecting a way in two or more counties, the commissioners, being satisfied as aforesaid, may call a meeting of the commissioners of the counties, to be held at a time and place named, by causing an attested copy of such petition and of their order thereon, to be served upon their chairman; and they shall give notice of such meeting by causing a like copy to be published in the state paper and in one paper, if any, printed in each such county, and by posting it in three public places in each town interested, and serving it on the clerk thereof. These notices are to be posted, served, and published thirty days before the time of meeting.

Petitions respecting ways in two or more counties, proceedings on them.

Notices.
R. S., c. 18, § 16.
52 Me., 213.
65 Me., 214.

SEC. 18. Each county must be represented at such meeting by a majority of its commissioners. A majority of those present may decide upon the whole matter. The duty of carrying that judgment into effect, is to be performed in each county by its own commissioners in the manner respecting ways wholly within it. When each county is not so represented, those present may adjourn the meeting to another time.

Proceedings of commissioners on such petitions, continued and closed.
R. S., c. 18, § 17.
25 Me., 202.
45 Me., 424.
52 Me., 213.
62 Me., 214.

TOWN AND PRIVATE WAYS.

SEC. 19. The municipal officers of towns may personally or by agency lay out, alter, or widen town ways, and private ways, for one or more of its inhabitants, or for owners of cultivated land therein, on petition therefor. They shall give written notice of their intentions, to be posted for seven days, in two public places in the town and in the vicinity of the way, describing it in them, and they shall determine whether it shall be a town way or a private way; and if a private way whether it shall be subject to gates and bars. (a)

Power of municipal officers respecting town and private ways. Notice given.
R. S., c. 18, § 18.
Duty of officers in laying out way.

(a) Notice. 3 Me., 439; 10 Me., 340; 11 Me., 113; 13 Me., 254; 18 Me., 185; 35 Me., 246; 43 Me., 576; 59 Me., 514; 70 Me., 324.

Authority of municipal officers. 10 Me., 340; 11 Me., 113; 18 Me., 185; 45 Me., 244; 46 Me., 427; 51 Me., 571; 57 Me., 45; 62 Me., 328; 64 Me., 581-2.

Legality of proceedings. 2 Me., 60; 10 Me., 25; 12 Me., 275; 25 Me., 71; 26 Me., 178; 31 Me., 580; 32 Me., 568; 61 Me., 440.

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Municipal officers may lay out a winter road for hauling wood, hay, lumber, &c. 1881, c. 4.

Return of location.

Town not liable for damage.

Municipal officers lay out, town accepts. R.S., c. 18, § 20.

Towns may discontinue. Establish sidewalks, plant trees. R.S., c. 18, § 21. 37 Me., 56, 71. 45 Me., 607. See § 68; c. 3, § 57, item 6.

Damages how estimated and paid. R.S., c. 18, § 22.

Town or private way, neglect or refusal of municipal officers to lay

SEC. 20. They may lay out a way as aforesaid for the purposes of hauling merchandise and hay, wood or lumber, *and* to be used only when the ground is so covered with snow that such hauling shall not break the soil underneath such way. When so laid out they shall state in their return the purposes for which it is laid, and that it shall be used only in the winter season, and shall order the person or persons for whose accommodation it is laid, to pay into the town treasury an amount equal to the damages and expenses of such location for the benefit of the owner of the land over which it is laid, and it shall not be accepted by the town until such amount is so paid. No town shall be liable for damage to any person travelling on such way.

SEC. 21. A written return of their proceedings containing the bounds and admeasurements of the way, and the damages allowed to each person for land taken, is in all cases to be made and filed with the town clerk. The way is not established, until it has been accepted in a town meeting legally called afterwards, by a warrant containing an article for the purpose. (a)

SEC. 22. A town, at a meeting called by warrant containing an article for the purpose, may discontinue a town or private way; and the municipal officers shall estimate the damages suffered by any person thereby. It may, by an ordinance, set off portions of its ways or streets as sidewalks, and require them to be kept clear of snow and other obstructions; and may authorize trees to be planted by their side.

SEC. 23. The damages for a town way are to be paid by the town; for a private way, by those for whose benefit it was stated in the petition to be, or wholly or partly by the town, if under an article in the warrant to that effect it votes to do so at the meeting accepting such private way; or by cities, if it is proposed in the return laying out such way. Any person aggrieved by the estimate of damages, on petition to the commissioners, may have them assessed in the manner provided respecting highways. (b)

SEC. 24. When the municipal officers unreasonably neglect or refuse to lay out or alter a town way, or a private way on petition of an inhabitant, or of an owner of land therein for a way leading from such land under improvement to a town or highway, the peti-

(a) Return of selectmen. 12 Me., 35, 275; 13 Me., 253; 16 Me., 302; 18 Me., 185, 346. See 56 Me., 390. 26 Me., 178; 30 Me., 24; 40 Me., 301.

Bounds and admeasurements. 14 Me., 343; 25 Me., 304; 30 Me., 25; 40 Me., 301.

Acceptance. 10 Me., 340; 11 Me., 113; 12 Me., 35; 16 Me., 302; 18 Me., 185; 21 Me., 174; 23 Me., 124; 26 Me., 178; 35 Me., 246; 40 Me., 301; 48 Me., 457; 59 Me., 518; 64 Me., 579; 67 Me., 286.

(b) 11 Me., 265, 424; 12 Me., 211; 17 Me., 201; 19 Me., 316; 21 Me., 391. See c. 1, § 4, rule 3; 19 Me., 343; 26 Me., 179; 28 Me., 123; 30 Me., 271; 32 Me., 568; 39 Me., 222; 48 Me., 283; 59 Me., 518; 60 Me., 537-8.

tioner may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who are to give notice thereof to all interested and act thereon as is provided respecting highways. When the decision of the municipal officers is in favor of such laying out or alteration, any owner or tenant of the land over or across which such way has been located, shall have the same right of petition. When the decision of the commissioners is returned and recorded, such owner or tenant, or other party interested, has the same right to appeal to the supreme judicial court, and also to have his damages estimated by a committee or jury as is provided in this chapter respecting highways. (*a*)

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out or alter.
R.S., c. 18, § 23.
—proceed-
ings.
—county
commission-
ers to hear
and decide.
Appeal.
1880, c. 217, § 1.

SEC. 25. No such way shall be opened or used until the expiration of sixty days from the time it is accepted by the town, and if within that time notice of such appeal or petition shall be filed with the town clerk, such way shall not be opened or used until finally located by the appellate tribunal.

When such
way shall be
opened.
1880, c. 217, § 2.

SEC. 26. When a town unreasonably refuses to discontinue a town or private way, or to accept one laid out or altered by the selectmen, the parties thereby aggrieved may, within the time, and in the manner stated in section twenty-four, present a petition to the commissioners, who shall in like manner proceed and act thereon, and cause their proceedings to be recorded by their own and by the town clerk; and the rights of all parties may be preserved and determined as provided in sections twenty-four and twenty-five. (*b*)

Towns un-
reasonably
refusing to
accept, or to
discontinue.
R.S., c. 18, § 24.
57 Me., 341-3.
60 Me., 331.
63 Me., 102.
64 Me., 582.
68 Me., 538.

SEC. 27. When a petition for increase of damages on account of such ways, is presented to the county commissioners, they shall order a notice to the town interested in such petition, to appear at the next regular term, and the case shall stand continued, and no jury shall be summoned until all parties interested have been notified and had an opportunity to be present and enter into an agreement for a committee, as provided by section eight. In other respects, the like proceedings may be had, and the rights of the parties may be determined as provided for like purposes respecting highways. When it appears by the report of municipal officers, [or] by the records of towns or of commissioners, that notice was not given as required, such petitions may be filed with the clerk of the commissioners within two years after a final decision, and in all other cases such petitions may be filed with said clerk within one year after a final decision.

Order of no-
tice on peti-
tion for
increase of
damages.
1874, c. 205.
28 Me., 123.

—proceed-
ings, same as
for high-
ways.
R.S., c. 18, § 25.
See §§ 8 to 15.

SEC. 28. When a town way has been laid out, graded, or altered by the commissioners, their proceedings cannot be affected by any action of the town, within five years; and when one has been dis-

Town ways
acted on by
co. comm'rs
cannot be
acted on by

(*a, b*) 8 Me., 271; 10 Me., 20; 12 Me., 211, 275; 18 Me., 185; 21 Me., 381; 25 Me., 71; 30 Me., 26; 31 Me., 271; 36 Me., 76; 40 Me., 301; 41 Me., 605; 42 Me., 480; 51 Me., 571; 57 Me., 341-3; 60 Me., 330, 537-8, 540; 64 Me., 581.

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towns for a time.
1875, c. 25, § 3.

Co. comm'r's may fix amount of grading.
1875, c. 25, § 7.
—order half the expense to be paid by the town.
1876, c. 85, § 3.

Towns may reinstate town ways discontinued by county commissioners.
1878, c. 41, § 1.

—damages.
See § 19.

—proviso.
1878, c. 41, § 2.

Damages for location of highways, how estimated and when paid.
1881, c. 53.
71 Me., 140, 143.
See §§ 7, 40.

—proviso.

Lands shall not be taken from a railroad for any way without notice and hearing.
1880, c. 223.

continued by them, it cannot be again laid out by the town, within two years. The commissioners have the same power to alter or discontinue such ways, for five years, as they have respecting highways.

SEC. 29. The county commissioners, in laying out new ways, or altering or grading ways already laid out, *shall have power to* [may] direct the amount of such grading, which shall be stated in their return; and they may order a portion of the expense of such altering or grading, not exceeding fifty per cent. thereof, to be paid to the town in which the altering or grading has been done, from the county treasury.

SEC. 30. When a town has duly accepted a town way, and said town way is subsequently discontinued by the county commissioners on appeal, before such road shall have been opened for travel, such town may, at its annual meeting, held within three years thereafter, by a majority of the voters present and voting, reinstate and lay out such town way, under an article for such purpose in the warrant for such meeting. And the damages shall be assessed, and the owners of the land over which said way passes [shall be] notified thereof by the municipal officers, within thirty days after said meeting; and any person so damaged, *dissatisfied with the amount of damages allowed*, may petition the county commissioners within fifteen days after said notice, for an increase of damages, and such action shall be had thereon as is now provided in case of town ways laid out on petition. A town way so re-established and laid out shall not be discontinued for five years thereafter.

SEC. 31. If any person's property is damaged, by laying out, altering, or discontinuing a highway or town way, the commissioners or [the] municipal officers of towns shall estimate the amount, and in their return state the share of each separately; but they shall not order such damages to be paid, nor shall any right there-to 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. *Provided*, however, that unless such land is so entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings shall be void.

SEC. 32. No private way, town way, city street, or highway, taking any land of any railroad corporation *in this state*, shall be located, unless a notice of the time and place of the hearing upon said location shall have been served upon the station agent of said railroad within such town or city, if any there is, *and* otherwise upon such station agent whose station is nearest to the land proposed to be so taken, at least seven days before the time for such hearing.

WAYS ACROSS RAILROADS.

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SEC. 33. Townways and highways may be laid out across, over or under any railroad track, in the manner provided by law for laying out such ways; and when such way crosses such track at grade, the expense of building and maintaining so much of such way as is within the limits of such railroad, shall be borne by the railroad company whose track is so crossed; and when such way is laid out under or over such track, and not at grade, the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne by such company, or by the city or town in which such way is located, or shall be apportioned between such company and such city or town, as may be determined by the railroad commissioners, upon petition, and after notice and hearing of the parties. Either party aggrieved by their decision thereon may appeal therefrom in writing, to the supreme judicial court, at any time before the next term of said court within and for the county in which such way is located, at which term such appeal may be entered and prosecuted by the appellant. If he fails to appear at that term to prosecute the appeal, the decision of the railroad commissioners shall be final and conclusive. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, not residents of the county in which such way is located, who shall be sworn, and if one of them dies, refuses to act, or becomes interested, the court may appoint another in his place; and they shall give such notice as the court has ordered, view the way in question, hear the parties, and make their report at that or the next term of the court after their appointment, whether the decision of the railroad commissioners should be in whole or in part affirmed or reversed, which being accepted, and judgment thereon entered, shall be final and conclusive in the case. Costs may be taxed and allowed to either party, at the discretion of the court.

Town ways and highways crossing railroads, how built and maintained. 1878, c. 43, § 1.

—when not at grade expense adjusted by railroad commissioners.

Either party may appeal.

—proceedings.

—costs.

SEC. 34. In case of such ways already so laid out, over or under any railroad track, and not at grade, the expense of building and maintaining so much of such way as is within the limits of such railroad, shall be borne as provided in the preceding section; the question shall be determined upon application of any railroad company whose track is so crossed, made within sixty days after written notice has been served on such railroad company by the municipal officers of any city or town in which such way is located, requesting such company to build and maintain so much of such way as is within the limits of its road.

Ways already laid out, how maintained. 1878, c. 43, § 2.

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ASSESSMENT OF DAMAGES UPON ABUTTORS ON CITY STREETS.

Damages caused by laying out, widening, altering or discontinu'g city streets, may be assessed in whole or in part upon abuttors. 1872, c. 26, § 1.

Notice of hearing to be published one week.

Owners to be notified of assessment. 1872, c. 26, § 2.

Owners aggrieved may have assessment made by a committee or jury. 1878, c. 172.

Costs.

SEC. 35. Whenever the city council of any city shall lay out any new street or public way, or widen or otherwise alter or discontinue any street or way therein, and shall decide that any persons or corporations are entitled to damage therefor, and shall estimate the amount thereof to each in the manner provided by law, said city council may apportion the damages so estimated and allowed, or such part thereof as to them may seem just, upon the lots or parcels of land adjacent to and bounded on such street or way, other than those for which damages are allowed, in such proportions as in their opinion such lots or parcels of land are benefited or made more valuable by such laying out or widening, alteration or discontinuance; but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all persons interested of a hearing before said council, at a time and place specified, which notice shall be published in some newspaper in said city at least one week before said hearing.

SEC. 36. After said assessment has been made upon such lots or parcels and the amount fixed upon each, the same shall be recorded by the city clerk, and notice shall be given within thirty days after the assessment to each owner and proprietor of said assessed lots and parcels, by delivering to each owner resident in said city a certified copy of such recorded assessment, or by leaving it at his last and usual place of abode, and by publishing the same three weeks successively in some newspaper published in said city, the first publication to be within said thirty days, and said clerk within said thirty days shall deposit in the post office of said city, postage paid, a certified copy of such assessment directed to each owner or proprietor residing out of said city, whose place of residence may be known to said clerk, and the certificate of said clerk shall be sufficient evidence of these facts, and the registry of deeds for each county as the case may be, shall be the evidence of title in allowing or assessing damages and improvements, so far as notice is concerned.

SEC. 37. Any aggrieved owner or proprietor, may, at any time within six months after such assessment, have the same assessed by a committee or jury as is now provided for the estimate of damages for land taken for laying out, altering, widening or discontinuing any new street or public way in either of said cities; and if, upon appeal, such owner or proprietor shall fail to be assessed a smaller sum than that assessed by the city council, then said city shall recover costs, after such appeal, which shall be added to and become a part of said assessment; otherwise the appellant shall

recover costs after said appeal, and the clerk of the courts for the county, shall, within thirty days after final judgment, in case of appeal, certify such judgment to the clerk of said city. CHAP. 18.

SEC. 38. If the sums so assessed shall not be paid to the city treasurer within six months after such assessment and no appeal is claimed, the mayor of said city, under the order of the council, may issue his warrant directed to the city treasurer, reciting substantially the proceedings had, and direct said treasurer to sell all such lots the assessment upon which has not been paid as aforesaid at public auction to the highest bidder, or so much of each as may be necessary to pay said assessment and all intervening charges and costs, first giving public notice of the time and place of sale by posting notices thereof in two public places in said city and publishing the same three weeks successively before said sale, in some newspaper published in said city. And said treasurer shall obey said warrant and execute and deliver to the purchaser of such lot or parcel or any part thereof, a deed which shall convey a good and valid title of the same to the purchaser; and such owner or proprietor may redeem the same at any time within two years after such sale, by paying or tendering to the purchaser or depositing with said treasurer the amount paid by such purchaser, with interest at the rate of twelve per cent. per annum: And there shall be a lien upon each of said lots and parcels for the payment of said assessment and all costs and charges until the same is paid.

If no appeal and assessment is not paid.
1872, c. 26, § 4.

Lots sold at auction.

Two years redemption.

12 per cent. interest, costs, &c.

SEC. 39. In addition to the foregoing provisions, any city treasurer may, for the use of his city, in an action of indebitatus assumpsit, recover of each owner or proprietor any assessment which may have become due and payable, with all charges and costs.

Treasurer may sue proprietor for assessment.
1872, c. 26, § 5.

WHEN WAYS ARE TO BE OPENED.

SEC. 40. When a town, private, or highway, 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. (a)

Way not opened in 6 years, discontinued.
R.S., c. 18, § 27.

SEC. 41. When a town or highway is not opened and made passable by the town liable, or [a] hill within the same has not been graded, within the time prescribed therefor by the commissioners, they may, after notice to the town, cause it to be done by an agent, not one of themselves, on petition of those interested. The agent shall make a written contract therefor and file a copy of it

Commissioners may cause highways to be opened when towns neglect.
1875, c. 25, § 4.
59 Me., 84.

(a) 5 Me., 256; 12 Me., 237; 43 Me., 428; 57 Me., 341-3; 60 Me., 330, 537-8, 540; 71 Me., 240.

CHAP. 18. in the clerk's office ; and the commissioners shall forthwith certify to the assessors of the town interested, the time when such contract is to be completed, and the amount to be paid therefor. They may examine the doings of their agent, and at pleasure remove him and appoint another. His account is not to be allowed without notice first given to the town. When the contract has been completed and the accounts allowed, the town becomes liable to pay the amount expended, with the expenses of the agent for superintendence, and for procuring the allowance of his account. If the town neglects to pay for thirty days, a warrant of distress is to be issued by the commissioners to collect the same.

Record location of highway, when lost or disregarded.
R.S., c. 18, § 29.

Proceedings in case of.

Any justice of S. J. C. to issue summary notice, &c.

SEC. 42. When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto, or said agent is not making said highway according to the record location, the municipal officers or town agent of said town, may file a bill in equity in the supreme judicial court in term time, or vacation, setting forth the facts aforesaid and praying an injunction to stay the proceedings of said agent ; and any justice of said court shall issue a summary notice to said agent to appear before him to answer said petition ; and on a hearing of the parties he may issue a temporary injunction upon such terms and conditions as he deems reasonable ; and the subsequent proceedings on the bill shall be similar to proceedings in equity in other cases.

Plantations liable as towns and have same powers.
R.S., c. 18, § 30.
See c. 3, § 73.
20 Me., 298.

SEC. 43. Plantations required to assess a state or county tax, have the like powers and are subject to the like liabilities and penalties as towns respecting ways. Their assessors have the like powers and are to perform the like duties, as municipal officers of towns, respecting them.

ACTIONS FOR DAMAGES AND COSTS.

Damages, how recovered.
R.S., c. 18, § 31.
45 Me., 424.

SEC. 44. A person entitled to receive payment of damages or costs, after thirty days from demand on the treasurer of the county, or town, or on the party liable therefor, may recover them in an action of debt.

WAYS IN PLACES NOT INCORPORATED.

County commissioners authorized to lay out, alter, or discontinue highways in unincorporated townships.
R.S., c. 18, § 32.

SEC. 45. The county commissioners, on petition as provided in section one, may lay out, alter or discontinue a highway on any tract of land in their county, not within any town or plantation required by law to raise money to make and repair highways ; and all expenses for making and opening the same are to be paid by the owners thereof, excluding lands reserved for public uses, in proportion to their interest in the lands over

any part of which it is laid, except as provided in chapter six, section seventy-five. (a) CHAP. 18.

See c. 6, § 75.

SEC. 46. If they think [that] there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor, by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, fourteen days before that time, and if unknown, by a publication thereof in the state paper for six successive weeks, the last, thirty days before that time. No proceedings are to take place until it is proved that such notice has been given.

Notice of hearing, how given.
R.S., c. 18, § 33.
38 Me., 495.

SEC. 47. After hearing the parties at the time and place appointed, they may proceed as provided in section four.

Ways, how laid out.
R.S., c. 18, § 34.

SEC. 48. Any party interested in such decision may appeal therefrom to the supreme judicial court, to be entered at the term thereof held first after such decision, in said county. And all further proceedings before the commissioners are to be stayed until a decision is made in the appellate court. If no person appears at that term to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, refuses to act or becomes interested, the court shall appoint another like person in his place, and they shall cause notice to be given of the time and place of hearing before them, by publication thereof in the state paper six successive weeks, the last publication to be fourteen days, at least, before the day of hearing, and also personal notice to the appellant, and the chairman of the county commissioners, thirty days, at least, before the time set for hearing; they shall view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed, or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

Appeal to S. J. C.
1879, c. 107, § 1.
63 Me., 370.
64 Me., 31, 32.
Further proceedings stayed.

No person appearing to prosecute;
—proceedings.

Court to appoint committee of three.

Notice of time and place of hearing.

Committee to view route, hear parties and report.

Acceptance of report.
—proceedings.

If the judgment of the commissioners in favor of laying out or altering a way as prayed for, is wholly reversed on an appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole, or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court, in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so

If judgment of commissioners is reversed, they shall proceed no further.

If affirmed,
—proceedings.

Judgment of appellate court to be carried out.

(a) 3 Me., 135; 17 Me., 197; 27 Me., 294; 30 Me., 352; 33 Me., 458; 38 495; 46 Me., 346; 60 Me., 289; 63 Me., 252.

CHAP. 18. adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The compensation of the committee shall be the same as commissioners would have for like services, to be allowed by the court. The costs allowed to the prevailing party, and the fees of the committee are to be collected as provided in section three.

When appellant or prosecutor is to pay costs.
How collected.
See § 3.

No new petition for one year.
1879, c. 107, § 2.

SEC. 49. If the final decision of the commissioners or of the committee is against the prayer of the petition, no new petition for the same road shall be entertained by the commissioners for one year thereafter.

County commissioners may lay out, alter or discontinue highways, on same petition.
1878, c. 64.

SEC. 50. County commissioners in their counties may, upon the same petition, lay out, alter, or discontinue highways, through a town or towns, or a plantation or plantations, and tracts of land not in any town or plantation, and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as is now provided by law in case of a petition to lay out, alter or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section forty-six; in case of an appeal to the supreme judicial court, the appeal shall be made at any time after the return of the commissioners has been placed on the files, and before the next term of said court in the county; and the proceedings upon the appeal shall be according to section forty-eight. If no appeal is made, the case is to be continued to the next regular term after the regular term to which the return is made.

—proceedings.

—appeal.

Petition for increase of damages, when filed.
1880, c. 218.

SEC. 51. When an appeal is taken on the location of any way, petitions for increase of damages may be filed within sixty days after final decision in favor of such way.

1874, c. 263, § 2.

WAYS IN INCORPORATED PLACES.

Parties interested may be heard by commissioners on petition for laying out highway.
1875, c. 25, § 5.
—may appeal from decision.
Stay of proceedings.

SEC. 52. Parties interested may appear jointly or severally, at the time of hearing, before the commissioners, on a petition for laying out, altering, grading, or discontinuing any highway; and any such party may appeal from their decision thereon, at any time after it has been placed on file, and before the next term of the supreme judicial court in said county, at which term such appeal may be entered and prosecuted by him, or by any other party who so appeared. And all further proceedings before the commissioners are to be stayed until a decision is made in the appellate court. (a)

(a) 32 Me., 454; 51 Me., 194, 385; 42 Me., 400; 63 Me., 29, 570; 64 Me., 435, 437, 586-7; 68 Me., 407.

SEC. 53. If no person appears at that term to prosecute the appeal, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, refuses to act, or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

SEC. 54. If the judgment of the commissioners in favor of laying out, [grading], or altering a way, as prayed for, is wholly reversed on an appeal, they shall proceed no further; and in all cases when the judgment of the commissioners shall be reversed on appeal, no petition praying for substantially the same thing shall be entertained by them for two years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court; and in all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The compensation of the committee to be the same as commissioners would have for like services, to be allowed by the court. The costs allowed the prevailing party, and the fees of the committee, are to be collected as provided in section three; *provided*, however, that this act shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

SEC. 55. In all cases where a committee has been agreed on, whether upon a petition for increase of damages, or where a committee has been appointed on an appeal from the decision of the county commissioners, it shall not be necessary for said committee to be sworn before the time agreed on for viewing the route and hearing the parties.

LIABILITY FOR REPAIR OF WAYS, AND FOR INJURIES.

SEC. 56. Highways, town ways and streets, legally established, are to be opened and kept in repair so that they are safe and convenient for travellers with horses, teams and carriages. In default

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On appeal, committee appointed; proceedings. R.S., c. 18, § 38.

8 Me., 147.

11 Me., 474.

31 Me., 447.

32 Me., 456.

33 Me., 370.

37 Me., 448.

42 Me., 400.

53 Me., 387,

434.

56 Me., 262.

59 Me., 263,

514.

64 Me., 586,

587.

If judgment of commissioners is reversed, no further proceedings.

1877, c. 199.

See 1875, c.

25, § 6.

If judgment

is affirmed,

shall carry

into effect

judgment of

appellate

court.

32 Me., 473.

42 Me., 401.

53 Me., 86.

59 Me., 451.

67 Me., 531.

Costs.

Compensation

of committee.

Proviso.

Committee

agreed on or

appointed,

when to be

sworn.

1875, c. 25, § 8.

Ways to be

kept open

and in repair.

R.S., c. 18, § 40.

CHAP. 18. thereof, those liable may be indicted, convicted, and a reasonable fine imposed therefor. (a)

Towns neglecting to keep ways in repair after five days actual notice, persons may petition county commissioners. 1879, c. 115, § 1.

Commissioners to fix time and place for hearing, and give notice.

—view the way and hear parties.

—prescribe repairs to be made and fix time for making. If they find way safe, shall dismiss petition and award costs v. petitioners.

Way repaired since.

Petition, how and when presented. 1879, c. 115, § 2.

Commissioners to make full return of their proceedings.

Towns neglecting to make repairs. 1879, c. 115, § 3. Agent appointed.

SEC. 57. When any town legally liable to maintain any way, unreasonably neglects to keep such way in repair, so that the same is safe and convenient for travellers with horses, teams and carriages, after the municipal officers, or one of them, have had five days actual notice or knowledge of the defective condition, any three or more responsible persons may petition the county commissioners for the county in which such town is situated, setting forth such facts, and if said commissioners are satisfied that such petitioners are responsible for the costs of the proceedings, they shall fix a time and place near such defective way, for a hearing on such petition, and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way, alleged to be out of repair, and hear the parties interested in the petition, and if they adjudge the way to be unsafe and inconvenient for travellers, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make the same, and give notice thereof to the municipal officers of the town, and they shall award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

SEC. 58. Such petition may be presented to said commissioners at any of their sessions, or in vacation to the chairman thereof, who shall procure the concurrence of his associates in fixing the time and place in the order of notice, and cause the petition to be entered at their next session. And they shall make full return of their proceedings on the petition, and cause the same to be duly recorded as of their next regular term after the proceedings are closed.

SEC. 59. If the town shall neglect to make the repairs prescribed by the commissioners, within the time fixed therefor in their notice to the town, the commissioners may cause it to be done by an agent, not one of themselves. The agent shall cause

(a) Ways not established by statute provisions. 2 Me., 60; 3 Me., 273; 4 Me., 270; 5 Me., 368; 11 Me., 281; 18 Me., 68, 412; 21 Me., 174; 25 Me., 299; 35 Me., 104, 169; 37 Me., 70; 40 Me., 155; 42 Me., 21; 46 Me., 427; 47 Me., 344; 48 Me., 457; 51 Me., 260; 54 Me., 364; 56 Me., 345.

Ways presumed to be legally established. 34 Me., 245; 37 Me., 55, 507; 39 Me., 300.

Liability for repair. 5 Me., 256; 15 Me., 406; 16 Me., 189; 18 Me., 287; 35 Me., 104; 36 Me., 397; 37 Me., 251; 46 Me., 485; 51 Me., 131, 533; 57 Me., 536; 62 Me., 105, 470, 472; 63 Me., 477, 550-1; 64 Me., 60; 65 Me., 37.

Traveller and negligence. 62 Me., 470, 472.

Generally. 68 Me., 499.

the repairs to be made forthwith, as prescribed by the commissioners, and render to them his account of his disbursements and services in making such repairs. His account is not to be allowed without such notice, first given to the town, as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the expenses of the agent in procuring the allowance of his account, *with* [and] interest from the time of such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If the town neglects to pay said judgment for thirty days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

SEC. 60. When a way is established on a line between towns, their municipal officers shall divide it crosswise, and assign to each town its proportion thereof by metes and bounds, which, within one year thereafter, being accepted by each town, at a legal meeting, shall render each town liable, in the same manner as if the way were wholly within the town; when a division of it is not so made, the selectmen of either town may petition the county commissioners, who are to give notice by causing a copy of such application with their order thereon, appointing a time and place of hearing, to be served upon the clerk of each town for thirty days, or by causing it to be published in some newspaper printed in the county for three weeks previous to the time appointed; and after hearing the parties, they may make such division.

SEC. 61. A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

SEC. 62. When the municipal officers are appointed surveyors of highways by a town, they may in writing delegate their power or part of it to others. They shall, annually before the tenth day of May, make a written assignment of his division and limits to each surveyor of highways, to be observed by him.

SEC. 63. Each town shall annually raise money to be expended on the town[-ways] and highways, to be assessed as other town charges. The assessors shall deliver to each surveyor, on or before the tenth day of May, a list of the persons, and of the assessments on them to be expended within his limits. Two thirds thereof are to be so expended before the first day of the next July.

SEC. 64. Surveyors shall give reasonable notice, and in writing if required, to each person on his list resident in town, of the amount of his tax, and give forty-eight hours notice, extraordinary casualties excepted, of the times and places appointed for furnishing labor and materials at prices fixed by the town therefor, afford-

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—notice on his account.
—towns liable for his account when allowed.

—warrant of distress to issue,—when.

Ways on line between towns, how divided.
—liability of towns.
R.S., c. 18, § 41.
52 Me., 213.

Ways laid out between towns, how divided, for repair, &c.
R.S., c. 18, § 42.
52 Me., 213.

Town officers to assign limits to surveyors by May 10.
R.S., c. 18, § 43.
72 Me., 517.

Towns to raise money.
—lists to surveyors by May 10; two thirds to be expended by July 1.
R.S., c. 18, § 44.
72 Me., 517-8.

Surveyors' duties.
R.S., c. 18, § 45.
42 Me., 377.
72 Me., 517-8.

CHAP. 18. ing each an opportunity to work with his oxen, horses, cart, or plow, to the amount of his tax. The tax may be paid to the surveyor in money, who shall expend it faithfully for repairing the ways.

Snow to be trodden down.

—sudden injuries repaired.

R.S., c. 18, § 46, 62 Me., 104, 105.

See c. 19, § 7.

Mail routes, apparatus for opening.

R.S., c. 18, § 47.

—fences may be taken down by town officers to prevent drifting.

—to be replaced.

Surveyors to return list of delinquent tax payers to assessors.

1881, c. 15.

—amount to be re-assessed.

72 Me., 519.

Trees may be planted.

R.S., c. 18, § 49.

See § 22;

c. 3, § 57,

item 6.

Materials may be taken from lands not inclosed or planted.

R.S., c. 18, § 50.

Duties of road com-

SEC. 65. When such ways within his limits are blocked up or incumbered with snow, the surveyor shall forthwith cause so much of it to be removed or trodden down, as will render them passable. The town may direct the manner of doing it. In case of sudden injury to ways or bridges, he shall, without delay, cause them to be repaired.

SEC. 66. There shall be furnished and kept in repair in each surveyor's district, through which there is a mail route, some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of ten feet, and the municipal officers of towns, or highway surveyors under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein; but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

SEC. 67. Each surveyor, at the expiration of his term, *is to* [shall] render to the assessors a list of such persons as have not worked out or paid their taxes. In their next assessment of town taxes on such delinquents, the assessors *are to* [shall] place in distinct columns, the amounts due from each, to be collected as other town taxes, and paid to the treasurer; and the treasurer shall hold the same, subject to the order of the selectmen, to be applied by them for repairs of roads and bridges. (a)

SEC. 68. A sum not exceeding five per cent. of the amount committed to him, may be expended by a surveyor, under the direction of the municipal officers, in planting trees about public burying grounds, squares, and ways within his district, if the town by vote authorizes it.

SEC. 69. A surveyor within his district may remove any obstacle, which *does* [obstructs] or is likely to obstruct a way, or to render its passage dangerous. He may dig for stone, gravel, or other material suitable for making or repairing ways in land not inclosed or planted, and remove the same *on* to the ways. If the land from which such materials were taken is not within the limits of the way, the owner of it is to be paid therefor in money by the town, to be recovered, after demand and refusal by the surveyor, in an action as on an implied promise. (b)

SEC. 70. Road commissioners and highway surveyors shall go

(a) 20 Me., 208; 26 Me., 219; 42 Me., 377; 58 Me., 519; 69 Me., 65.

(b) 11 Me., 273; 13 Me., 254; 16 Me., 190; 25 Me., 128; 32 Me., 327; 38 Me., 221; 43 Me., 332; 51 Me., 350; 66 Me., 235-6; 68 Me., 361, 499.

over their highway districts, or cause it to be done, in the months of April, May, June, August, September, October and November in each year, and remove the loose obstructions to the public travel, and repair such defects as may occur from time to time, rendering travel dangerous, or give notice of such defects to the municipal officers, under a penalty of five dollars for neglect of such duty, to be recovered by complaint, one half to the use of the town, and one half to the complainant.

SEC. 71. No surveyor, without a written permission first obtained from the municipal officers, shall cause a water course to be so conveyed by the side of a way as to incommode any person's house or other building, or to obstruct any person in the prosecution of his business. Any person so aggrieved may complain to the municipal officers, who shall view the water course and may cause it to be altered as they direct.

SEC. 72. When a way or street is raised or lowered by a surveyor or person duly authorized, to the injury of an owner of land adjoining, he may, within a year, apply in writing to the municipal officers, and they shall view such way or street and assess the damages, if any have been occasioned thereby, to be paid by the town, and any person aggrieved by said assessment of damages, on petition to the county commissioners, may have them assessed by a committee or jury, in the manner provided respecting highways.

SEC. 73. When the sum appropriated is not sufficient to repair the ways in a surveyor's district, he may, with the written consent of the selectmen, employ inhabitants of the town to labor for pay, not exceeding fifteen per cent. of the amount committed to him. (a)

SEC. 74. Towns may raise money for the repair of bridges and ways, and direct the same to be assessed and collected as other town taxes, to be expended for the purpose by the selectmen or by road commissioners, as the town directs.

SEC. 75. A town at its annual meeting, may authorize its assessors to abate not exceeding three dollars of the highway tax of any person, upon proof that he has owned and used on the ways during that year cart wheels having felloe's not less than six inches wide. And they shall abate three dollars from such tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in a surveyor's district claims to furnish it, the municipal officers are to decide where it

CHAP. 18.

missioners
and highway
surveyors.
R.S., c. 18, § 51.

Penalty for
neglect of
duty.

Watercourse
not to injure.
R.S., c. 18, § 52.
32 Me., 327.
63 Me., 480.

Damages occasioned by
raising or
lowering
streets, how
determined.
1874, c. 246.
43 Me., 332.
65 Me., 592.

When surveyors may
expend more
than taxes.
R.S., c. 18, § 54.

Towns may
raise and assess
moneys for
bridges,
and ways as
other taxes.
R.S., c. 18, § 55.
68 Me., 361.

Wide wheels
and watering
troughs,
abatement
for.
R.S., c. 18, § 56.
57 Me., 539.
67 Me., 138.

(a) 3 Me., 446; 11 Me., 360; 13 Me., 294; 30 Me., 159; 34 Me., 406; 51 Me., 353; 55 Me., 435.

CHAP. 18.

Town officers may establish public drinking troughs and fountains.
1874, c. 254.

shall be located. Municipal officers may establish and maintain such public drinking troughs, wells and fountains within the public highways, squares and commons of their respective towns, as in their judgment the public necessity and convenience may require; and towns may raise and appropriate money to defray the expense thereof.

Ways may be opened or repaired by contract.

Surveyors or collector may collect when tax not paid.
R.S., c. 18, § 57.
15 Me., 248.
68 Me., 498.

SEC. 76. Towns may authorize their surveyors or other persons to make contracts for opening or repairing their ways; and surveyors to collect taxes on their lists not paid within the time limited; and their assessors shall, for that purpose, deliver to them warrants in substance like warrants for the collection of town taxes. Such warrants, with the lists, may be delivered to the collector, who shall collect as he does other town taxes, and pay them to the respective surveyors, who shall account to the municipal officers for the expenditure thereof.

Surveyors to exhibit their bills to selectmen.
R.S., c. 18, § 58.

SEC. 77. Surveyors are to exhibit their rate bills to the municipal officers on the first Monday of July, and at the expiration of their terms; and at those times, render an account of all money by them expended on the ways. Any one unreasonably neglecting to do so shall forfeit twenty dollars to the use of the town, to be recovered in an action of debt.

They are to pay balance in their hands to treasurer.
R.S., c. 18, § 59.

SEC. 78. Money remaining in their hands, not expended at the expiration of their offices, is to be paid to the treasurer of the town. If not so paid, after demand, the same with the addition of twenty per cent. may be recovered in an action for money had and received in the name and for the use of the town.

Road commissioners may be chosen, duties.
R.S., c. 18, § 60.
See c. 3, § 13.

SEC. 79. Towns, at their annual meetings, may elect one or not exceeding five road commissioners. They are to be sworn; and vacancies may be filled at any legal town meeting. Except as hereafter provided, they are to have the powers and be subject to the duties and penalties of surveyors. They may at any time assign the care and oversight of the ways to any of their number; and receive such compensation as the town provides.

Road commissioners, powers and duties.
R.S., c. 18, § 61.

SEC. 80. The assessors are to deliver to such commissioners a rate bill of all highway taxes assessed for the year, with an annexed statement of the prices fixed for labor and materials. The collection of any part of the taxes may be assigned by them to any of their number, who are to notify the persons taxed and require of them the performance of like labor in like manner, as surveyors might. Their certificate to the assessors shall be evidence of notice, and of the neglect of any person who does not perform.

Non-residents, how notified.
R.S., c. 18, § 62.

SEC. 81. These commissioners may give notice to non-residents, and to persons absent from town without leaving the name of an agent with the town clerk, or having any agent known to them, of the amount assessed to them, by posting advertisements thereof in

two public places in the town. If no person appears and pays within twenty days thereafter, the commissioners may make return of such notice and neglect, as provided in the preceding section.

SEC. 82. The taxes of such delinquents may be collected as other town taxes, by the collector, one of the commissioners, or by a person designated by them to the assessors. Such collector or person is to be sworn and give bond approved by the commissioners for the faithful discharge of his duties. The assessors are to commit lists of such taxes to him with their warrants for collection. He is clothed with the same powers as collectors of town taxes, and is to render his account, and make payment of the amount collected, to the commissioners until the next annual meeting, and after that to the treasurer of the town, who is to have the like powers and be subject to the like obligations, to compel such account and payment, as he has in regard to collectors of town taxes.

Taxes of delinquents, how collected.
R.S., c. 18, § 63.
20 Me., 299.

SEC. 83. Towns may at their annual meeting authorize road commissioners to receive money in payment [of taxes] and allow therefor, when paid before [they have been] certified as delinquent, such discount from the taxes as the town may determine. When more than one commissioner is chosen, the municipal officers are to name one of them to be chairman, who is to keep the rate bills, [and] a record of money received and paid, and hold the money subject to payment, as the commissioners order. He is to give bond with sureties to the town for the faithful performance of his duties, to be approved by the municipal officers. When only one is chosen, he is to give bond in like manner, and be responsible for the performance of all duties pertaining to the office.

Towns may allow discount for payment in money.

Commissioners to give bond and keep account.
R.S., c. 18, § 64.

SEC. 84. If any person receives any bodily injury, or suffers any damage in his property, through any defect or want of repair or sufficient railing, in any highway, townway, causeway or bridge, he may recover for the same, in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county, or the municipal officers, highway surveyors or road commissioners of such town, had twenty-four hours' actual notice of the defect or want of repair; and any person who sustains any injury or damage, as aforesaid, shall notify the county commissioners of such county, the municipal officers, or some one of them, of such town, within fourteen days thereafter, by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through any such deficiency, his executors or administrators may

Persons injured by defect in highways may recover damages.
1877, c. 206, § 1.

Must notify co. commissioners or municipal officers in writing within 14 days.

Loss of life, damages, how recovered.

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View may
be ordered
at trial.

Repair with-
in six years,
proof of way.
R.S., c. 18, § 66.

Persons
knowing de-
fect cannot
recover dam-
ages without
previous no-
tice to town
officers.
1879, c. 156, § 3.

Damages
limited to
\$2,000.
1879, c. 156, § 1.

Slippery
sidewalk no
cause of ac-
tion for pe-
destrian.
1879, c. 156, § 2.

Right of ac-
tion denied
to certain
aliens.
1872, c. 34.
69 Me., 280-1.

recover of such county or town liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged to have existed, when it would materially aid in a clear understanding of the case. (a)

SEC. 85. When it appears on trial of any such action or indictment, that the party defendant has, within six years before the injury, made repairs on the way or bridge, it shall not be competent for him to deny the location thereof. (b)

SEC. 86. No person shall recover damages in any action against any town or city, for injury to his person or property through any defect or want of repair or sufficient railing, in any highway, townway, causeway or bridge, who has notice of the condition of such way previous to the time of the injury, unless he has previously notified the municipal officers thereof, or some one of them, of the defective condition of such way. And no person shall recover more than two thousand dollars damages against any town or city for injury to his person or property, in any such action.

SEC. 87. No town or city shall be liable to any action for the recovery of damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk, nor on account of any slippery condition of any sidewalk or cross-walk.

SEC. 88. *No person shall recover of any city or town in this state, damage for injury done to person or property, which damage is claimed to have been done in consequence of any defect or want of repair or sufficient railing in any highway, townway, causeway or bridge, provided the said damage is done to or claimed by any person who was at the time said damage was done, a resident of any*

(a) When and how ways should be constructed. 18 Me., 288; 26 Me., 238; 33 Me., 460; 39 Me., 115; 46 Me., 485. See 12 Me., 301.

Defective ways. 11 Me., 273; 14 Me., 200, 203; 16 Me., 189; 17 Me., 201; 18 Me., 287; 26 Me., 239; 32 Me., 433; 35 Me., 104; 36 Me., 398; 37 Me., 251; 39 Me., 115; 42 Me., 253, 526; 46 Me., 485; 51 Me., 186, 315, 533; 55 Me., 49; 56 Me., 17.

Damage. 14 Me., 205; 16 Me., 191; 20 Me., 250; 29 Me., 311; 31 Me., 301; 32 Me., 273, 538; 33 Me., 271; 41 Me., 533; 50 Me., 223; 51 Me., 440.

Defect sole cause of damage. 18 Me., 288; 20 Me., 50; 32 Me., 49, 576; 38 Me., 205, 445; 42 Me., 335, 347; 43 Me., 496; 51 Me., 127.

Due care. 11 Me., 337; 14 Me., 200; 18 Me., 288, 381; 21 Me., 31; 26 Me., 238; 31 Me., 301; 32 Me., 54, 576; 38 Me., 207, 445; 42 Me., 336; 43 Me., 496; 50 Me., 224.

Notice of defects. 7 Me., 445; 21 Me., 31; 23 Me., 558; 32 Me., 272; 42 Me., 203; 51 Me., 533; 56 Me., 17.

Evidence. 15 Me., 28; 31 Me., 301; 33 Me., 460; 35 Me., 104; 37 Me., 251; 39 Me., 301.

Generally. 63 Me., 477, 550; 65 Me., 37, 38; 69 Me., 280.

(b) 5 Me., 368; 12 Me., 237; 51 Me., 187; 54 Me., 94; 58 Me., 349.

*country where damage done under similar circumstances is not recoverable by the laws of said country.** CHAP. 18.

SEC. 89. In any action against the inhabitants of a town for damages alleged to have occurred by reason of a defect in a railroad crossing, constituting a part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing, may be notified of the pendency of the suit, and may take upon itself the defence of the same.

Railroad company may assume defense of suit against town for defective R. R. crossing.
1871, c. 186, § 1.

SEC. 90. In the trial of such action, after notice as provided in the preceding section has been given, if the plaintiff recovers damages, and the jury find especially that the same was occasioned by the fault of such company, the company shall be liable to the defendants in said suit in an action of debt for all damage and costs paid by them.

Liability of railroad company.
1871, c. 186, § 2.
66 Me., 487.

SEC. 91. The notice required in section eighty-nine, shall be by copy of the writ served upon the company at least thirty days before the sitting of the court to which it is returnable, or by such notice as the court may order after the entry of said action.

Notice to company.
1871, c. 186, § 3.

SEC. 92. No town is liable for an injury when the weight of the load, exclusive of the carriage, exceeds six tons. Proof of its weight is to be made by the plaintiff.

No liability if load exceeds 6 tons.
R. S., c. 18, § 67.

SEC. 93. One indictment only for neglect to open ways or to keep them in repair is to be presented against a town at the same term of the court; but it may contain as many counts as are necessary to describe all portions of ways alleged to be defective. The word highway used therein will include town ways, causeways, and bridges.

One indictment only at a term.
R. S., c. 18, § 68.
See c. 1, § 4, rule 6.
See c. 19, § 1.
18 Me., 69.
59 Me., 452.

SEC. 94. When a fine is imposed, as provided in section fifty-six, the surveyor, in whose district the way was, shall pay to the town the amount of such fine and costs, to be recovered in an action on the case, or he, instead of the town, may be indicted, if the defect existed from his neglect to expend the money in his rate bill, or to give notice of any deficiency thereof to the municipal officers.

Surveyors responsible for defects in case of neglect.
R. S., c. 18, § 69.
51 Me., 354.
68 Me., 499.

SEC. 95. All fines imposed are appropriated to the repair of such ways. The court imposing them is to appoint one or more agents to superintend the[ir] collection and application of them. Within three months after collection, they are to make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject, on their motion, to be audited and corrected by the court. If an agent is guilty of gross neglect of duty, or fraudulently misapplies or retains the fine, he forfeits double *the* [its] amount of *it*, to be recovered by indictment to the use of the town.

Agents appointed to expend fines, their duties.
R. S., c. 18, § 70.
65 Me., 212.

* This section has been held to be in conflict with the constitution of the U. S., Amendment XIV. *Pearson and wife v. Portland*, 69 Me., 278.

CHAP. 18.

Clerk of court to certify fines to assessors; how collected and paid.
R.S., c. 18, § 71.
65 Me., 211.

SEC. 96. When a fine is imposed on a town, the clerk of the court *is to* [shall] certify it forthwith to the assessors; who *are to* [shall] assess the amount thereof, as other town taxes, and certify the same to the clerk of the court, and cause the amount to be collected by their collector, who *is to* [shall] pay the same to such agent at such time as the court orders. If not paid by that time, the clerk, on application of such agent, *is to* [shall] issue a warrant for its collection, as the treasurer of state is authorized to do for the collection of a state tax.

If way is not repaired in four months, fine to be collected.
R.S., c. 18, § 72.
59 Me., 144.

SEC. 97. If the assessors neglect to make such assessment and to certify it to the clerk, and the defective way is not repaired to the acceptance of such agent within four months after notice of the fine, the court may issue a warrant to collect of the town the fine and costs, or the unpaid part thereof.

When gates, bars, and fences on ways may be removed.
R.S., c. 18, § 73.
12 Me., 32.

SEC. 98. Any person may take down and remove gates, bars, or fences, upon or across any such way, unless they are there to prevent the spread of infectious disease, or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license, a person aggrieved by such removal may apply, and on proof that such erections were made by their license, they may order them to be replaced by the person who removed them.

Surveyors may remove logs and lumber as a nuisance; proceedings.
R.S., c. 18, § 74.
12 Me., 38.
35 Me., 253.
46 Me., 485.
47 Me., 162.
51 Me., 261.
54 Me., 47.
68 Me., 361.

SEC. 99. When logs, lumber, or other obstructions, without necessity are left on such ways, the surveyor, within whose district they are, or in his absence any other surveyor, may remove them; and he shall not be liable for any loss or damage thereof, unless occasioned by design or gross negligence. When no person appears to pay the expense and trouble of removal, he may sell at public auction so much thereof, as will be sufficient for the purpose, with charges of sale, *first* posting notice of the time and place of sale in two public places in the town seven days prior thereto. The person, through whose neglect or willful default they were left, is liable to be prosecuted as for a nuisance.

Persons convicted of nuisance to pay, if materials are not sufficient.
R.S., c. 18, § 75.

SEC. 100. When any thing has been adjudged to be a nuisance and to be abated, and the materials of which it is composed do not, on sale as aforesaid, produce sufficient to pay the charges of prosecution, removal, and sale, the court may order the deficiency to be raised by levy on the personal property of the person convicted of causing such nuisance.

When buildings and fences existing 20 years on a street or way become bounds; when it takes 40 years.
R.S., c. 18, § 76.
See c. 17, § 10.
59 Me., 144.

SEC. 101. When buildings or fences have existed more than twenty years fronting upon any way, street, lane, or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed to be the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed.

SEC. 102. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guide posts not less than eight feet high, and have fastened to the upper end of each a board, on which shall be plainly printed, in black letters on white ground, the name of the next town on the route, and of such other place as the municipal officers direct, with the number of miles thereto, and a figure of a hand with the forefinger pointing thereto; and for any neglect herein, towns shall be subject to indictment, and fine not exceeding fifty dollars.

CHAP. 18.

Towns required to maintain guide posts at crossings of ways.
R.S., c. 18, § 77.

Penalty for neglect.

SEC. 103. If the municipal officers of any town unreasonably neglect to cause a guide post to be erected in their town as provided by law, they shall forfeit and pay five dollars for each month's neglect, to be recovered in an action on the case by and to the use of any person suing therefor. Plantations assessed in state or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

Municipal officers to erect guide posts.
Penalty for neglect.

Plantations obligated as towns.
R.S., c. 18, § 78.

SEC. 104. Persons desirous of making an excavation near a street or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; and they shall in writing direct whether it may or not be made, and if permitted, the manner of making it, and when so made, no liability is incurred thereby. If not so made, the person making it is liable to pay the town, in an action on the case, all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

Excavations near ways, how to be made, responsibilities.
R.S., c. 18, § 79.
54 Me., 47.
57 Me., 377.

SEC. 105. Ice bridges may be constructed and maintained across any river or body of water, when its ordinary navigation is obstructed by ice, by persons for their own and the public use. Any person willfully destroying such bridge to prevent its use, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint, one half to the use of [the] complainant, the other to the use of the state. No person shall take down or injure any fence or occupy any land for the construction or use of such a bridge without consent of the owner first obtained.

Ice bridges may be made.
R.S., c. 18, § 80.
18 Me., 435.

—protected.

Proviso.

REPAIR OF PRIVATE WAYS OWNED IN COMMON.

SEC. 106. When four or more persons are owners and occupants of a private way or bridge, any three of them may make a written application to a justice of the peace to call a meeting, who may issue his warrant setting forth the time, place and purpose thereof, a copy of which is to be posted at some public place in the town seven days before such time. When so assembled they may choose a clerk and surveyor, to be sworn, and [they] may determine what repairs are necessary, and the proportion of labor

Owners of private ways and bridges may call meeting, proceedings.
R.S., c. 18, § 81.

CHAP. 19. and materials to be furnished by each owner; and the manner of calling future meetings.

Surveyor's duties; penalty for neglect of owners to pay.
R.S., c. 18, § 82.

SEC. 107. The surveyor so chosen, with respect to such way or bridge, has the powers of a surveyor of highways. For refusing to accept the trust or to take the oath he forfeits four dollars, to be recovered as of surveyors of highways. Any owner and occupant, who on requirement of the surveyor, neglects to furnish his proportion of labor and materials, is subject to liabilities and penalties, as in like cases respecting highways, to be recovered in like manner.

Owners may contract for repair, and cause money to be assessed and collected.
R.S., c. 18, § 83.

SEC. 108. The owners, at such meeting, may authorize a contract to be made for making and keeping such way or bridge in repair, by the year or for a less time; may raise money for that purpose, and choose assessors to assess it on such owners and occupants in proportion to their interests, who are to deliver their assessment with a warrant for its collection to the surveyor. Such warrant to be in substance such as is prescribed for collection of town taxes. The surveyor is to collect the same as taxes for highways are collected; and be liable for neglect of duty, as surveyors of highways are for similar neglects.

Penalties and process.
R.S., c. 18, § 84.

SEC. 109. Money recovered under the two preceding sections is for the use of such owners. In any process for its recovery, a description of them in general terms as proprietors and occupants of the way or bridge, clearly describing it therein, is sufficient. Such process is not abated by the death of any owner, or by the transfer of his interest.

CHAPTER 19.

LAW OF THE ROAD.

- SEC. 1.** Definition of words "way" and "team" when used.
2. Teams to turn to the right; if unable to turn, must stop.
 3. When stationary, or travelling slowly, must allow others to pass.
 4. Not to stand on way to obstruct it, nor be without a driver.
 5. Bells on horses drawing runners.
 6. Damages to injured party, penalty.
 7. Covered bridges to be snowed.
 8. Teams to walk on bridges. Boards forbidding fast driving on bridges to be conspicuously exposed.
 9. Penalty for fast driving.
 10. Driver of team with passengers not to leave it without charge or fastening. Punishment therefor.
 11. Certain teams to have wide rimmed wheels on a certain road in Washington county. Penalty for violation. Teams may be seized and detained.

SEC. 1. As used in this chapter, the word "way" includes all kinds of public ways. And the word "team" all kinds of conveyances on such ways for persons and for property.

SEC. 2. When persons travelling with a team are approaching to meet on a way, they are seasonably to turn to the right of the middle of the travelled part of it, so far that they can pass each other without interference. When it is *not* [un-] safe, or *is* difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, is to stop a reasonable time, at a convenient place, to enable the other to pass.

SEC. 3. When a person with a team is stationary, or travelling slowly on a way at a place unsafe or inconvenient for passing him with a team, he is, if requested, to drive to the right or left, or to stop a reasonable time at a convenient place, to allow the other to pass.

SEC. 4. No person *is to* [shall] leave his team stationary on a way so as to obstruct the free passage of other teams; or *is to* allow his team to be on a way without a driver.

SEC. 5. Three or more bells are to be fastened to one of the foremost horses drawing teams on snow without wheels.

SEC. 6. Any person injured by a violation of any provision of the previous sections, may recover damages in an action on the case, commenced within one year. Any person found guilty of such a violation forfeits not less than one, nor more than twenty dollars, to be recovered on complaint made to a trial justice within sixty days.

SEC. 7. All persons and corporations maintaining covered bridges for the purpose of public travel, are required to keep the same snowed at all reasonable times.

SEC. 8. No team is permitted to travel faster than a walk on a bridge erected wholly or partly by the state, nor on any bridge covered with plank and fifty feet long composing part of a way, nor on any bridge owned by a corporation, if a board with the words "three dollars fine for riding or driving on this bridge faster than a walk," legibly painted in black letters on a white ground, is kept exposed in some conspicuous place at each end thereof.

SEC. 9. For a willful violation of the provisions of the preceding section, a person forfeits three dollars, to be recovered on complaint made by any one of the owners of said bridge, or [by] any municipal officer of the town in which said bridge is located, to the use of the owners of the bridge, or [to] the town required to keep it in repair, with the costs of prosecution; but no person passing after sunset and before sunrise is liable to such forfeiture without proof that he previously had knowledge of such prohibition.

CHAP. 19.

Definitions.

R.S., c. 19, § 1.
See c. 1, § 4,
rule 6; c. 18,
§ 94.

11 Me., 339.

Travellers to
turn to the
right; if un-
able to turn,
must stop.
R.S., c. 19, § 2.
25 Me., 46.

When station-
ary or moving slowly,
must allow others
to pass.
R.S., c. 19, § 3.
25 Me., 46.

Teams must
not obstruct
passage, &c.
R.S., c. 19, § 4.

Bells.
R.S., c. 19, § 5.

Damage to
party injured,
penalty.
R.S., c. 19, § 6.

Covered
bridges to
be snowed.
1872, c. 21.

Teams to
walk on
bridges.
R.S., c. 19, § 7.

Boards pro-
hibiting fast
driving to be
exposed.

Forfeiture
for violation
of preceding
section.
1881, c. 7.

—exception.

CHAP. 20.
Driver not to
leave team
without
fastening.
R.S., c. 19, § 9.

SEC. 10. The driver of a team having passengers therein conveyed for hire, who leaves it without any person in charge of it and without fastening it securely, may be punished by fine not exceeding thirty dollars or by imprisonment not exceeding one month.

Certain
teams to
have wide
rimmed
wheels on a
certain road
in Washing-
ton county.
1880, c. 232.

SEC. 11. Teams with wheels, *when* [if] drawn by more than two horses, oxen or mules, must have the rims of their wheels at least four inches wide, [and] *when* [if] drawn by more than four horses, oxen or mules, at least five inches wide, when travelling on the road from Jackson brook, in Washington county, to Forest city; and no team drawn by more than six horses, oxen or mules, is allowed to travel on it. These provisions are not applicable to stage or pleasure carriages, or to those owned by the State or the United States, or to any cart or wagon owned by the settlers in the vicinity and used for farming purposes. The owner or driver of a team violating this provision forfeits twenty dollars, and one dollar more for each mile of road passed, to be recovered by complaint before a trial justice in the county where the offense was committed, and on a libel or complaint he may issue his warrant to seize and detain such team to respond such fine and costs.

Penalty for
violation.

Teams may
be seized.

CHAPTER 20.

FERRIES.

- SEC. 1. County commissioners may license ferries, establish tolls, take bonds.
2. May establish them to be supported by towns, penalty for neglect.
3. Penalty for neglect to keep safe boat, and to give prompt attendance.
4. Person injured by neglect or default of ferryman, may sue on his bond.
5. No ferry to be established within one mile of a steam or horse ferry.
6. Penalty for keeping a ferry, or transporting, contrary to law.
7. Ice to be levelled and way kept in repair in winter.
8. Penalty for neglect of it, liability for injuries.
9. Licensed ferrymen not to use steam or horse boats.
10. At steam and horse ferries other boats may be used in times of danger.
11. Obstructions of ferry ways prohibited. Penalty.
12. Piers may be sunk at ferries to guide boats.
13. Jurisdiction of Somerset county commissioners.

County com-
missioners
may license

SEC. 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except

where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of state, with sureties, for the faithful performance of his duties. Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

SEC. 2. They may establish ferries at such times and places as are necessary, and fix their tolls. When no person is found to keep them therefor, the towns in which they are established are to provide a person to be licensed to keep them, and are to pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they are to be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars.

SEC. 3. Every keeper of a ferry is to keep a suitable and safe boat, or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance one dollar, to him who sues therefor in an action of debt; and is liable in an action on the case to the party injured for his damages.

SEC. 4. Any one injured in his person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings are to be similar to those in actions on the bonds of sheriffs.

SEC. 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry can be established on the same river within one mile above or below it.

SEC. 6. A person, who keeps a ferry contrary to the provisions of sections one and two, or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire, a boat or other craft for such purpose, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case.

SEC. 7. When tidal waters, over which ferries are established, become so frozen that travellers may pass on the ice, the keepers of them are to level the ice and clear and repair the passage way from day to day, so that the same may at all times be safe and convenient for travellers with teams, sleds, and sleighs. Such way for passage may be made from a public landing sufficiently

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ferries, establish tolls, take bond.
R.S., c. 20, § 1.
8 Me., 368.
42 Me., 17.

Property to be appraised on removal of ferryman.

They may establish ferries to be supported by towns, penalty for neglect.
R.S., c. 20, § 2.

Penalty for neglect to keep safe boat, and for neglect of attendance.
R.S., c. 20, § 3.

Who may sue ferryman's bond.
R.S., c. 20, § 4.

Steam or horse ferry.
R.S., c. 20, § 5.

Penalty for keeping a ferry, or conveying passengers or property, contrary to law.
R.S., c. 20, § 6.

Ice to be levelled and way kept in repair in winter.
R.S., c. 20, § 7.

CHAP. 20. near to be connected with the opposite ferry landing. The commissioners are to fix a reasonable compensation therefor, to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

Penalty for neglect and liability.
R.S., c. 20, § 8.

SEC. 8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable, in an action on the case, to pay damages to any person injured thereby.

Licensed ferry-men not to use horse or steam boats.
R.S., c. 20, § 9.

SEC. 9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to pay the damages occasioned thereby to any person or corporation. *This provision is not applicable to a ferryman owning or using such a boat for his ferry on March sixth, eighteen hundred and thirty.*

Horse and steam ferries, when other boats used.
R.S., c. 20, § 10.
Obstructions to ferries prohibited; penalty.
R.S., c. 20, § 11.

SEC. 10. Persons required to use, at a ferry, steam or horse boats, may, when the passage by them is dangerous, use other safe boats.

SEC. 11. Any person, who places a weir or other obstacle, or without necessity, anchors or places a raft, vessel, or water craft, so as to obstruct the ordinary passage way of any boat at a ferry licensed or established, forfeits twenty dollars to the use of the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without any unreasonable delay or willful misconduct.

Piers sunk to guide boats at ferries.
R.S., c. 20, § 12.
42 Me., 19.

SEC. 12. The proprietors of a ferry, to guide their boats, may sink piers above, *and* below and near their ferry ways, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights.

Somerset commissioners, jurisdiction of.
R.S., c. 20, § 13.

SEC. 13. The commissioners of the county of Somerset have exclusive jurisdiction in all matters relating to ferries between the counties of Somerset and Kennebec.

CHAPTER 21.

WORK HOUSES.

- SEC. 1. Towns may provide work houses. Persons liable to commitment.
2. Towns may choose overseers of such houses.
3. Duties of such overseers.
4. Contiguous towns may unite in building work houses.
5. Joint board of overseers, and their powers in such case. How chosen, and mode of proceeding.
6. Quarterly and other meetings of such board.
7. Choice of officers.
8. By-laws, when and how made. Duties and proceedings.
9. Proportion in which expenses are to be paid.
10. Mode of recovery from delinquent town.
11. *Overseers may order commitment of certain persons.*
12. Neither town may commit more than its proportion.
13. Idlers having no settlement may be committed.
14. Delinquent town may be deprived of the right to occupy the house.
15. Either town may furnish additional materials for labor.
16. Master to keep a registry.
17. Controversy between master and overseers, how determined.
18. Each town liable for its own commitments. Mode of discharge.
19. Persons committed, to be kept employed.
20. Work houses may be discontinued.

SEC. 1. Any town may erect or provide a work house for the employment and support of persons of the following description : all poor and indigent persons, maintained by or receiving alms from the town ; all able-bodied persons not having estate or means otherwise to maintain themselves, who refuse or neglect to work ; all persons who live a dissolute and vagrant life and exercise no ordinary calling or lawful business sufficient to gain an honest livelihood ; and all such persons, as spend their time and property in public houses, to the neglect of their proper business, or by otherwise mis-spending what they earn, to the impoverishment of themselves and their families, are likely to become paupers.

Towns may provide workhouses. Persons liable to commitment. R.S., c. 21, § 1. See c. 24, § 26. 11 Me., 210. 65 Me., 121.

SEC. 2. Every town having a work house, may, at its annual meeting, choose three, five, seven, or more overseers thereof, who shall have the inspection and government thereof, with power to appoint a master and needful assistants for the more immediate care and superintendence of the persons received or employed therein.

Towns may choose overseers of such houses. R.S., c. 21, § 2.

SEC. 3. The overseers, as occasion requires, shall hold meetings on the business of their office ; make needful orders and regulations for such house, to be binding until the next town meeting, when they shall be submitted to the consideration of the inhabitants ; and such as are approved at said meeting shall remain in force until revoked by the town.

Duties of such overseers. R.S., c. 21, § 3. 71 Me., 404.

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Contiguous towns may build one workhouse. R.S., c. 21, § 4.
 Joint board of overseers, and their powers in such case. How chosen and mode of proceeding. R.S., c. 21, § 5.

SEC. 4. Any two or more contiguous towns, at their joint charge and for their common benefit, may erect or provide such a work house and may purchase land for the use thereof.

SEC. 5. The ordering, governing, and repairing of such work house, [the] appointing a master and necessary assistants, and [the] removing them from office for sufficient cause, shall be vested in a joint board of overseers, three of whom shall be chosen by each of said towns at its annual meeting, unless all said towns agree on a different number. Vacancies may be supplied by the town in which they happen, at any legal meeting. The members appointed by any one or more of said towns shall have power to proceed in all affairs of said house, notwithstanding any one or more of the towns interested has neglected to furnish its proportion of members.

Quarterly and other meetings of such board. R.S., c. 21, § 6.

SEC. 6. There shall be stated quarterly meetings of all said overseers on the first Tuesdays of January, April, July and October, to be held at the work house, to inspect the management and direct the business thereof; and other meetings, to be held at the work house, may be called by the overseers of any town concerned, by giving notice of the time and occasion thereof to the other members of the board as agreed upon at any stated meeting thereof.

Choice of officers. R.S., c. 21, § 7.

SEC. 7. The joint board when duly assembled, may choose a moderator. At their first general meeting after their election, they shall appoint a clerk who shall be duly sworn, and [shall] record all votes and orders of the board.

By-laws, when and how made. Duties and proceedings. R.S., c. 21, § 8.

SEC. 8. Said board, at any general quarterly meeting composed of at least one half of their whole number, may make all reasonable by-laws and orders, not repugnant to the laws of the state, respecting the affairs of such work house; agree with the master and assistants, and order proper allowance for their care and services; but all other matters relating to said work house, may be acted upon at any other meeting duly notified, if one third part of the board are present.

Proportion in which expenses are to be paid. R.S., c. 21, § 9.

SEC. 9. The yearly compensation of the master and assistants in any joint work house, in addition to the allowance aforesaid, and the expense of keeping the house in repair, shall be paid by the several towns interested, in proportion to the state tax last assessed upon them when the expense was incurred; or in such other proportion, as all the towns interested agree upon.

Mode of recovery from delinquent town. R.S., c. 21, § 10.

SEC. 10. If any town refuses or neglects to advance or reimburse its proportion of such allowance or other charges, after they shall have been stated and adjusted by the joint board of overseers, it may be recovered of such delinquent town in an action to be brought in the name of any person or persons whom the overseers in writing appoint for that purpose.

SEC. 11. *Any two or more overseers in any town having a work house either severally or jointly with other towns, may, by order under their hands, commit to such house, any person residing in their town who is liable to be sent there. Such order may be directed to and served by any constable of their town.**

SEC. 12. No greater number of persons belonging to a town shall be received into a joint work house, than its proportion thereof can accommodate, when the receiving of them will exclude or incommode those belonging to the other towns.

SEC. 13. When any person, not having a legal settlement in any town in *this* [the] state, becomes idle or indigent, he may be committed to the work house provided for *said* [the] town [in which he resides,] to be employed, if able to labor, in the same manner, and subject to the same rules as the other persons there committed.

SEC. 14. If any town jointly interested in any work house refuses or neglects to provide its proportion of the necessary expenses thereof, or of the materials, implements or other means for carrying on the work there required, according to *their* [its] agreement, or the proper direction of the overseers, it shall be deprived of the privilege of sending any person there, until it complies with such agreement or direction.

SEC. 15. In addition to the expenses and other things to be furnished jointly, each of such towns may furnish such other materials, implements and means of work as its overseers determine, for the employment of any person by them committed to such house; and the master shall receive such materials, implements, and means of work, and keep them separate from those of other towns; and [shall] be accountable to such town for the cost, and [for] all profits and earnings made by the labor of the persons under his care belonging to such town.

SEC. 16. The master of such work house shall keep a register of the names of the persons committed, and of the towns to which they belong, with the time of their commitment and discharge, and the amount of their earnings; and the same shall be open to the inspection of the overseers.

SEC. 17. All controversies between the master of such house and the overseers of any town, relating to his official transactions, may be determined by the joint board of overseers at a general or quarterly meeting.

SEC. 18. No town shall be chargeable for the expenses of any person not committed to said house by its overseers, nor shall any person duly committed be discharged except by written order of the overseers of his town, by vote of the joint board at a quar-

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Overseers may order commitment of certain persons.
R.S., c. 21, § 11.
11 Me., 210.
65 Me., 121.

Neither town may commit more than its proportion.
R.S., c. 21, § 12.
Idlers having no settlement may be committed.
R.S., c. 21, § 13.
Sec c. 24, § 43.

Delinquent town may be deprived of the right to occupy the house.
R.S., c. 21, § 14.

Either town may furnish additional materials for labor.
R.S., c. 21, § 15.

Master to keep a registry.
R.S., c. 21, § 16.

Controversy between master and overseers, how determined.
R.S., c. 21, § 17.
Each town liable for its own commitments.
Discharges.
R.S., c. 21, § 18.

* This section has been adjudged to be in conflict with the U. S. Constitution, Amendment XIV. *Portland v. Bangor*, 65 Me., 120.

CHAP. 22. terly meeting, or by the supreme judicial court held in the same county upon application for that purpose.

Persons
committed
to be kept
employed.
R.S., c. 21, § 19.

SEC. 19. Every person committed to such work house, if able to work, shall be kept diligently employed during the term of his commitment. For idleness, obstinacy, or disorderly conduct, he may be punished as provided *for* by the lawful regulations of the house.

Work houses
discon-
tinued.
R.S., c. 21, § 20.

SEC. 20. Any work house may be discontinued, or applied to any other use, when the town or towns concerned agree so to do.

CHAPTER 22.

FENCES, COMMON FIELDS AND DRAINAGE OF SALT MARSHES.

DIVISION FENCES.

- SEC. 1. What are legal fences.
2. To be maintained equally by adjoining occupants.
 3. If either neglects, proceedings of fence viewers on application.
 4. Complainant may recover double compensation in certain cases.
 5. Proceedings for division of partition fences.
 6. Each party bound to build the part assigned to him.
 7. To be kept in repair.
 8. Fences may vary from the dividing line in certain cases.
 9. Assignment of parts before fence is built.
 10. Occupant ceasing to improve, not to remove his fence in case the other will purchase.
 11. Liability of owner beginning to improve land lying in common.
 12. If fence is on town line, how divided.
 13. Division of fences, when binding.
 14. Provisions not applicable to house lots, nor to agreements.

FENCES OF COMMON FIELDS.

- SEC. 15. Inclosure of lots lying together, by a general fence.
16. Manner of calling meetings of proprietors.
 17. How notice is to be given.
 18. How they may vote.
 19. May raise and assess money. Abatements.
 20. Choice of officers.
 21. Clerk to issue warrant to collect taxes.
 22. Appointment of the general fence.
 23. Proprietors not liable, who do not occupy their lots.
 24. Apportionment of expenses according to interest.
 25. Manner of repairing fences of delinquents.
 26. Delinquent liable for double the expense.
 27. Proceedings if any part is suddenly destroyed.
 28. Choice of field drivers and their powers.
 29. No proprietor to put in stock contrary to regulations. Penalty.
 30. Remedy if a proprietor is injured by beasts of a stranger.
 31. Lines between proprietors to be run once in two years.
 32. Association may be discontinued.
 33. Certain proprietors not subject to these regulations.

- SEC. 34. Waste portions of lots excluded from estimates and assessments.
 35. Proceedings on application of three or more to be set off.
 36. Proceedings for organizing to inclose a common field.
 37. After establishment of a common field, how proprietors are to proceed.
 38. Penalty if fence viewers neglect their duty.
 39. Fees for services. Penalty for neglect of payment.

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DRAINAGE OF SALT MARSHES.

- SEC. 40. Partition ditches subject to jurisdiction of fence viewers.
 41. Liability of occupant or owner when constructed by complainant.
 42. Provision respecting improved lands. Exemption from maintenance of ditches when lands lie common.

IMPROVEMENT OF MARSHES, MEADOWS AND SWAMPS, BY A COMMISSIONER FROM THE SUPREME JUDICIAL COURT.

- SEC. 43. Lands owned by several proprietors may be improved by commissioners.
 44. Proprietors may apply to S. J. Court. Notice.
 45. Court may appoint three commissioners.
 46. Commissioners may make improvements.
 47. May employ workmen unless proprietors do the work.
 48. Expense apportioned among proprietors.
 49. Collector may be appointed. Duties and powers.
 50. Collector's liability.
 51. Collector's compensation.
 52. Commissioners to make return to court.
 53. To determine amounts to be paid by life tenant and landlord.
 54. Mortgagors in possession deemed owners.
 55. Commissioners may enter on premises of third parties.
 56. Damages, how determined and paid.
 57. Any person interested may appeal to S. J. Court.
 58. Court may affirm, reverse or alter adjudication. Jury.
 59. Commissioners to give notice before entering on premises not belonging to party to proceedings. Appeal to S. J. Court.
 60. Exceptions in S. J. Court.
 61. After completion of improvements, repairs made at expense of occupying proprietors.

DIVISION FENCES.

SEC. 1. All fences, four feet high and in good repair, consisting of rails, timber, boards or stone walls; and brooks, rivers, ponds, creeks, ditches and hedges, or other things, which in [the] judgment of the fence viewers having jurisdiction thereof, are equivalent thereto, shall be accounted legal and sufficient fences.

What are legal fences.
R.S., c. 22, § 1.

SEC. 2. The occupants of lands inclosed with fences shall maintain partition fences between their own and the adjoining inclosures, in equal shares, while both parties continue to improve them.

To be maintained equally by adjoining occupants.
R.S., c. 22, § 2.
60 Me., 560.

SEC. 3. If any party neglects or refuses to repair or rebuild any such fence, which he ought to maintain, the aggrieved party may complain to two or more fence viewers of the town where the land is situated, who, after due notice to such [delinquent] party, shall proceed to survey it, and if they determine that it is

If either neglects, proceedings of fence viewers on application.
R.S., c. 22, § 3.
8 Me., 83.

CHAP. 22.

13 Me., 254,
376.
22 Me., 546.
29 Me., 367.
33 Me., 65.
35 Me., 27.
48 Me., 375.
53 Me., 100.
See c. 3, § 24.
Complain-
ant may re-
cover double
compensa-
tion in cer-
tain cases.
R.S., c. 22, § 4.
22 Me., 547.
29 Me., 366.
33 Me., 65.
50 Me., 86.
58 Me., 452.

Proceedings
for division
of partition
fences.
R.S., c. 22, § 5.
5 Me., 360.
8 Me., 83.
29 Me., 367.
34 Me., 334.
35 Me., 27.
48 Me., 375.
53 Me., 100.
58 Me., 452.
60 Me., 557,
559.
68 Me., 535.

In case of
neglect.
How recov-
ered.

Each party
bound to
build part
assigned.
If not, reme-
dy for other
party.

insufficient, they shall signify it in writing to the delinquent occupant, and direct him to repair or rebuild it within such time as they shall judge reasonable, not exceeding thirty days. If the fence is not repaired or rebuilt accordingly, the complainant may make or repair it.

SEC. 4. When the complainant has completed such fence, and after notice given it has been adjudged sufficient by two or more of the fence viewers, and the value thereof, with the fence viewers' fees, certified under their hands, he may demand of the occupant or owner of the land, where the fence was deficient, double the value and fees thus ascertained; and in case of neglect or refusal to pay the same for one month after demand, he may recover the same by an action on the case, with interest at the rate of one per cent. a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence viewers, certified by them, double the amount thereof may be recovered by the complainant as herein provided.

SEC. 5. When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, two or more fence viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each his share thereof, and limit the time in which each shall build or repair his part of the fence, not exceeding thirty days. Such assignment and all other assignments of proprietors of partition fences herein provided for, recorded in the town clerk's office, shall be binding upon the parties, and they shall thereafter maintain their part of said fence. If such fence has been built and maintained by the parties in unequal proportions, and the fence viewers adjudge it to be good and sufficient, they may, after notice as aforesaid, in writing under their hands, award to the party who built and maintained the larger portion, the value of such excess, to be recovered in an action on the case against the other party, if not paid within six months after demand. Parties to assignments under the provisions hereof shall pay the fees of the fence viewers certified under their hands, in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence viewers may pay the same and recover in an action on the case, of said delinquent party, double the amount of his said proportion of said fees.

SEC. 6. If any party refuses or neglects to build and maintain the part thus assigned him, it may be done by the aggrieved party; and he shall be entitled to double the value and expenses ascertained, and to be recovered as provided in section four, and shall have a lien on the land owned or occupied by the party neglect-

ing or refusing to build or maintain the partition fence assigned to him by the fence viewers therefor, to be enforced by attachment made within one year from the day of division by the fence viewers. CHAP. 22.
1879, c. 95.
58 Me., 452.
68 Me., 535.

SEC. 7. All division fences shall be kept in good repair throughout the year, unless the occupiers of adjacent lands otherwise agree. To be kept
in repair.
R.S., c. 22, § 7.

SEC. 8. When from natural impediments, in the opinion of the fence viewers having jurisdiction of the case, it is impracticable or unreasonably expensive to build a fence on the true line between the adjacent lands, and the occupants disagree respecting its position, on application of either party as provided in section five, and after notice to both parties, and a view of the premises, they may determine, by a certificate under their hands communicated to each party, on which side of the true line, and at what distance, or whether partly on one side and partly on the other, and at what distances, the fence shall be built and maintained, and in what proportions by each party; and either party may have the same remedy against the other, as if the fence was on the true line. Fences may
vary from
the dividing
line in cer-
tain cases.
R.S., c. 22, § 8.

SEC. 9. When adjacent lands have been occupied in common without a partition fence, and either party desires to occupy his in severalty, or when it is necessary to make a fence running into the water, and the parties liable to build and maintain it disagree, either party may have the line divided, on application to the fence viewers of the town; who shall proceed as is provided in section five; except that the fence viewers may allow a longer time than thirty days for building the fence, if they think proper, having regard to the season of the year. In other respects the remedy for the aggrieved party shall be the same as there provided. Assignment
of parts be-
fore fence is
built.
R.S., c. 22, § 9.

SEC. 10. When one party ceases to improve his land, or lays open his inclosure, he shall not take away any part of his partition fence adjoining the next inclosure improved, if the owner or occupant thereof will pay therefor what two or more fence viewers, on due notice to both parties, determine to be its reasonable value. Occupant
ceasing to
improve, not
to remove his
fence if the
other will
purchase.
R.S., c. 22, § 10.
60 Me., 560.

SEC. 11. When any land, which has been uninclosed, is afterwards inclosed, or used for pasturing, its occupant or owner shall pay for one half of each partition fence on the line between his land and the inclosure of any other occupant or owner, and its value shall be ascertained in writing; if the parties do not agree, by two or more of the fence viewers of the town where such fence stands; and after the value is so ascertained, on notice to such occupant or owner, if he neglects or refuses for thirty days, after demand, to pay it, the proprietor of the fence may have an action on the case for such value and the costs of ascertaining it. Liability of
owner begin-
ning to im-
prove land
lying in
common.
R.S., c. 22, § 11.
60 Me., 560.

CHAP. 22.

If fence is
on town line,
how divided.
R.S., c. 22, § 12.

Division of
fences, when
binding.
1881, c. 97.
60 Me., 560.

SEC. 12. If the line on which a partition fence is to be made or to be divided, is the boundary between two or more towns, or partly in one town, and partly in another, a fence viewer shall be taken from each town.

SEC. 13. When a fence between owners of improved lands is divided either by fence viewers, or by the written agreement of the parties recorded in the town clerk's office, where the land lies, the owners shall erect and support it accordingly; but if any person lays his lands common, and determines not to improve any part of them, adjoining such fence, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such fence while his land so lies common and unimproved. But all partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement, until otherwise ordered by the fence viewers, on application to them by either party. And when a party shall have constructed his part of a fence in pursuance of a parol or written agreement or assignment of fence viewers, no assignment shall thereafter be made by fence viewers, depriving such party of the full value of such fence or any part thereof.

Provisions
not applica-
ble to house
lots, nor to
agreements.
R.S., c. 22, § 14.
2 Me., 73.

SEC. 14. Nothing herein extends to house lots, the contents of which does not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain one half of the fence between them, whether he improves or not; nor shall the provisions of this chapter make void any written agreement respecting public fences.

FENCES OF COMMON FIELDS.

Inclosure of
lots lying to-
gether by a
general
fence.
R.S., c. 22, § 15.

SEC. 15. When several lots or pieces of land are inclosed and fenced in one common field, or when all the proprietors of such lands agree to inclose them in that manner, said proprietors may hold regular meetings when they adjudge proper, make such rules for managing their common concerns, and adopt such equitable modes of improvement as their common interest requires; but in all other respects each proprietor may, at his own expense, inclose, manage and improve his own land as he thinks best, maintaining his proportion of fence inclosing the general field.

Manner of
calling meet-
ings of pro-
prietors.
R.S., c. 22, § 16.

SEC. 16. Upon the application of any two or more proprietors to any justice of the peace for the county where such land lies, he shall issue his warrant to one of the applicants, or to the clerk of the proprietors, requiring him to call a meeting of the proprietors, and expressing in the warrant the time, place and purpose thereof.

SEC. 17. Notice of the meeting shall be served at least fourteen days previous to the time appointed, when all the proprietors reside in the town where the land lies, by reading the warrant to each proprietor, or giving him a copy in hand, or by leaving it at his usual place of abode, if the proprietors have not been previously organized for the aforesaid purpose, or if no other mode of notice has been fixed by their standing rules ; and in such case if one or more of the proprietors reside without the town or plantation, notice shall be given to them by publishing a copy of said warrant in some newspaper printed in the county, or in the state paper, three weeks successively, the last publication to be at least fourteen days before the time appointed. When the standing rules of the proprietors determine the mode of serving notices for their meetings, *it* [they] may be observed in service of said warrant, at the election of the party serving it.

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How notice
is to be given.
R.S., c. 22, § 17.

SEC. 18. At all meetings of the proprietors, each may vote according to the relative amount or value of his interest, if known ; if not, they shall all vote equally, and absent proprietors may vote by written proxy.

How they
may vote.
R.S., c. 22, § 18.

SEC. 19. They may raise money from time to time for defraying their common charges and for managing their affairs, which [sum] shall be assessed upon the several proprietors, in proportion to their interests, by their assessors ; and any person aggrieved by such assessment may apply to the county commissioners, who may abate his part of it in whole or in part, if they see cause.

May raise
and assess
money.
Abatements.
R.S., c. 22, § 19.

SEC. 20. They may, at their annual or other meeting, duly notified, choose a clerk, three or five assessors, a collector, and such other officers as they shall find necessary, to continue in office until removed by them, or others are chosen and qualified in their stead. The clerk and assessors shall be sworn.

Choice of
officers.
R.S., c. 22, § 20.

SEC. 21. Such clerk shall issue his warrant to the collector, requiring him to collect all money so assessed, and to pay it over to the clerk or other proper officer according to the orders of the proprietors ; and the collector shall collect it as collectors of towns are authorized to collect town taxes.

Clerk to issue
warrant to collect
taxes.
R.S., c. 22, § 21.

SEC. 22. The whole fence inclosing such general field, as far as convenient, shall be apportioned amongst the proprietors according to the number of acres held and cultivated or otherwise used by each ; and the part to be maintained by each shall be set out and assigned to him by any two or more fence viewers of the town, unless *they* [the proprietors] agree on an apportionment of the fence among themselves. The proportion of fence so assigned to each shall be recorded by the clerk, in the books of the proprietors ; and if there is no such clerk, by the clerk of the town, on the town records.

Apportionment of the
general
fence.
R.S., c. 22, § 22.

CHAP. 22.

Proprietors
not liable
who do not
occupy their
lots.
R.S.,c.22,§23.

SEC. 23. If any proprietor of land in such general field declines to cultivate his land, or to use it for pasturing, and gives written notice of his intention to the clerk of the proprietors, he shall not be required to maintain any part of the fence, nor to pay any tax or assessment on account of his land while he neglects to cultivate or use it as aforesaid.

Apportion-
ment of ex-
penses ac-
cording to
interest.
R.S.,c.22,§24.

SEC. 24. The expense of apportioning the fence, and of making and maintaining such part thereof as cannot conveniently and justly be assigned to any one proprietor, shall be borne by all the proprietors, to be taxed in proportion to their interests; and the part assigned to each shall be made and maintained by him while he uses his part of the general field for pasturing, planting, mowing, or otherwise.

Manner of
repairing
fences of de-
linquents.
R.S.,c.22,§25.
29 Me., 367.

SEC. 25. If any part of the fence assigned to a proprietor become[s] deficient, and he does not repair it within three days after notice of such deficiency given to him or his tenant by a fence viewer of the town, it may be repaired by any other proprietor; and such repairs may be examined by any two or more fence viewers, and if adjudged by them, after notice, to be sufficient, they shall ascertain their cost, and make a statement thereof, and of the amount of their fees, in writing under their hands.

Delinquent
liable for
double the
expense.
R.S.,c.22,§26.

SEC. 26. The person making such repairs may demand of the deficient proprietor, or of his tenant, double the costs of such repairs and the fees thus ascertained; and if they are not paid within one month after notice and demand thereof, he may recover them in an action on the case.

Proceedings
if any part is
suddenly
destroyed.
R.S.,c.22,§27.

SEC. 27. If part of the fence is suddenly blown down, or carried away by a flood or tempest, when the crops in the field are thereby exposed to immediate destruction or injury, the proprietor to whom it was assigned shall repair it within twenty-four hours after notice thereof given him by a fence viewer. If he fails so to do, it may be repaired by any other proprietor; and he may recover double the costs thereof, and fees, as provided in the preceding section. The fence viewers may allow a longer time than twenty-four hours, if they think proper.

Choice of
field drivers
and their
powers.
R.S.,c.22,§28.

SEC. 28. The proprietors may choose one or more field drivers, who shall have and exercise the same powers with respect to the general fields, as are exercised by field drivers chosen by a town.

No proprie-
tor to put in
stock contra-
ry to regula-
tions.
Penalty.
R.S.,c.22,§29.

SEC. 29. If a proprietor puts into the general field any horses, cattle, or other beasts contrary to the regulations of the proprietors, either by putting in more than the number allotted him, or before the day fixed for that purpose, or by keeping them therein longer than the time limited, he shall be considered a trespasser; and his beasts may be impounded, as taken doing damage, as if he owned no land in the general field.

SEC. 30. If any proprietor is injured in his lands by the beasts of a stranger, he shall have the same remedy therefor as if his land had been inclosed and used separately. When damage happens to a proprietor through the insufficiency of the fence of a co-proprietor, he or the occupant of his land shall be liable to pay it.

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Remedy if a proprietor is injured by beasts of a stranger.
R.S., c. 22, § 30.

SEC. 31. Every proprietor of land lying unfenced in a general field shall once in every two years, if requested by the owner of the adjoining land, run lines with him between their lots, and establish boundaries by sufficient mete stones, at their joint expense; and if he fails so to do, after at least six days notice, he shall forfeit two dollars, to be recovered by such adjoining owner to his own use in an action on the case.

Lines between proprietors to be run once in two years.
R.S., c. 22, § 31.

SEC. 32. A major part in interest in any common or general field, at any legal meeting called for the purpose, may discontinue their association; not to take effect until six months after the vote for that purpose, unless all the proprietors consent to an earlier period.

Association may be discontinued.
R.S., c. 22, § 32.

SEC. 33. Nothing contained in this chapter shall prevent the proprietors of any such common field fenced, who had been duly organized previous to February twenty-fourth, eighteen hundred and twenty-one, from making and maintaining their fences according to rules and orders before that date agreed on by them at any legal meeting.

Certain proprietors not subject to these regulations.
R.S., c. 22, § 33.

SEC. 34. Portions of common fields inclosed under the provisions hereof, which are unoccupied and unimproved by their owners on account of their being rocky or barren, shall be excluded in all estimates for assessments under section nineteen, or for apportionments of fence under section twenty-two.

Waste portions of lots excluded from estimates and assessments.
R.S., c. 22, § 34.

SEC. 35. Any three or more proprietors of lots within one general fence or inclosure, by a petition in writing to the proprietors of such field, at any meeting thereof, legally warned for that purpose, may request to have their lots, either alone, or jointly with any other lots in said field, divided from the remainder, to be inclosed in one common fence, and occupied by them as an entire field separately from the other proprietors of the general field; and if the majority of the proprietors in interest, present at such meeting, refuse their assent to such division, the county commissioners may, upon the like application, appoint three or five disinterested and suitable persons within the county where such general field is situated, to make such division thereof, if they deem it expedient; and to assign to each field its proportion of the partition fence which shall become necessary by reason of such division, to be kept up and maintained by each proprietor of said

Proceedings on application of three or more to be set off.
R.S., c. 22, § 35.

CHAP. 22. general field ; and such persons shall, as soon as may be after their appointment, make return of their doings under their hands to such commissioners ; and after the acceptance thereof by them, the fields so divided shall be deemed separate general fields, and the proprietors of the field so set off and the remaining proprietors of the original [general field] shall be distinct and separate proprietary bodies, having all the like powers and privileges, and subject to all the duties and liabilities, as the proprietors of the original general field before such division was made ; but no order for such division shall be made, nor any committee appointed as aforesaid, until the other proprietors have had notice of the petition for such division ; which shall be given by serving the clerk of the proprietors with a copy of the petition, thirty days at least before such order or appointment is made.

Proceedings for organizing to inclose a common field.
R.S., c. 22, § 36.

SEC. 36. When the major part in interest of the proprietors of any tract of land consisting of five or more allotments are desirous of inclosing them in one general field, they may apply to the supreme judicial court in the county where such land lies, and when such land lies in different counties, then to such court to be holden in either ; and the court may order such notice to all parties interested, as they may deem reasonable, and after hearing the parties appearing, may order the land to be so inclosed.

After establishment of a common field, how proprietors are to proceed.
R.S., c. 22, § 37.

SEC. 37. After a common or general field is so established by order of court, the further proceedings in relation thereto shall be the same as are provided when a field is so inclosed by the consent of all the proprietors ; and the proprietors shall be entitled to all the privileges, and subject to all the duties, before provided with respect to the proprietors of fields inclosed by consent.

Penalty if fence viewers neglect their duty.
R.S., c. 22, § 38.

SEC. 38. Any fence viewer, who, when requested, unreasonably neglects to view any fence, or to perform any other duties herein required of him, shall forfeit three dollars to any person suing therefor, within forty days after such neglect. He shall also be liable for all damages to the party injured.

Fence viewers, compensation, and how recovered.
1873, c. 129.

SEC. 39. Each fence viewer shall be paid by the person employing him at the rate of two dollars a day for the time he is so employed. If the party liable neglects to pay the same for thirty days after demand, each of said fence viewers may recover double the amount in an action on the case, *and be mutually witnesses for or against each other.*

DRAINING OF SALT MARSHES.

Ditches subject to jurisdiction of fence viewers.
R.S., c. 22, § 40.

SEC. 40. The owners or occupants of salt marsh in any town, inclosed by ditches for drainage and partition, shall maintain such ditches between their own and the adjoining inclosures while they continue to improve them, in proportion to the benefits accruing

to each by such drainage, in the judgment of the fence viewers in such town, who shall have jurisdiction thereof the same as they have of fences; and all the duties, obligations and liabilities of adjoining owners or occupants of such marsh as to making, repairing, and maintaining such ditches, and the powers, duties, penalties and fees of fence viewers in relation thereto shall be the same as prescribed in the preceding sections in relation to partition fences. CHAP. 22.

SEC. 41. Said fence viewers shall determine the width and depth of the ditch, neither to exceed three feet, and the time to be allowed for making it, not exceeding sixty days; and notice thereof shall be given to the delinquent proprietor; and if he neglects to make or repair his portion of such ditch, it may be done by the complainant, to be adjudged sufficient by two or more fence viewers, who shall make a certificate thereof, and of its value and their fees. If such delinquent owner or proprietor neglects payment of said value and fees, one month after demand, the complainant may recover of him double the amount thereof with interest at the rate of one per cent. a month, in an action on the case. Width and depth of ditches.
R.S., c. 22, § 41.

SEC. 42. When a ditch between improved lands of different owners is divided by fence viewers, or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall make and maintain it accordingly; but if any person lays his lands common, and determines not to improve any part of them adjoining such ditch, and gives six months notice to all occupants of adjoining lands, he shall not be required to maintain such ditch while his lands so lie common and unimproved. Complainant to recover of delinquent owners expense of making.
Provisions respecting improved lands.
R.S., c. 22, § 42.
Exemption from maintenance of ditches when lands lie common.

IMPROVEMENT OF MARSHES, MEADOWS AND SWAMPS, BY A COMMISSION FROM THE SUPREME JUDICIAL COURT.

SEC. 43. When any meadow, swamp, marsh, beach or other low land is held by several proprietors, and it is necessary or useful to drain or flow the same, or to remove obstructions in rivers or streams leading therefrom, such improvements may be effected under the direction of commissioners in the manner hereinafter provided. Land owned by several proprietors improved by commissioners.
1881, c. 74, § 1.

SEC. 44. Such proprietors, or a majority of them in interest, may apply by petition to the supreme judicial court sitting in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor; and the court shall cause notice of the petition to be given in such manner as it may judge proper, to any proprietors who have not joined in the petition, that they may appear and answer thereto. Proprietors may apply to S. J. Court and notice shall be given.
1881, c. 74, § 2.

SEC. 45. If upon hearing the parties, it appears that the improvements proposed will be for the general advantage of the proprietors, the court may appoint three suitable persons as commissioners, who shall be sworn to the faithful discharge of their Court may appoint commissioners.
1881, c. 74, § 3.

CHAP. 22. duties ; shall view the premises, notify parties concerned, hear them as to the best manner of making the improvements, and prescribe the measures to be adopted for that purpose.

Commissioners shall make improvements according to tenor of petition and order of court. 1881, c. 74, § 4.

SEC. 46. They shall, according to the tenor of the petition and order of court, cause dams or dikes to be erected on the premises, at such places and in such manner as they shall direct ; may order the land to be flowed thereby for such periods of each year as they shall deem most beneficial ; and cause ditches to be opened on the premises, and obstructions in any rivers or streams leading therefrom to be removed ; and they shall meet from time to time, as may be necessary, to cause the works to be completed according to their directions.

May employ workmen, unless proprietors do the work. 1881, c. 74, § 5.

SEC. 47. They may employ suitable persons to erect the dams or dikes, or to perform the other work, under their direction, for such reasonable wages as they may agree upon ; unless the proprietors do the same in such time and manner as the commissioners shall direct.

Expense to be apportioned among proprietors. 1881, c. 74, § 6.

SEC. 48. They shall apportion the whole charge and expense of the improvements, and of executing the commission, among the proprietors of the lands, having regard to the quantity, quality and situation of each proprietor's part thereof, and the benefit that he will derive from the improvements, and shall assess the same upon the proprietors.

Collector may be appointed. 1881, c. 74, § 7. —duties and powers.

SEC. 49. They may appoint a collector of the moneys assessed, and shall give him a warrant to collect, pay over, and account for the same, to such person as they may appoint. The collector shall have the same power, and proceed in like manner in collecting the assessment, as provided for collecting town taxes.

Liability of collectors. 1881, c. 74, § 8.

SEC. 50. If the collector neglects for twenty days after being thereto required by the commissioners, to account for and pay over the money he has collected, he shall be liable to pay the commissioners the whole amount committed to him for collection, to be recovered by them in an action therefor ; and the money so recovered, after deducting the expense of recovery, shall be applied and accounted for by the commissioners as if it had been collected and paid over by the collector, pursuant to his warrant.

Compensation for services of collector. 1881, c. 74, § 9.

SEC. 51. The collector shall be allowed such compensation for his services as may be agreed upon between him and the commissioners ; and the commissioners shall be allowed such compensation for their services as may be ordered by the court.

Commissioners make return to court. 1881, c. 74, § 10.

SEC. 52. The commissioners shall, as soon as may be after the completion of the business, make a return to the court of their doings under the commission, including an account of all money assessed and collected by their order, and of the disbursement thereof.

SEC. 53. When it appears to the commissioners, that part of the land is held by a tenant for life, or years, they shall determine how much of the sum apportioned on that part of the premises shall be paid by such tenant, and how much by the landlord or reversioner; and shall assess the same accordingly, unless the parties concerned agree to an apportionment; and every such tenant, landlord and reversioner shall be considered a proprietor.

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Commissioners to determine the amount to be paid by life tenant and by landlord, unless parties agree. 1881, c. 74, §11.

SEC. 54. If any part of the land is mortgaged, the mortgagor or mortgagee, in possession, shall be considered as the proprietor; and all sums paid by the mortgagee by order of the commissioners, shall be allowed to him, as sums paid by him for improvements, *are by law to be allowed.*

Possessor of mortgaged property considered proprietor. 1881, c. 74, §12.

SEC. 55. When the commissioners find it necessary or expedient to reduce or raise the water, for the purpose of obtaining a view of the premises, or for more convenient or expeditions removal of obstructions, they may open the flood-gates of a mill, or make other needful passages through or around the dam thereof, or erect a temporary dam on the land of any person not a party to the proceedings, and may maintain such dam or passages for the water as long as may be necessary for the purposes aforesaid.

Commissioners authorized to enter upon premises of persons not parties to proceedings. 1881, c. 74, §13.

SEC. 56. All damages thus occasioned shall be estimated and determined by the commissioners, unless agreed upon between them and the parties concerned; and shall be paid by the commissioners out of the money to be assessed and collected by them as before provided.

Damages, how determined, and paid. 1881, c. 74, §14.

SEC. 57. If any person, whether a party to the proceedings or otherwise interested therein or affected thereby, is aggrieved by the doings of the commissioners, he may appeal to the court at any time after their appointment, and before the end of the term next following that, at which the return is made.

Persons aggrieved by doings of commissioners may appeal to court. 1881, c. 74, §15.

SEC. 58. The court, upon such appeal, may affirm, reverse or alter any adjudication or order of the commissioners, and make such order therein as law and justice require. All questions of fact arising upon the hearing of the appeal, shall, on motion of either party, be tried by a jury in such manner as the court shall direct.

Court may affirm, reverse, &c., commissioners' order. 1881, c. 74, §16.
—jury.

SEC. 59. The commissioners, before proceeding to open flood-gates, or to make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him seasonable notice in writing of their intention, to enable him to appear before them and object thereto; and if he appeals from their determination, and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal

Notice before entering upon premises of a person not party to the proceedings, and hearing on appeal. 1881, c. 74, §17.

CHAP. 23. is determined ; *provided*, that the appeal be entered at the court held next after the expiration of seven days from the time of claiming the same.

Exceptions.
1881,c.74,§18.

SEC. 60. Any person aggrieved by any opinion, direction or judgment of the court in any matter of law, may allege exceptions thereto, which shall be reduced to writing ; and when found to be true and not deemed frivolous, shall be signed by the presiding judge, and thereupon the questions of law arising therein shall be determined, as in other actions.

After completion of improvements, how repairs may be made at expense of occupying proprietors.
1881,c.74,§19.

SEC. 61. After dams, dikes and removal of obstructions shall have been completed in pursuance of the preceding eighteen sections, repairs thereon may be made on petition to the court, and the proceedings shall be similiar to those required for the construction of the original improvements, but such repairs shall be made at the expense of such proprietors only as occupy their lands, take crops therefrom, and are actually benefited by such improvements.

CHAPTER 23.

POUNDS AND IMPOUNDING BEASTS.

- SEC. 1. Each town to keep a pound. Forfeiture for neglect, how expended.
 2. Penalty for beasts going at large. May be impounded.
 3. Penalty for ungelded horses and rams going at large.
 4. Persons injured may sue for damages and distrain. Lien on beasts.
 5. Pound-keepers to be chosen for each pound. Towns responsible for doings of pound-keepers, and pound-keepers required to be sworn and to give bond.
 6. Pound-keepers to keep book of records. Fees.
 7. To restrain beasts impounded.
 8. Impounder to furnish certificate of the cause of impounding. Form.
 9. Pound-keeper not to deliver beasts till damages and costs are paid.
 10. Proceedings if claimant objects to amount demanded. Form.
 11. Proceedings when beasts are taken up as estrays. Penalty for not delivering estray to pound-keeper.
 12. Pound-keeper to advertise, in what manner.
 13. If the owner does not redeem, and the beasts are not replevied in ten days, pound-keepers to advertise for sale. Fees.
 14. Sale to be postponed, if owner does not live in town, or the beasts have strayed from a drove, and notice to be published.
 15. When damages are claimed, pound-keeper to have an appraisal.
 16. Disposal or proceeds of sale.
 17. Owner may redeem at any time before sale.
 18. Replevin of beasts impounded. Proceedings.
 19. Rescue, and punishment thereof.

SEC. 20. Pound breach, and punishment thereof. Masters and parents liable for minors.

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21. Restriction as to defence in such cases.

22. Limitations of actions for forfeitures.

23. Pound-keeper's fees.

24. Compensation to impounder.

25. Expense of keeping beasts impounded, how regulated.

SEC. 1. Each town shall constantly keep and maintain in such place as the inhabitants direct, one or more sufficient pounds for the reception of beasts liable by law to be impounded; and for six months' neglect to do so, shall forfeit not less than fifty dollars, to be expended by an agent appointed by the court to build or maintain such pound or pounds.

Each town to keep a pound. Forfeiture for neglect, how expended. R.S., c. 23, § 1.

SEC. 2. The owner of every horse, horse kind, ass, mule, swine or neat beast found at large without a keeper in the highways, town ways, or commons of the town, shall forfeit seventy-five cents for each, twenty-five cents for each goat, and ten cents for each sheep so found, recoverable in [an] action of debt; or the beasts may be impounded till such forfeiture, with the charges of impounding and keeping them, and all fees, are paid by the owner or claimant.

Penalty for beasts going at large. May be impounded. R.S., c. 23, § 2. 17 Me., 189.

SEC. 3. If such horse is an ungelded male of one year old or upwards, his owner shall forfeit a further sum of four dollars. If any ram or he-goat is found going at large out of the owner's inclosure, between the tenth day of August and the twentieth day of November, his owner shall forfeit a further sum of five dollars.

Penalty for ungelded horses and rams going at large. R.S., c. 23, § 3.

SEC. 4. Any person injured in his land by sheep, swine, horses, asses, mules, goats, or neat cattle, in a common or general field, or in a close by itself, may recover his damages by distraining any of the beasts doing it, and proceeding as hereinafter directed, or in an action of trespass against the person owning or having the possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond the judgment as in other cases, whether owned by the defendant or only in his possession. But if the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor.

Damages, how recovered by sufferers. Beasts may be distrained. Lien. R.S., c. 23, § 4. 2 Me., 74, 409. 5 Me., 360. 13 Me., 376. 14 Me., 420. 15 Me., 241. 29 Me., 286. 35 Me., 28. 48 Me., 375.

SEC. 5. Each town shall annually choose a pound-keeper for each pound therein, who shall be sworn, and before he acts, [shall] give bond with sureties satisfactory to the municipal officers, for the faithful discharge of his duties; and the town shall be responsible for all his illegal doings or defaults, to the party injured, in an action on the case.

Pound-keepers. Bond. Towns responsible. R.S., c. 23, § 5. 38 Me., 588. 46 Me., 543.

SEC. 6. Each pound-keeper, in a book to be provided at the Pound-keep-

CHAP. 23.

er to keep
book of re-
cords.
R.S.,c.23, § 6.

expense of the town, shall record at length all the certificates received from persons committing beasts to the pound, or finding stray beasts, and a single copy of all advertisements by him posted or published ; and shall note therein when a beast was impounded, and when and by whom taken away, and all his proceedings in the impounding and sale specified in section thirteen, the price for which said beast was sold, the name of the purchaser, and the disposal of the proceeds of sale ; and a copy of said record duly attested by him or his successor shall be evidence for the purchaser of his title to said beast, and of the truth of all the facts thus recorded ; and for making such record, and for each copy thereof, the pound-keeper shall be entitled to twenty-five cents ; and said book shall be delivered to his successor in office, and shall be open to inspection of all persons interested therein.

To restrain
beasts im-
pounded.
R.S.,c.23, § 7.

SEC. 7. The pound-keeper shall restrain the beasts impounded in the town pound, or after the first day, [in] such other place, as is more for their comfort, or *their* safety, and for giving them food and drink ; which shall be furnished by him at the expense of the impounder. Unless payment is made in advance, or sufficient security therefor rendered, he need not receive such beasts into pound.

Impounder
to furnish
certificate of
the cause of
impounding.
R.S.,c.23, § 8.

SEC. 8. Before the pound-keeper shall receive any beast into pound, the impounder shall furnish him with a certificate under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed, and charges of impounding then accrued, of the following purport :

Form.
17 Me., 242.
18 Me., 248.
28 Me., 490.

“To the pound-keeper of — ;
“The undersigned, A. B. of C., herewith commits to pound a horse” (or cow, as the case may be, with a short description of the beast), “taken up in the highway” (or inclosure of said A. B., as the case may be), “in C., and the said A. B. demands — dollars and — cents, for damages” (or forfeiture as the case may be), “and the unpaid charges for impounding the same.

Beasts not to
be delivered
till damages
and costs
are paid.
R.S.,c.23, § 9.

“Witness my hand, A. B., of C., —, 18—.”
SEC. 9. The pound-keeper shall not be liable to any action for receiving or detaining any beast so committed, till the sums claimed by such certificate, and all other due expenses, costs and fees are paid to him, except as provided in the next section.

Proceedings,
if claimant
objects to
amount de-
manded.

SEC. 10. If the claimant of such beast objects to the amount stated as damages, or if no claimant appears, the pound-keeper shall, within ten days and not afterwards, issue a warrant under his hand to two disinterested persons of said county to the following purport :

Form of
warrant.
R.S.,c.23, § 10.

“D., ss : To E. F. and G. H., two disinterested persons of said county :
Greeting :
“You are hereby appointed to view and estimate, upon oath,

according to your best judgment, the damages done to A. B. by the horse" (or oxen as the case may be), "owned or claimed by I. K.," (or —, by owner unknown), "and [to] make due return to me within twenty-four hours, with your doings therein; first giving the said A. B. reasonable notice of the time when you will view the place where the damages were done. CHAP. 23.

"Given under my hand this — day of —, 18—.

L. M., Pound-keeper."

Return of the Appraisers.

"Pursuant to this warrant, the undersigned, being first sworn to the faithful performance of the trust to which we were appointed, and having given said A. B. reasonable notice as required, do hereby certify that we have viewed and do estimate said damages at — dollars and — cents and no more. Form of return.

"E. F. }
"G. H. } Appraisers.

"C., —, 18—."

And said persons, being first sworn, shall give reasonable notice to the impounder, and [to] the owner of such beast, if known and resident in the town, of the time appointed for the view, and proceed to estimate damages accordingly; and make return to the pound-keeper of their doings in writing under their hands. The oath may be administered by said pound-keeper, or a justice of the peace, and must be certified on the warrant.

SEC. 11. Whoever takes up, as an estray, in any public way or commons, or in his inclosure or possession, any such beast, shall within ten days, if no owner calls for him, commit him, with a certificate as described in section eight to the pound-keeper of his town, who shall carefully keep him till called for by [his] owner, and all due charges paid, or he is [to be] disposed of as herein-after provided; and whoever does not so commit such beast shall lose the expense of his keeping, and forfeit one per cent. on his value for each week, after the ten days, until he so commits him, or the forfeiture amounts to his value. Proceedings when beasts are taken up as estrays. R.S., c. 23, §11. 15 Me., 242.

Penalty for not delivering estray to pound-keeper.

SEC. 12. When a pound-keeper has so received any beast, he shall forthwith post and keep posted for three days at his dwelling-house, and in two other public places in his town, advertisements by him signed, stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast, and [shall] notify the owner to pay lawful damages and charges, and take the beast away; and shall give the like public notice by the town crier, if any in the town. If the value of the beast exceeds ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county. Pound-keeper to advertise. R.S., c. 23, §12. 17 Me., 242.

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If owner does not redeem and beasts are not replevied in ten days, pound-keeper to advertise.
R.S., c. 23, § 13.

SEC. 13. When a beast is lawfully impounded as aforesaid, if the forfeiture, damages, and costs are not paid, or the beast replevied, in ten days after the notice, provided in the preceding section, is given, the pound-keeper shall, without any other process, sell the beast at public auction, after having posted up in two public places in his town, at least forty-eight hours before the time of sale, notices of the time and place, and cause of sale, with a brief description of the beast; and for posting such notices and making such sale, he shall have the same fees as constables for similar services.

Sale postponed and advertised, if owner does not live in town, or the beasts have strayed from a drove.
R.S., c. 23, § 14.

SEC. 14. If the pound-keeper is informed, or has reason to believe, that the beast impounded has strayed from a drove, or does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and shall publish notice thereof in such papers as in his opinion may give information to the owner, and he shall be allowed a reasonable sum therefor; and the proceeds of such sale shall be disposed of as hereinafter provided.

When damages are claimed, appraisal.
R.S., c. 23, § 15.

SEC. 15. The pound-keeper, before making such sale, shall cause the damages, if any are claimed, to be appraised as in section ten within ten days after giving the notice required by section twelve.

Disposal of proceeds of sale.
R.S., c. 23, § 16.

SEC. 16. The pound-keeper shall retain his lawful charges and fees, and pay to others their lawful dues, and the balance to the treasurer of his county in thirty days. Such treasurer or his successor shall pay it over at any time within six years, on the written request of any person who proves that he was the owner of the property at the time of sale; and if he refuses to do so, the claimant may appeal to the county commissioners whose decision thereon shall be final. If such balance is not claimed in six years, it shall belong to the county.

Owner may redeem before sale.
R.S., c. 23, § 17.

SEC. 17. The owner of such beast, at any stage of the proceedings before sale, may redeem it on payment of all lawful claims thereon up to the time of his demand to redeem.

Replevin of beasts impounded. Proceedings. Sale postponed.
R.S., c. 23, § 18.
17 Me., 189.

SEC. 18. An action to replevy such beasts shall be brought against the impounder or finder, and not against the pound-keeper, but a copy of it shall be served on both; and in other respects the process shall be regulated by chapter ninety-six. If such action is brought after notice of sale and before sale, the sale shall be postponed till it is decided, and no such action can be sustained unless the writ is served before sale.

Rescue and punishment thereof.
R.S., c. 23, § 19.
34 Me., 13.

SEC. 19. Whoever, in order to prevent the impounding of any beast lawfully in possession of another, and taken for the causes herein mentioned, rescues him, or directly or indirectly causes his escape, shall forfeit not less than five, nor more than twenty dollars, and be liable in an action on the case to the party injured

for the full damages, with charges and costs, which he might receive by impounding the beast. CHAP. 23.

SEC. 20. Whoever breaks a pound, or otherwise directly or indirectly delivers a beast from the place of his lawful restraint, shall forfeit to the use of the town not less than ten, nor more than fifty dollars; and be liable to the party injured or [the] impounder, in an action on the case, for double the damage or forfeiture, which he might have received by impounding the beast; and when such acts are committed by a minor, or an apprentice, legally bound by deed, such action may be brought against the minor or apprentice, or against his parent or guardian, under whose care he then was.

Pound
breach and
punishment
thereof.
R.S., c. 23, § 20.

SEC. 21. In an action for rescuing beasts distrained or impounded, the insufficiency of the fences, or other fact to show the distress or impounding illegal, shall not be given in defence, but the defendant may avail himself thereof in an action of replevin.

Restrictions
as to defence
in such
cases.
R.S., c. 23, § 21.

SEC. 22. Forfeitures mentioned in this chapter may be recovered in actions of debt to the use of the prosecutor, unless otherwise provided; and civil actions therefor must be commenced in ninety days after the forfeiture accrued, unless otherwise limited.

Limitations
of actions for
forfeitures.
R.S., c. 23, § 22.

SEC. 23. The pound-keeper's fees shall be twenty-five cents for impounding one or more beasts at one time; twelve cents for recording each certificate or advertisement; and the same for posting or publishing each advertisement, with four cents a mile for necessary travel.

Pound-keep-
er's fees.
R.S., c. 23, § 23.

SEC. 24. The pound-keeper shall allow the impounder a reasonable sum for his trouble, not exceeding half the respective forfeitures mentioned in sections two and three, besides the forfeitures to which he is entitled under those sections.

Compensa-
tion to im-
pounder.
R.S., c. 23, § 24.

SEC. 25. The pound-keeper's price for keeping and feeding the beasts committed to pound or to his custody as aforesaid, shall be fixed by the municipal officers, and recorded on the town books by the town clerk, and be binding until altered by said officers.

Expense of
keeping
beasts im-
pounded,
regulated.
R.S., c. 23, § 25.

CHAP. 24.

CHAPTER 24.

PAUPERS, THEIR SETTLEMENT AND SUPPORT.

- SEC. 1. Settlements, how acquired.
2. Pauper supplies defined.
3. Settlements remain until new ones are acquired.
4. Bridge-tenders and toll-keepers.
5. Inmates of Togos national home remain citizens of their own towns.
6. Towns furnishing relief to former inmates, when reimbursed by state.
7. Children at Bath Asylum acquire no settlement there.
8. Disabled U. S. soldiers, although dependent on town, are not paupers.
9. Revision of laws does not affect settlements.
10. Overseers chosen, money raised, poor relieved.
11. Overseers' duties.
12. Poor not to be sold at auction. Town may contract for their support.
13. Towns may unite to purchase a farm. Summons.
14. Joint board to manage it; duties.
15. Kindred liable for support of paupers.
16. Court may assess them, on complaint.
17. On complaint filed it may be amended.
18. Assessment for future support, order with whom to live.
19. Assessment may be altered; costs.
20. Children of paupers may be bound, terms and time.
21. Overseers to inquire respecting them, to make complaint.
22. Suits on bond, damages for benefit of child.
23. Child when of age may sue master for damages.
24. Child departing without leave, returned. Persons enticing liable.
25. Child may be discharged on complaint of master.
26. Persons of age may be bound for a year.
27. Persons of age may complain to court.
28. Persons found needing relief in unincorporated places are under care of oldest adjoining or nearest town. Their children may be bound out.
29. When governor and council may permit the removal of such paupers.
30. Certain larger plantations to maintain their paupers.
31. Persons found needing relief in certain plantations are under care of assessors, as in towns. State paupers not affected.
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33. Overseers to relieve those having no settlement in their town.
34. Recovery against a town estops it to deny settlement.
35. Poor debtors in jail, authority of overseers over, in certain cases. Liability of creditor.
36. Notice of relief to town liable, and request for removal of pauper.
37. If pauper refuses to be removed to town of settlement, overseers may complain to magistrate. Proceedings.
38. Answer to be within two months.
39. Notice and answer by mail sufficient.
40. Persons removed, returning, to be sent to house of correction.
41. Paupers without settlement may be removed out of state. Exception in favor of U. S. volunteers.
42. Towns liable to individuals for supplies after notice.
43. Complaint against paupers intemperate.
44. Towns may sue paupers, their executors, &c., for support.

SEC. 45. Overseers may take possession of property of deceased paupers.

46. Overseers may prosecute and defend.

47. Any plantation may raise and expend money for support of poor.

48. Penalty for bringing paupers into a town.

49. Common carriers bringing non-resident paupers into state, liability of.

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SEC. 1. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows : Settlement,
how acquir-
ed.
R.S., c. 24, § 1.

I. A married woman has the settlement of her husband, if he has any in the state; if he has not, her own settlement is not affected by her marriage. When it appears in a suit between towns involving the settlement of a pauper, that a marriage was procured to change it by the agency or collusion of the officers of either town, or [of] any person having charge of such pauper under authority of either town, the settlement is not affected by such marriage. Married
women.
4 Me., 296.
41 Me., 460,
485.
48 Me., 207.
52 Me., 219.
53 Me., 58.
56 Me., 23.
67 Me., 581.
68 Me., 147.
71 Me., 538.

II. Legitimate children have the settlement of their father, if he has any in the state; if he has not, they have the settlement of their mother within it; but they do not have the settlement of either, acquired after they are of age and have capacity to acquire one. (a) Legitimate
children.

III. Children, legitimate or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth, but when the parents of such children born after March twenty-four, eighteen hundred and sixty-four, intermarry, they are deemed legitimate and have the settlement of the father. (a) Illegitimate
children.

IV. Upon division of a town, a person having a settlement therein and [being] absent at the time, has his settlement in that town, which includes his last dwelling place in the town divided. When part of a town is set off from it and annexed to another, the settlement of a person absent at the time of such annexation is not affected thereby. When a new town, composed in part of one or more existing towns, is incorporated, persons settled in such existing town or towns, who have begun to acquire a settlement therein, and whose homes were in such new town at the time of its incorporation, have the same rights incipient and absolute respecting settlement, as they would have had in the town where their homes formerly were. (b) Division of
towns.

V. A minor who serves as an apprentice in a town four years, and within one year thereafter sets up such trade therein, being then of age, has a settlement therein. Apprentice-
ship.

(a) 2 Me., 197; 3 Me., 390; 4 Me., 50, 295; 7 Me., 90, 272; 10 Me., 412; 11 Me., 457; 18 Me., 378; 19 Me., 446; 24 Me., 282; 32 Me., 62; 35 Me., 412; 36 Me., 392; 41 Me., 551; 55 Me., 56, 471; 58 Me., 355.

(b) 1 Me., 131; 13 Me., 301; 19 Me., 390; 20 Me., 343; 21 Me., 337; 23 Me., 474; 31 Me., 468; 35 Me., 187; 37 Me., 41; 38 Me., 476; 39 Me., 369; 42 Me., 314, 548; 43 Me., 317; 44 Me., 359; 47 Me., 131; 49 Me., 553; 51 Me., 446, 448; 53 Me., 524; 54 Me., 254; 56 Me., 321; 66 Me., 572; 69 Me., 317; 71 Me., 456-7.

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Residence
five years.

Residence
March 21,
1821.

Incorporation of towns.
11 Me., 457.
21 Me., 61,
270.
30 Me., 453.
33 Me., 580.
55 Me., 119.
66 Me., 572.

Pauper supplies, how
constituted.
1873, c. 119.
67 Me., 492.
69 Me., 226.
70 Me., 116.

Care and
medical at-
tendance.

Settlements
remain.
R.S., c. 24, § 2.
55 Me., 119.
58 Me., 355.
71 Me., 456.

Bridge tender or toll-
keeper.
1876, c. 82.

Inmates of
the national
home at
Togus, resi-
dence of, es-
tablished.
1875, c. 7, § 1.

No other resi-
dence shall
be acquired.
1875, c. 7, § 2.

Towns re-
lieving for-
mer inmates

VI. A person of age, having his home in a town five successive years without receiving, directly or indirectly, supplies as a pauper, has a settlement therein. (a)

VII. A person having his home in a town on March twenty-one, eighteen hundred and twenty-one, without having received supplies as a pauper within one year before that date, acquired a settlement therein. (a).

VIII. Persons having their homes in an unincorporated place for five years without receiving supplies as a pauper, and having continued their homes there to the time of its incorporation, acquire settlements therein. Those having homes in such places less than five years, before incorporation, and continuing to have them there afterwards, until five years are completed, acquire settlements therein.

SEC. 2. To constitute pauper supplies, they must be applied for in case of all adult persons of sound mind, by such persons themselves, or by some person by them duly authorized; or such supplies must be received by such persons, or by some person duly authorized by them, with a full knowledge that they are such supplies; and all care, whether medical or otherwise, furnished said persons shall be subject to the same rule.

SEC. 3. Settlements acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones.

SEC. 4. No person shall acquire a settlement, subjecting a town to pay for his support on account of poverty or distress, by reason of his residing in said town as tender of a draw-bridge, or toll-keeper of a bridge owned by another town, and in a toll-house also owned by another town.

SEC. 5. Inmates of the national home for disabled volunteer soldiers at Togus, in the county of Kennebec, and persons subject to the rules and regulations thereof, or receiving rations therefrom, shall be deemed citizens of the respective towns in which they had a legal residence when their connection with said national home commenced, so long as such connection shall continue therewith. No settlement under the laws of this state shall be acquired by any such persons by reason of their residence in any town, other than that in which they are deemed citizens under the provisions of this section.

SEC. 6. If any town shall furnish relief to any such person, who shall become a pauper after his connection with said national

(a) 10 Me., 98; 13 Me., 327; 15 Me., 481; 17 Me., 123; 18 Me., 94, 417; 21 Me., 361; 23 Me., 411; 24 Me., 114; 34 Me., 314; 39 Me., 335; 47 Me., 101, 183; 48 Me., 335, 566; 49 Me., 106; 50 Me., 478; 51 Me., 540; 52 Me., 219; 53 Me., 445; 55 Me., 56, 94, 95; 58 Me., 210; 62 Me., 232; 69 Me., 69, 70, 504; 70 Me., 443.

home shall cease, having no legal settlement in this state, the state shall reimburse such town for the relief furnished, to such an amount as the governor and council shall adjudge to have been necessarily expended therefor.

SEC. 7. No child shall be held to have acquired a pauper settlement in the city of Bath, by reason of being an inmate of the Bath military and naval orphan asylum, situated in Bath.

SEC. 8. No soldier who *has* served by enlistment in the army or navy of the United States, in the war of eighteen hundred and sixty-one, and in consequence of injury sustained in said service, may become dependent upon any city or town in this state, shall be considered a pauper, or subject to disfranchisement for that cause.

SEC. 9. Persons who have begun to acquire settlements under existing laws, are not to be affected by a repeal of them, and a re-enactment of their provisions in substance.

SEC. 10. Towns are to relieve persons having a settlement therein, when on account of poverty, they need relief. They may raise money therefor as for other charges of the town; and may at their annual meeting choose not exceeding twelve legal voters therein to be overseers of the poor.

SEC. 11. Overseers are to have the care of persons chargeable to their town, and are to cause them to be relieved and employed at the expense of the town, and as the town directs, when it does direct.

SEC. 12. Persons chargeable are not to be set up and bid off at auction either for support or service; but towns at their annual meetings, when the warrant contains an article for the purpose, may contract for the support of their poor for a term not exceeding five years.

SEC. 13. Towns may unite in the purchase of a farm, or in the erection of buildings, to be used for the support of the poor; and in procuring all necessary furniture and apparatus therefor. For these purposes, each town may choose the number of commissioners agreed upon, to constitute a joint commission to cause the agreement of the towns to be carried into effect.

SEC. 14. The overseers of such towns constitute a joint board of overseers of such farm and buildings. They may at a full meeting establish rules for the management thereof, appoint a superintendent, prescribe his powers and duties, and cause all the paupers of such towns to be supported there. They may receive and support there, paupers of other towns. Towns may raise money for the purposes named in this and the preceding sections.

SEC. 15. The father, *and* mother, grandfather, *and* grandmother, children, and grand children, by consanguinity, living

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to be reimbursed by state.
1876, c. 7, § 3.

Orphan asylum at Bath.
1881, c. 70.
1866, c. 163, special.

Soldiers not to be considered paupers.
1875, c. 21.

Revision of laws does not affect settlements.
R.S., c. 24, § 3.

Overseers chosen, money raised, poor relieved.
R.S., c. 24, § 4.

Overseers' duties.
R.S., c. 24, § 5.

Poor not sold at auction. Towns may contract for support.
R.S., c. 24, § 6.

Towns may unite to purchase a farm.
R.S., c. 24, § 7.

Joint board of overseers; duties.
R.S., c. 24, § 8.

Kindred liable.
R.S., c. 24, § 9.

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Court on
complaint
may assess
kindred.
R.S., c. 24, § 10.
5 Me., 325.
64 Me., 203.
66 Me., 539.

SEC. 16. A town or any kindred, who have incurred any expense for the relief of a pauper, may complain to the supreme judicial court in the county where any one of such kindred resides; and the court may cause such kindred to be summoned, and upon a hearing or default, may assess and apportion a reasonable sum upon such kindred as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and may enforce payment thereof by warrant of distress. Such assessment is not to be made to pay any expense for relief afforded more than six months before the complaint was filed.

Complaint
filed, may be
amended.
Summons.
R.S., c. 24, § 11.

SEC. 17. Such complaint may be filed with the clerk of the court, who is to issue a summons thereon, returnable and to be served as writs of summons are; and on suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner, and be proceeded against as if originally named.

Assessment
for future
support;
court may
order with
whom pau-
per is to live.
R.S., c. 24, § 12.
64 Me., 203.

SEC. 18. The court may assess and apportion upon such kindred a sum sufficient for the future support of such pauper, to be paid quarterly, until further order; and direct with whom of such kindred consenting thereto, and for what time, he may dwell, having regard to his comfort and their convenience. On application of the town or person to whom payment was ordered, the clerk may issue or renew a warrant of distress to collect what may be due for any preceding quarter, returnable to the next term of the court.

May alter as-
sessment.
Costs.
R.S., c. 24, § 13.
64 Me., 203.

SEC. 19. The court may, from time to time, make any further order on complaint of a party interested, and after notice given, alter such assessment or apportionment. On a failure to sustain a complaint, the respondents recover costs.

Children
may be
bound,
terms and
time.
R.S., c. 24, § 14.
18 Me., 417.

SEC. 20. The minor children of parents chargeable, or of parents unable in the opinion of [the] overseers to maintain them, and *such* [minor] children chargeable themselves, may, without their consent, be bound by the overseers, by deed of indenture, as apprentices or as servants to any citizen of the state, to continue till the males are twenty-one, and the females eighteen years of age or are married, unless sooner discharged by the death of their master. Provision is to be made in such deed for the instruction of males to read, write, and cipher, and for females to read and write; and for such further instruction and benefit within or at the end of the term, as the overseers think reasonable.

Overseers to
inquire, and
may com-

SEC. 21. The overseers are to inquire into the treatment of such children, and to protect and defend them in the enjoyment

(a) 23 Me., 425; 45 Me., 370; 51 Me., 415; 53 Me., 61; 64 Me., 203; 66 Me., 539.

of their rights in reference to their masters and others. They may complain to the supreme judicial court in the county, where their town is, or where the master resides, against such master for abuse, ill-treatment, or neglect, of a child bound to him. The court is to cause him to be notified, and upon a hearing of the parties or on default, may, for sufficient cause proved, discharge the child with costs; or dismiss the complaint, with or without costs at discretion. Any child so discharged, or whose master has deceased, may be bound anew for the remainder of the time.

SEC. 22. The overseers, by a suit on the deed of indenture, may recover damages for breaches of its covenants. The amount so recovered, deducting reasonable charges, is to be placed in the treasury of the town, to be applied by the overseers to the benefit of the child during his term, or be paid to him at its expiration. The court, on trial of such suit, for sufficient cause exhibited, may discharge the child. Such suit is not abated by the death of overseers or by the expiration of their term of office; but shall proceed in their names, or in the names of the survivors.

SEC. 23. Such child, within two years after the expiration of his term, may commence an action of trespass or case, or a suit on the deed, to recover damages for a breach of its covenants, or for injuries, other than such as have been tried in a suit between the overseers and master. He is for this purpose entitled to the custody of the deed of indenture when necessary, or to a copy of it, and he may sue upon it as assignee without an assignment of it.

SEC. 24. When a child so bound departs from service without leave, his master or a person in his behalf may complain on oath to a trial justice in the county, where he resides, or where the child is found, who is to issue a warrant and cause such child to be brought before him, and when the complaint is supported, he is to order the child to be returned to his master, though he resides in another county, or commit him to a jail or house of correction to remain not exceeding twenty days, unless sooner discharged by his master. A person, who entices such a child to leave his master, or harbors him knowing that he has so departed, is liable to the master for all his damages.

SEC. 25. A master may complain to the court in the county, where he resides, or where the overseers making the indenture resided, for gross misbehavior of the child, and the court, after notice to the child, and to the overseers of the town binding, may discharge the child.

SEC. 26. Overseers may set to work, or by deed bind to service upon reasonable terms, for a time not exceeding one year, persons having settlements in their town or having none in the state, married or not married, able of body, upwards of twenty-one years

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plain of
master.
Court may
discharge
child, who
may be
bound again.
R.S., c. 24, § 15.

Suits on
bond.
Damages for
benefit of
child.
R.S., c. 24, § 16.

Child becoming
of age,
may sue
master for
damages.
R.S., c. 24, § 17.

When child
departs, he
may be ar-
rested and
returned.
Those entic-
ing or har-
boring, lia-
ble.
R.S., c. 24, § 18.

Child may be
discharged
on com-
plaint of
master.
R.S., c. 24, § 19.

Person of
age, may be
bound for
one year.
R.S., c. 24, § 20.
See c. 21, § 1.

CHAP. 24. of age, having no apparent means of support and living idly; and all persons liable to be sent to the house of correction.

Person
bound may
complain to
court.
R.S., c. 24, § 21.

SEC. 27. A person so bound may complain to the court, in the county where he or the overseers reside, and the court, after notice to the overseers and master, may, upon a hearing, dismiss such complaint, or discharge him from the master and overseers, and award costs to either party or against the town at discretion.

Persons in
unincorpora-
ted places
needing
relief are
under care of
assessors of
oldest ad-
joining or
nearest
town.

1879, c. 162, § 1.
16 Me., 139.
56 Me., 96.
60 Me., 155.
65 Me., 198.
68 Me., 594.
Their chil-
dren may be
bound out.
See § 26.

SEC. 28. Persons found in places not *incorporated* [organized] and needing relief, are under the care of the overseers of the oldest incorporated adjoining town, or the nearest incorporated town where there are none adjoining, who shall furnish relief to such persons, as if they were found in such town; and such overseers may bind to service the children of such persons as they may those of paupers of their own town, and may bind out persons described in section twenty-six, in the manner therein provided, residing in such *unincorporated* [unorganized] place, as if in their own town, and such persons shall be entitled to a like remedy and relief. When relief is so provided, the towns furnishing it are entitled to the same remedies against the towns of their settlement as if they resided in the town so furnishing relief. And when such paupers have no legal settlement in the state, and have not lived in the town furnishing them relief, the state shall reimburse said town for the relief furnished, to such amount as the governor and council may adjudge to have been necessarily expended therefor.

Remedy of
towns so
relieving
state pau-
pers.

On request of
relieving
town gover-
nor and coun-
cil may per-
mit removal.

Removed
paupers gain
no residence.
1879, c. 162, § 2.

SEC. 29. Whenever towns that are compelled by law to care for and furnish relief to state paupers in *unincorporated* [unorganized] places, for the purposes of economy desire to remove the same into their own town, the overseers of the poor in such town may make a written request, stating their reasons therefor, to the governor and council, who shall examine the same, and if in their judgment such state paupers would thereby be supported with less expense to the state, may permit in writing such transfer to be made. Whenever state paupers are thus transferred and maintained in a town for such purposes, they shall not become paupers of such town by reason of residence therein, while so maintained.

Certain
larger plan-
tations to
maintain
their pau-
pers.
1879, c. 162, § 3.

SEC. 30. Plantations having a population of two hundred or more, and a valuation of at least one hundred thousand dollars, shall hereafter support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the state.

Persons
needing re-
lief in certain
plantations,
under care of
assessors.
1881, c. 65.
See c. 3, § 64.

SEC. 31. Persons found in plantations having a population of more than two hundred, to be determined by the returns of the county commissioners, as provided by section sixty-four of chapter three, and a state valuation of forty thousand dollars, and needing relief, are under the care of the assessors of such plantations; and

the duties and powers of such assessors relative to such persons, are the same in every respect as overseers of the poor in towns have, in like cases; and such plantations are authorized and required to assess and raise all moneys necessary to defray the expense incurred in the care of such persons; and when relief is so provided, plantations so furnishing it, have the same remedies against the towns of their settlement, that towns have in like cases. But the provisions of this section shall not extend to, or affect existing laws concerning so called state paupers or pauper's settlements.*

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—plantations to relieve them, the same as towns.

State paupers not affected.

SEC. 32. A person residing in a place not incorporated, may provide relief and medical aid for any person sick, wounded, or dangerously injured, residing in such place, and in case of his death may cause him to be buried, and [may] recover the amount necessarily expended, of the town where such person had a settlement, if, within sixty days [there-]after, he has delivered into a post office, postage paid, a written notice signed by him informing *them* [the overseers of such town] of the name of the person relieved, the nature of his sickness or injury, if known, and the amount expended. Towns paying such expenses or costs may recover the amount, with interest, of the person relieved, or of any one liable for his support.

Individuals may relieve the sick in such places. R.S., c. 24, § 23. 65 Me., 598.

SEC. 33. Overseers are to relieve persons destitute, found in their towns and having no settlement therein, and in case of decease, decently [to] bury them, [or to dispose of them according to the provisions of chapter thirteen, section three]; the expenses whereof and of their removal incurred within three months before notice given to the town chargeable, may be recovered by the town incurring them, *against* [of] the town liable, in an action commenced within two years after the cause of action accrued, and not otherwise; and may be recovered of their kindred in the manner before provided in this chapter. (a)

Overseers to relieve persons having settlement in other towns. R.S., c. 24, § 24. 64 Me., 146.

SEC. 34. A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering, in any future action brought for the support of the same pauper.

Recovery, effect of. R.S., c. 24, § 25. 33 Me., 181, 354. 53 Me., 130. 71 Me., 407.

SEC. 35. *Overseers of a town in which there is a county jail, may, by their written order, set to work so far as necessary for his support, any debtor committed, and then chargeable to any towns in the state for his support. The town where he has a settle-*

Overseers, power of over poor debtor in jail. R.S., c. 24, § 26. 49 Me., 386.

* [NOTE. The commissioner is not sure that in sections 28, 29, 30 and 31 he has correctly revised the acts of 1879 and 1881.]

(a) 3 Me., 454; 15 Me., 365; 16 Me., 385; 26 Me., 463; 27 Me., 494; 28 Me., 296; 29 Me., 316; 33 Me., 453; 38 Me., 476; 40 Me., 265, 288; 41 Me., 484; 42 Me., 568; 43 Me., 319; 46 Me., 560; 48 Me., 357, 420; 49 Me., 385, 554; 50 Me., 518; 51 Me., 603; 53 Me., 42, 445; 55 Me., 118; 62 Me., 247; 67 Me., 534; 71 Me., 576.

CHAP. 24. *ment, is liable to pay the expenses incurred, not so paid by him ; and the town incurring them may recover the same of the creditor at whose suit he was committed, at the rate fixed by law for his support.**

54 Me., 495.
66 Me., 125.

Overseer's
notice and
request to
town liable.
R.S., c. 24, § 27.

SEC. 36. Overseers are to send a written notice, signed by one or more of them, stating the facts respecting a person chargeable in their town, to [the] overseers of the town where his settlement is alleged to be, requesting them to remove him, which they may do by a written order directed to a person named therein, who is authorized to execute it. (a)

Overseer's
complaint if
pauper re-
fuses to be
removed to
town of
settlement.
1879, c. 157.

SEC. 37. When a pauper is sought to be removed to the town of his alleged settlement, under the provisions of the preceding section, and the person to whom the order of the overseers is directed, requests him to go with him in obedience to said order, and he refuses so to do, or resists the service of such order, the person to whom it is directed may make complaint in writing, by him signed, of the facts aforesaid, to any judge of a police or municipal court or trial justice within the county where said pauper is then domiciled. Said magistrate shall thereupon, by proper order or process, cause said pauper to be brought forthwith before him by any officer to whom the same is directed, to answer said complaint and show cause why he should not be so removed. The complaint may be amended at any time before judgment thereon, according to the facts. The complainant and the pauper shall be heard by such magistrate, and if upon such hearing the magistrate aforesaid finds that the town to which such pauper is sought to be removed is liable for his maintenance and support, he shall issue his order, under his hand and seal, commanding the person to whom it is directed to take the body of said pauper and transport him to the town aforesaid, and deliver him to the custody of the overseers of the poor thereof. The person to whom said last named order is directed shall have all the power and authority to execute the same according to the precept thereof, that the sheriff or his deputy now has in executing warrants in criminal proceedings. In the foregoing proceedings, the fees and costs shall be the same as are by law chargeable for like services in criminal cases, and shall be paid by the town seeking to remove such pauper.

—pauper to
be brought
before mag-
istrate to
answer
complaint.
—proceed-
ings.

—persons
executing or-
der of magis-
trate has
same power
as sheriff in
executing
criminal
warrants.
—fees and
costs.

Answer to
be returned
within two
months.
R.S., c. 24, § 28.

SEC. 38. Overseers receiving such notice *are* [shall] within two months, if the pauper is not removed, to return a written answer signed by one or more of them, stating their objections to his

* [QUERY BY THE COMMISSIONER. Does the present condition of the poor debtor law, R. S., chap. 113, require section 35 to be retained?]

(a) 1 Me., 229, 331; 3 Me., 199; 4 Me., 478; 15 Me., 172; 21 Me., 303, 445; 26 Me., 66; 31 Me., 126; 41 Me., 600; 45 Me., 408; 46 Me., 460, 560; 48 Me., 356, 420; 53 Me., 38, 42; 56 Me., 12; 59 Me., 295; 63 Me., 581, 583; 72 Me., 204.

removal; and if they fail to do so, the overseers requesting his removal may cause him to be removed to that town in the manner provided in section thirty-six; and the overseers of the town to which he is sent are to receive him and provide for his support; and their town is estopped to deny his settlement therein, in an action brought to recover for the expenses incurred for his previous support and for his removal.

SEC. 39. When a written notice or answer provided for in this chapter is sent by mail, postage paid, and it arrives at the post office where the overseers to whom it is directed reside, it *is to* [shall] be deemed a sufficient notice or answer.

SEC. 40. A person removed, as provided in this chapter, to the place of his settlement, who voluntarily returns to the town from which he was removed, without the consent of the overseers, on conviction thereof before a trial justice [or municipal or police court], may be sent to the house of correction as a vagabond.

SEC. 41. Overseers may make complaint, that a pauper chargeable to their town has no settlement in the state, to a trial justice, who may, if he thinks proper, by his warrant directed to a person named therein, cause such pauper to be conveyed, at the expense of such town, beyond the limits of *this* [the] state to the place where he belongs; but the provisions of this section shall not apply to the families of volunteers enlisted in *this* [the] state, who may have been mustered into the service of the United States.

SEC. 42. Towns are to pay expenses necessarily incurred for the relief of paupers by an inhabitant not liable for their support after notice and request to the overseers, until provision is made for them. (a)

SEC. 43. When a person in their town, notoriously subject to habits of intemperance, is in need of relief, the overseers are to make complaint to a trial justice in the county, who *is to* [shall] issue a warrant and cause such person to be brought before him, and upon a hearing and proof of such habits, he *is to* [shall] order him to be committed to the house of correction, to be there supported by the town where he has a settlement, and if [there is] no such town, at the expense of the county, until discharged by the overseers of the town in which the house of correction is situated, or by two justices of the peace and quorum.

SEC. 44. A town, which has incurred expense for the support of a pauper, whether he has a settlement in that town or not, may recover it of him, his executors, or administrators, in an action of assumpsit. (b)

CHAP. 24.

3 Me., 454.
4 Me., 302.
5 Me., 34.
30 Me., 213.
48 Me., 422.
53 Me., 43.
63 Me., 582.
72 Me., 204.

Notice by mail sufficient.
R.S., c. 24, § 29.
21 Me., 303, 445.
48 Me., 422.

Person removed, returning, may be sent to house of correction.
R.S., c. 24, § 30.

Foreign paupers may be removed.
R.S., c. 24, § 31.

—not to apply to families of volunteers.

Towns liable to individuals relieving.
R.S., c. 24, § 32.

Overseers to complain of intemperate paupers.
R.S., c. 24, § 33.
11 Me., 212.
51 Me., 460.
See c. 21, § 13.

Towns may recover of paupers.
R.S., c. 24, § 34.

(a) 20 Me., 444; 36 Me., 378; 37 Me., 10; 48 Me., 561; 49 Me., 33; 51 Me., 460; 53 Me., 61; 63 Me., 492; 65 Me., 597; 67 Me., 551; 70 Me., 501.

(b) 4 Me., 262; 22 Me., 448; 41 Me., 600; 66 Me., 62.

CHAP. 25.

Overseers to take possession of property of paupers deceased.
R.S., c. 24, § 35.
8 Me., 318.

May prosecute and defend.
R.S., c. 24, § 36.

Plantations may raise money.
R.S., c. 24, § 37.
7 Me., 125, 133.
61 Me., 449.

Penalty for bringing paupers into a town.
R.S., c. 24, § 38.
2 Me., 7.
50 Me., 336.

Common carriers, liability of, for bringing non-resident paupers into the state.
—proviso.
1875, c. 41.

SEC. 45. Upon the decease of a pauper then chargeable, the overseers may take into their custody all his personal property, and if no administration on his estate is taken within thirty days, [they] may sell so much thereof, as is necessary to repay the expenses incurred. They have the same remedy to recover any property of such pauper, not delivered to them, as his administrator would have.

SEC. 46. For all purposes provided for in this chapter, its overseers, or any person appointed by them in writing, may prosecute and defend a town.

SEC. 47. [Any plantation] *plantations*, at [a] legal meetings called for the purpose, may raise and expend money for the support of the poor, to be applied by *their* [its] assessors.

SEC. 48. Whoever brings into and leaves in a town where he has no settlement, a poor person, knowing him to be so, with intent to charge such town with his support, forfeits a sum not exceeding one hundred dollars, to be recovered, to the use of such town, in an action of debt.

SEC. 49. Any common carrier who brings into the state any person not having a settlement in the state, is authorized and required to remove such person beyond the *lines of the state*, if he falls into distress within a year; *provided*, [that] such person shall be delivered on board a boat or at a *depot* [station] of such common carrier, by the overseers or municipal officers requesting such removal; and in default thereof, such common carrier shall be liable in an action of assumpsit for the expense of such person's support after such default.

CHAPTER 25.

KEEPING WATCH AND WARD IN TOWNS, AND OF DISORDERS IN STREETS AND PUBLIC PLACES.

- SEC. 1. Who are liable to keep watch and ward.
2. Power of selectmen and justices to order watch and ward to be kept, and proceedings.
 3. Charge of constable and powers of watch.
 4. Duties of watch.
 5. Badges of constable and watch.
 6. Expense of watch otherwise kept, how defrayed.
 7. Proceedings in such case.
 8. Penalty for neglect of duty by a watch.
 9. Penalty for neglect of constable or officer.
 10. Constable and watchmen to attend justices when walking the rounds.
 11. Penalty for riding with a naked scythe.
 12. Certain pageantry prohibited in streets in the night. Bonfires in streets and towns prohibited.
 13. Fines, how recovered and appropriated.
 14. Masters and parents liable for minors.

SEC. 1. Every male person except ministers of the gospel, CHAP. 25.
twenty-one years of age or upwards, who is able bodied or has
estate sufficient to hire a substitute, when duly warned, shall be
liable to watch and ward in his town, either in person or by
a sufficient substitute; unless he resides more than two miles from
the place where the watch or ward is kept.

Who are liable to keep watch and ward.
R.S., c. 25, § 1.

SEC. 2. The justices of the peace and municipal officers resident
in any town have power, from time to time, to direct and order
suitable watches to be kept nightly therein from such hour in the
evening as they appoint until sun rises in the morning; and wards
to be kept in the day time and evening, when they think such
watches and wards necessary. They may designate the time,
place, and number of persons to be so employed; and give written
orders accordingly, signed by a majority of them, directed to any
constable of the town, requiring him to warn such watch or ward,
and to see that all persons so warned attend and perform their
duty as required; and in the warning, to take care that some able
houscholders, or other sufficient persons are joined in each watch
or ward.

Power of selectmen and justices to order watch and ward to be kept, and proceedings.
R.S., c. 25, § 2.
15 Me., 156.

SEC. 3. Such constable shall charge the watch to see that all
disturbances in the night are prevented or suppressed; and for
that purpose the watch may examine all persons found walking
abroad in the night after ten o'clock, and suspected of any unlaw-
ful intention, as to their business and where they are going; enter
houses of ill-fame, *for the purpose of suppressing* [to suppress] any
disturbance or riot therein; and arrest any person there found
engaged in such riot or disturbance; and all suspicious persons
thus abroad, who do not give a satisfactory account of themselves;
and all persons so arrested shall be secured until morning, and
then be carried before one of the nearest trial justices for trial.

Charge of constable, and powers of watch.
R.S., c. 25, § 3

SEC. 4. The watchmen shall walk in and about the streets,
wharves, lanes, and principal inhabited parts of each town, to pre-
vent fires, and see that good order is kept; and suitably observe
the charge given them as aforesaid.

Duties of watch.
R.S., c. 25, § 4.

SEC. 5. Each constable, when attending watch or ward, shall
carry with him the usual badge of his office; and the watchmen
shall carry a suitable badge, provided by the municipal officers of
their town.

Badges of constable and watch.
R.S., c. 25, § 5.

SEC. 6. When the inhabitants of a town determine to keep a
watch in any other manner than is provided herein, the expense
thereof shall be defrayed as other town charges.

Expense of watch otherwise kept, how defrayed.
R.S., c. 25, § 6.

SEC. 7. When a watch is established under the preceding sec-
tion, the town shall determine the number and qualifications of
the persons to be employed for that purpose, and the municipal
officers shall appoint a suitable person to be captain of the watch.

Proceedings in such case.
R.S., c. 25, § 7.

CHAP. 25. Every watchman shall be equipped as the municipal officers determine; and the powers and duties of the captain and watchmen shall be the same as before prescribed in the case of a constable's watch.

Penalty for neglect of duty by a watch.
R.S., c. 25, § 8.

SEC. 8. If any person liable to watch and ward *is* duly warned by such captain or constable, or by any person appointed by either, *and* refuses or neglects to appear and perform his duty, by himself or a sufficient substitute, without a just and reasonable excuse, he shall forfeit, for each offence, not less than one, nor more than ten dollars to the use of the town.

Penalty for neglect of officer.
R.S., c. 25, § 9.

SEC. 9. If a constable or captain of the watch neglects or refuses to obey the orders given him, he shall forfeit not less than ten dollars to the use of the town.

Constable and watchmen to attend justices when walking the rounds.
R.S., c. 25, § 10.

SEC. 10. When said justices of the peace and municipal officers think fit to walk by night to inspect the order of their town, or depute any portion of their number for the purpose, such constables and watchmen as are required shall attend them or said deputation, and obey their lawful commands.

Penalty for riding with a naked scythe.
R.S., c. 25, § 11.

SEC. 11. If any person rides in the highways with a naked scythe, sharpened and hung in a snath, or in any lanes, streets, or alleys, he shall forfeit two dollars for each offence.

Certain pageantry prohibited in streets in the night.

SEC. 12. If three or more persons, between sunset and sunrise, assemble in any street or lane in a town and have any imagery or pageantry for a public show, whether armed or disguised, or requiring or receiving money, or other valuable things or not, on account thereof; and whoever sets fire to a pile of combustible stuff, or is concerned in making or causing a bonfire in any street, lane or other part of the town within ten rods of any building, each shall forfeit eight dollars, or be imprisoned not more than one month for each offence.

Bonfires in streets and towns prohibited.
R.S., c. 25, § 12.

Fines, how recovered and appropriated.
R.S., c. 25, § 13.

SEC. 13. The fines provided for in this chapter shall be recovered with costs; *the one half of any fine* for the use of the town where the offence *shall have been* [is] committed, and the other half to the use of any person, who *shall sue* [sues] for the same.

Masters and parents liable for minors.
R.S., c. 25, § 14.

SEC. 14. Masters *shall be* [are] liable to pay *the several* [all] fines mentioned in this chapter for the offences of their servants or apprentices, if legally bound to them, at the election of the prosecutor; and parents *shall be* [are] liable at the like election for the offences of *the* minor children, unless such children are bound to other persons as servants or apprentices.

CHAPTER 26.

ENGINE MEN, FIRES, AND THE PREVENTION OF FIRES.

ENGINE MEN AND FIRES.

- SEC. 1. Cities and towns may prescribe rules for care and management of fire engines and apparatus, for employment of men and appointment of officers.
2. Officers have power of fire wards. Towns liable for their acts and powers. Privileges and duties of men employed.
 3. Engine men excused from serving as jurors; tenure of office; annual meeting to choose officers, make rules and regulations, and affix penalties.
 4. Engine companies to meet once a month, and promptly to endeavor to extinguish any fire that may occur in their town.
 5. Discharge of negligent engine men, and selection of engine men for other duties at fires.
 6. Election of fire wards, notice to same, and penalty for not entering acceptance or refusal of office in three days.
 7. Duty of fire wards, and in their absence, duty of other civil and military officers to direct proceedings at fires.
 8. Powers of fire wards to require aid, appoint guards and suppress tumults; and penalty for refusing to obey them.
 9. Officers appointed under special laws to have same powers as fire wards; towns subject to same liability for damages; firemen to have same privileges and duty as other firemen, but their election not hereby controlled.
 10. Compensation to owner of building demolished, whereby fire is stopped.
 11. Plundering or concealment of property at fires declared larceny.

PREVENTION OF FIRES.

- SEC. 12. Penalty for occupying tenement for business of sail maker, rigger, or livery stable, except as municipal officers direct.
13. Municipal officers, on complaint and proof, to direct defective chimneys, stove pipes, &c., to be removed or repaired. Penalty.
 14. Penalty for lighting or smoking pipe or cigar in mills, factories, shops, shipyards, bridges and stables, provided a notice is kept up at each entrance. Penalty for destroying such notice.
 15. Penalty for kindling fires on land without consent of owner; also, in case fire shall spread and do damage to others.
 16. Penalty for kindling fire, with intent to injure another, when the property of another is thereby injured.
 17. Lawful fires, on one's own land, to be kindled at suitable time and in careful manner. Liability for all damages if not so done.
 18. Lumber drivers may kindle fires, but with the utmost caution. Penalty.
 19. Common law remedy not taken away, except in case provided for in preceding section, but party can only pursue one remedy.
 20. Municipal officers to make regulations respecting gunpowder, explosive oils and fluids. Penalty, with forfeiture and seizure.
 21. Sufferers by explosion of powder unlawfully kept, damages for.
 22. Town officers, with a warrant, may search for illegal gunpowder.
 23. Regulations not to be in force till published.
 24. Penalties, how recovered and appropriated.

CHAP. 26.

PROTECTION OF LIFE IN BUILDINGS USED FOR PUBLIC PURPOSES.

- SEC. 25. Inner doors of public buildings to open outward.
26. When outer doors are to be kept open, unless they open outwards.
Fly-doors.
27. Sufficient fire-escapes to be provided for hotels, factories, etc.
28. Penalty for violation of the three foregoing sections.
29. Municipal officers, on complaint, shall inspect building, and require necessary changes and provisions. Penalty for neglect.
30. Town officers to determine whether buildings used for public assemblies have suitable egress. Any citizen may complain. Notice, hearing, view and order. Use of buildings may be forbidden until order is complied with. Penalty.

INQUESTS IN CASES OF SUSPECTED INCENDIARISM.

- SEC. 31. Duty of town officers in cases of suspected incendiarism. Jury of inquest to be summoned by sheriff.
32. Organization and oath of jurors.
33. Witnesses, how summoned, fees, attendance how enforced. Oath of witnesses. Testimony to be reduced to writing.
34. Duty of jury after hearing. Papers to be filed with clerks of courts.
35. Fees of officer and jurors. Same as in coroner's inquests.

ENGINE MEN AND FIRES.

Towns may prescribe rules for care and management of engines and apparatus.
R.S., c. 26, § 1.
—employment of men.
—appointment of officers.

SEC. 1. Any town, corporation or individuals providing fire engines, hose, ladders, or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances, or by-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether engine men or other persons, [and] for the appointment of officers to govern them when on duty and [to] take charge of such apparatus, and may prescribe their style, rank, powers and duties.

Such officers have powers of fire wards.
R.S., c. 26, § 2.

SEC. 2. The engineers, or other officers chosen by any town under the provisions of any ordinance or by-law, shall in addition to the powers thereby conferred, exercise all the powers and duties of fire wards as prescribed in this chapter, unless restricted by the ordinance or by-law under which they are chosen; and such towns shall be responsible for the acts of their said officers, as they are for the acts or orders of fire wards in similar cases; and such fire men and engine men, so employed, shall have all the powers and privileges, and be subject to all the duties and liabilities of engine men, as prescribed in this chapter.

Towns liable for acts of. Powers, privileges and duties of men so employed.

Engine men excused from serving as jurors, &c.
R.S., c. 26, § 3.
71 Me., 348.

SEC. 3. Such engine men shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as are approved by said municipal officers and not repugnant to the laws of the state, and affix penalties to be recovered by their clerk, not exceeding six dollars for any one offence.

Duty of

SEC. 4. Companies of engine men shall meet once every month,

and oftener if necessary, for the purpose of examining the state of their engines and the appendages thereof; and by night or by day without delay, under the direction of the fire wards of the town, they shall use their best endeavors to extinguish any fire therein, or in the immediate vicinity thereof, that comes to their knowledge.

CHAP. 26.
engine companies.
R.S., c. 26, § 4.

SEC. 5. When any engine man or any member of a company organized under special laws is, in the opinion of the municipal officers, negligent in the discharge of his duties, on proof thereof they shall discharge him from the company, and appoint some other person in his stead; and they may select from the engine men any number for each engine in said town, who shall, under the direction of the fire wards, attend fires therein with axes, fire hooks, fire sails, and ladders, and perform such further duty as said officers, from time to time prescribe.

Discharge of negligent engine men, and selection of engine men for other duties at fires.
R.S., c. 26, § 5.

SEC. 6. Each town, at its annual meeting, may elect as many fire wards as are deemed necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused, the town shall elect another in his place.

Election of fire wards.
—penalty for not accepting or refusing office.
R.S., c. 26, § 6.

SEC. 7. When a fire breaks out in any town, the fire wards shall immediately attend at the place with their badges of office; and when there, any three of them may direct any building that they judge necessary to prevent the spread of the fire, to be pulled down or demolished; but in their absence the major part of the municipal, or any two civil or military officers present, shall, in the order they are named, have the same power.

Duty of fire wards, and other officers at fires.
R.S., c. 26, § 7.
40 Me., 391.

SEC. 8. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same and [to] aid in pulling down or demolishing buildings and suppressing disorder and tumult; and generally [may] direct all operations to prevent further destruction or damage; and any person refusing to obey their orders shall forfeit *the sum of* ten dollars.

Powers of fire wards at fires.
Penalty for refusing to obey them.
R.S., c. 26, § 8.
63 Me., 47.

SEC. 9. The chief engineer, engineers, fire wards, and other officers appointed for particular localities under the provisions of special laws, shall have the same power as to pulling down or demolishing any building to prevent the spreading of fires, and as to other things affecting the extinguishment thereof, as fire wards now have by law; and the town to which they belong shall be liable to pay such compensation for damages consequent upon their acts, as other towns are liable to pay for similar damages; and the members of the fire department in such localities shall enjoy all the privileges, and be liable to all the duties of other firemen in the state; but nothing herein shall be construed to control the manner of their election.

Officers appointed under special laws have the same powers as fire wards.
R.S., c. 26, § 9.
63 Me., 47.

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Compensation for building demolished. 1871, c. 207. 63 Me., 47.

Plundering at fires declared larceny. R.S., c. 26, § 15.

SEC. 10. If the pulling down or demolishing any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town, in a special action on the case.

SEC. 11. If any person steals, carries away, or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards, he shall be deemed guilty of larceny and punished accordingly.

PREVENTION OF FIRES.

Penalty for keeping sail maker's or rigger's loft, or stable, save as town officers direct. R.S., c. 26, § 16.

SEC. 12. No person shall occupy any tenement in any maritime town for the business of a sail maker, rigger, or keeper of a livery stable, except where the municipal officers direct; and any person [violating] *who offends against* this section, shall forfeit[s] ten dollars a month during the continuance of such occupancy, with costs.

Municipal officers to direct defective chimneys to be removed or repaired under a penalty. R.S., c. 26, § 17.

SEC. 13. When a chimney, stove, stove pipe, oven, furnace, boiler or appurtenances thereto are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the municipal officers, on complaint of any fire ward or other citizen, being satisfied by examination or other proof that such complaint is well founded, shall give written notice to the owner or *occupier* [occupant] of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he shall forfeit not less than ten, nor more than one hundred dollars.

Penalty for lighting or smoking pipe or cigar in mills, &c. R.S., c. 26, § 18.

SEC. 14. No person shall enter any mill, factory, machine shop, ship yard, covered bridge, stable or other building, having with him a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars; if a notice in plain legible characters is kept up in a conspicuous position over or near each principal entrance to such building or place, that no smoking is allowed therein; and if any person defaces, removes, or destroys any such notice, he shall forfeit ten dollars.

Penalty for kindling fire on land without consent of owner, &c. R.S., c. 26, § 19.

SEC. 15. If any person kindles a fire by the use of fire arms in hunting or fishing, or by any other means, on land not his own, without consent of the owner, he shall forfeit ten dollars; and if such fire spreads and does any damage to the property of others, he shall forfeit a sum not less than ten, nor more than five hundred dollars and costs, according to the aggravation of the offence; and, in either case, shall stand committed till the fine and costs are paid.

Penalty for kindling fire with intent

SEC. 16. If any person with intent to injure another, kindles or causes to be kindled a fire on his own or another's land, and

thereby the property of any other person is injured or destroyed, he shall be punished by a fine of not less than twenty, nor more than one thousand dollars, or by imprisonment not less than three months, nor more than three years, according to the aggravation of the offence. CHAP. 26.
to injure
another, &c.
R.S., c. 26, § 20.

SEC. 17. Whoever for a lawful purpose kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner; and shall be liable, in an action on the case, to any person injured by his failure to comply with this provision. When lawful
fires may be
kindled.
R.S., c. 26, § 21.
54 Me., 258.
62 Me., 290.

SEC. 18. Persons engaged in driving lumber upon any waters may kindle fires when necessary for the purposes in which they are engaged, but shall use the utmost caution to prevent them from spreading and doing damage, and if they fail so to do, they shall be subject to all the liabilities and penalties hereof, as if the privilege granted by this section had not been allowed. Lumber-
drivers may
kindle neces-
sary fires,
but with
utmost
caution, &c.
R.S., c. 26, § 22.

SEC. 19. The common law right to an action for damages done by fires, is not hereby taken away or diminished, but it may be pursued notwithstanding the penalties herein set forth, but any person availing himself of the provisions of section seventeen shall be barred of his action at common law for the damage so sued for. And no action shall be brought at common law for kindling fires in the manner described in section eighteen; but if any such fire spreads and does damage, the person who kindled it, and any person present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, shall be liable, in an action on the case, for the damage thereby sustained. Common law
remedy not
taken away.
R.S., c. 26, § 23.
—exception.

SEC. 20. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all explosive and illuminating substances which such officers shall adjudge dangerous to the lives or safety of citizens; and no person shall keep any of said articles in any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; and all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure, [may] be labelled according to law. Municipal
officers to
make regula-
tions respect-
ing gunpow-
der, explo-
sive oils, and
dangerous
substances.
R.S., c. 26, § 24.
See c. 17, § 8;
c. 39, § 33.
—penalty for
violation.
—seizure.

SEC. 21. A person injured by the explosion of such articles in [the] possession of any person contrary to the regulations established as aforesaid, may have an action for damages against such possessor, or against the owner thereof if consant of such neglect. Of whom
sufferers by
explosion
may recover
damages.
R.S., c. 26, § 25.

SEC. 22. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be concealed there contrary to law. Town officers
may search
for powder.
R.S., c. 26, § 26.

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Regulations
not in force
till publish-
ed.
R.S., c. 26, § 27.

SEC. 23. The rules and regulations, established in any town according to section twenty, shall not be in force *till* [until] they have been published three weeks successively in a newspaper in the county, or by posting *up* attested copies of them in three public places in such town.

Penalties,
how recov-
ered and ap-
propriated.
R.S., c. 26, § 28.

SEC. 24. The penalties provided *for* in this chapter may be recovered by complaint, indictment, or action of debt, *in any court of competent jurisdiction*, one half to the use of the town where the offence is committed, and the other half to the use of the *person prosecuting therefor* [prosecutor].

PROTECTION OF LIFE IN BUILDINGS USED FOR PUBLIC PURPOSES.

Inner doors
of public
buildings to
open out-
wards.
1881, c. 50, § 1.

SEC. 25. Every church, theatre, hall or other building or structure intended to be used temporarily or permanently for any public purpose, and every school-house or school-room, public or private, built since the seventeenth day of April, eighteen hundred and eighty-one, or hereafter constructed, shall have all inner doors intended to be used for egress therefrom open outwards.

When outer
doors are to
be kept open.
1881, c. 50, § 2.

SEC. 26. All outer doors of buildings or structures of the kind mentioned in the preceding section, constructed or hereafter to be constructed, shall be kept open when such buildings or structures are used by the public, unless such doors open outwards, *and* except that fly-doors opening both ways may be kept closed.

—fly-doors.

Suitable fire-
escapes to be
provided to
hotels, fac-
tories, &c.
1881, c. 50, § 3.

SEC. 27. All hotels used for the accommodation of the public, and all shops, mills, factories and other buildings, more than two stories in height, in which any trade, manufacture or business is carried on, which requires the presence of workmen or other persons in any part of the building above the first story, shall be provided with such suitable and sufficient fire-escapes, outside stairs or ladders, as the municipal officers shall deem to be sufficient to afford safe and easy escape from the building in case of fire, and such fire-escapes or ladders shall be attached to the building or be stored outside of such building, and convenient thereto, as the municipal officers shall direct, and shall be of such length and number as said officers shall approve.

Penalty for
violation of
three preced-
ing sections.
1881, c. 50, § 4.

SEC. 28. Whoever violates the provisions of either of the three preceding sections, shall forfeit fifty dollars, and a further sum of five dollars a day for every day's continuance thereof, to be recovered by and for the use of the town or city where such building is located, in an action on the case, or by indictment.

Municipal
officers may
require
necessary
changes and
provisions.
1881, c. 50, § 5.

SEC. 29. Whenever complaint is made to the municipal officers of any town, that any building of the kind mentioned in sections twenty-five and twenty-seven, now or hereafter to be constructed, is deficient in facilities for egress by reason of the inner doors thereof opening inwards, or for the want of fire-escapes, outside

CHAP. 26.

stairs or ladders hereinbefore specified, they shall after notice to all parties interested, inspect such building, and if they find the same so deficient, they shall notify the owner, occupant, lessee, or other person having charge thereof, and require of him such changes as shall be necessary to make said doors open outwards, and to provide suitable and sufficient fire-escapes, outside stairs or ladders to be attached or stored as hereinbefore provided; and such person shall be allowed thirty days to make such changes and provisions, and if he neglects or refuses to make and provide the same within said time, he shall forfeit fifty dollars, and an additional sum of five dollars a day for every day's continuance of such neglect or refusal, to be recovered by, and for the use of the city or town where the building is located, either in an action on the case, or by indictment.

—penalty
for neglect
or refusal.

SEC. 30. The mayors and aldermen of cities and the selectmen of towns are empowered to determine whether or not any hall or building, already erected or hereafter to be erected, and used for the assemblages of citizens, is provided with suitable facilities of egress in case of fire or other casualty. Upon complaint in writing made by one or more citizens to said municipal officers, stating that a building or hall, and describing the same, used for assemblages of citizens, is not provided with sufficient facilities of egress in case of fire or other casualty, the said officers shall assign a day and place of hearing upon said complaint, and give to the owner or owners of said hall or building at least seven days' written notice thereof; and at the time and place appointed, shall meet and hear the party or parties in interest, and receive all evidence relating to said complaint and the subject thereof, and may view the premises; and thereupon said officers shall decide and determine upon the sufficiency of the means of egress from said hall or building, and what, if any, additional facilities therefor are necessary; and if they shall find that there is an insufficiency of facilities of egress from said building or hall, and shall so decide, they shall notify the owner or owners thereof of said decision; and said officers may forbid the use of said building or hall for assemblages of citizens until such additional facilities of egress as they shall have found necessary shall have been furnished; and if the owner or owners of said building or hall shall let or use the same in violation of such order of said officers, said owner or owners shall forfeit not less than twenty nor more than fifty dollars for each offence, to be recovered in an action of debt to the use of said city or town.

Municipal officers to determine whether public buildings are provided with suitable means of egress. 1878, c. 70, § 1. Citizens may make complaint. 1878, c. 70, § 2. Officers to assign day for hearing.

May view the premises. —to determine what, if any, additional facilities are necessary. —proceedings. —may forbid use of building.

—penalty for violation of order.

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INQUESTS IN CASES OF SUSPECTED INCENDIARISM.

Fires in cities and towns, when town officers are to inquire into.
1873, c. 142, § 1.

Sheriff's jury of three.

Jury, organization of.
R.S., c. 26, § 30.
1873, c. 142, § 2.

Juror's oath.

Witnesses, summoned.
R.S., c. 26, § 31.
1873, c. 142, § 2.
Fees.
Attendance, enforced.

Testimony to be reduced to writing.

Duty of jury after hearing.
R.S., c. 26, § 32.
1873, c. 142, § 2.

Papers to be filed with clerk of courts.

Fees of officers and jurors.
1874, c. 183.
67 Me., 63.

SEC. 31. Whenever any building, or vessel in port, or their contents are wholly or partially destroyed by fire, originating on the premises, unless the cause thereof shall be clearly accidental, the mayor of the city or the municipal authorities of the town or plantation where the fire occurs shall give notice thereof at once to the sheriff of the county or his deputy, and said sheriff or deputy shall thereupon immediately summon three good and lawful men to appear at the place of the fire at a time to be fixed as soon as possible, to inquire when, how and by what means the fire originated, and in case of the non-appearance of the person so summoned, the officer shall appoint some other person to complete said number and it shall be the duty of all persons so summoned to appear and act under such summons unless excused for reasonable cause.

SEC. 32. When the persons thus summoned, appear, or the number is made complete, the sheriff or deputy shall call over their names, and then in view of the land on which such property was destroyed, he shall administer the following oath: "You solemnly swear that you will diligently inquire and true presentment make, in behalf of this state, when, how, and by what means, the fire which has here occurred was caused; and that you will return a true inquest according to your best knowledge and such evidence as shall be laid before you."

SEC. 33. The sheriff or deputy shall issue subpœnas for witnesses, returnable forthwith, at such time and place as he therein directs. Such witnesses shall be allowed the same fees, and their attendance shall be enforced in the same manner as if they had been served with a subpœna in behalf of the state to attend any court before such sheriff or deputy. They shall be sworn and their testimony shall be reduced to writing by the presiding sheriff or deputy, or some person by his direction, and [be] by them subscribed.

SEC. 34. The jury after hearing the testimony and making all needful inquiries, shall draw up and deliver to such sheriff or deputy, their inquisition under their hands, in which they shall find and certify, when, how, and by what means, such fire was caused. Said inquisition and testimony, thus subscribed, shall be filed by said sheriff or deputy, with the clerk of the courts for said county, within one week thereafter.

SEC. 35. The fees of the officer shall be the same as prescribed for the coroner in cases of inquest upon dead bodies, and the fees of the jurors shall be two dollars a day for each juror for every day necessarily employed in said inquest, with travelling fees the same as witnesses in court.

CHAPTER 27.

INNOLDERS, VICTUALERS, AND INTOXICATING LIQUORS.

INNOLDERS AND VICTUALERS.

- SEC. 1. Licenses to innholders and victualers, when and by whom granted. Licenses may be revoked.
2. Persons licensed, to give \$300 bond; form thereof.
 3. Licenses may be granted for a part of the year in certain cases.
 4. Fee for license, and record of all licenses.
 5. Duty of innholders to provide entertainment.
 6. Innholders' liability to guests for losses by fire.
 7. Innholders' liability for loss of certain articles, limited.
 8. Of losses by negligence of guests.
 9. Duties of victualers.
 10. Innholders and victualers to keep up signs with their names and employments.
 11. Not to keep dice, cards, or other implements for gambling, or allow any gambling on their premises. Penalty for gambling.
 12. Revelling, disorderly conduct and drunkenness prohibited.
 13. Penalty for being a common innholder or victualer without a license.
 14. Duty of licensing board to prosecute for all violations hereof. Penalties, how recovered and appropriated.

STATE AGENCY FOR SALE OF INTOXICATING LIQUORS.

- SEC. 15. Commissioner for sale of pure liquors, how appointed, term, commission, bond. His liquors to be bought by successor.
16. Notice of appointment of commissioner to be given to town officers. Town liquors to be bought of commissioner. Exception.
 17. Penalty for purchasing liquors contrary to law or adulterating or diluting the same.
 18. Commissioner to keep a record of sales and to report to governor and council in December annually and also to towns quarterly.
 19. Municipal agents required to keep a record of sales. How kept and penalty for neglect.
 20. Credit of state not pledged for payment of liquors.

CITY AND TOWN AGENCIES.

- SEC. 21. Selectmen, and mayor and aldermen to purchase liquors. Agents appointed to sell for certain purposes. Compensation, duty and term of office. Not to be interested in sale. May sell to municipal officers.
22. Agents to have certificate of appointment and give \$600 bond. Form.
 23. Agents not to sell to minors, Indians, soldiers, drunkards and others.
 24. Selectmen to notify agents not to sell to certain persons.
 25. Persons authorized to sell, violating provisions of laws, how punished. Bonds, when to be put in suit. Chancery powers of court. Aldermen to revoke authority of delinquent.
 26. Casks and vessels containing liquors owned by towns to be marked.
 27. Agents convicted of violating the law, forever disqualified.

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MANUFACTURE OF INTOXICATING LIQUORS FOR SALE.

- SEC. 28. Manufacture of all intoxicating liquors for sale (except cider) prohibited. Penalty.
29. Penalty for sale thereof.
30. Pure cider may be sold in any quantity, save for a beverage or for tippling. May be manufactured and sold in quantities of five gallons without restriction of use.

LIQUOR PEDDLING AND LIQUORS IN TRANSIT.

- SEC. 31. Travelling liquor pedlars and dealers prohibited. Penalty.
32. Intoxicating liquors not to be brought into state for unlawful sale. May be seized in transit. Penalty.
33. Municipal and police judges and trial justices have concurrent jurisdiction with supreme judicial court.

UNLAWFUL SALE OF INTOXICATING LIQUORS. COMMON SELLERS. DRINKING HOUSES AND TIPPLING SHOPS. SEARCH AND SEIZURE. DRUNKENNESS.

- SEC. 34. Sale of intoxicating liquors prohibited. Intoxicants defined.
35. Penalties for unlawful sale of liquors. Second and subsequent convictions.
36. Common sellers, how punished. Several convictions.
37. Who are not common sellers.
38. Drinking houses and tippling shops prohibited. Who deemed guilty, and penalty.
39. Possession or deposit with intent to sell, prohibited.
40. Liquors kept for unlawful sale, forfeited. When officers may seize liquors without a warrant.
41. Warrant of search and seizure granted on complaint. Name to be inserted in complaint. Arrest. Penalty. Subsequent convictions.
42. Duty of officer on seizure. Libel to be filed. Proceedings of magistrate in case of libel.
43. If no claimant appears, forfeiture declared. Claimant, how to proceed, and his rights. Duty of magistrate as to judgment.
44. Dwelling houses not to be searched except in certain cases.
45. Liquors and vessels forfeited, how disposed of.
46. When warrant may issue against a claimant of liquors. Arrest, trial and punishment.
47. Duty of officer in case liquors are destroyed before seizure. Trial and punishment of owner.
48. Disposal of liquors seized by a deceased officer.
49. Persons found intoxicated in the streets or disturbing the peace anywhere may be taken into custody. Arrest, trial and punishment. Second offence. Remittal of penalty restricted.
50. Liquor sellers responsible for injuries by or to drunken persons. Wife, child, parent, or guardian may sue. Exemplary damages. Liability of owner or lessee.

SPECIAL PROVISIONS FOR THE PROSECUTION AND ENFORCEMENT OF THE LAW.

- SEC. 51. Liquors seized irrepleviable pending proceedings. Final judgment bars all suits.
52. Prosecutions, how commenced and conducted.
53. Complaints and indictments to allege previous convictions. Penalty for neglect. No action to be dismissed but by special order of court.
54. County attorneys to cause speedy sentence to be rendered.
55. Proceedings on appeal.

SEC. 56. Custom house certificates, &c., not evidence of identity.

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57. Actions not maintainable for liquors sold or kept in violation of law.

58. Delivery sufficient evidence of sale. Liability of partners and clerks. Duty of certain officers to prosecute, and proceedings. Penalty for neglect. Amendment of process.

59. Persons engaged in unlawful traffic not to sit upon jury. Examination of such persons by court.

60. Violations of this chapter may be prosecuted within six years.

61. Sheriffs and deputies, special duty of, to enforce the foregoing laws and those against gambling houses and houses of ill-fame. Special pay, but not during their attendance on court.

62. County attorneys, similar duty of. Delinquent county attorneys, governor, after hearing, may remove.

63. When governor and council may appoint county constables to enforce chapters seventeen and twenty-seven. Their powers, and compensation.

64. Divers forms. Indictment of common seller; complaint for single sale, warrant, recognizance and mittimus; complaint for seizure, warrant and recognizance; libel, monition and notice.

INNOLDERS AND VICTUALERS.

SEC. 1. The municipal officers, treasurer, and clerk of every town shall annually meet on the first Monday of May, or on the succeeding day, or both, and at such time and place in said town as they appoint by posting up notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next following year, in such house or other building, as the license specifies. And at any meeting notified and held as above named, they may revoke licenses so granted if in their opinion there is sufficient cause therefor.

Licenses to innholders and victualers, when and by whom granted. R.S., c. 27, § 1. 14 Me., 442.

License may be revoked.

SEC. 2. No person shall receive his license until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties in the penal sum of three hundred dollars, in substance as follows, namely:

Bond, § 300. 1872, c. 63, § 1.

"Know all men that we ———, as principal, and ———, Form, ———, as sureties, are holden and stand firmly bound to ———, treasurer of the town of ———, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the ——— day of ———, in the year eighteen hundred and ———.

The condition of this obligation is such that, whereas the above bounden ——— has been duly licensed as a ——— within the

CHAP. 27. said town of — until the day succeeding the first Monday of May next; now if in all respects he shall conform to the provisions of the law relating to the business for which he is licensed, and to the rules and regulations as provided by the licensing board in reference thereto, and shall not violate any law of the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force.”

Licenses may be granted for a part of the year.
R.S., c. 27, § 3.

SEC. 3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on the like conditions; but all such licenses shall expire on the day aforesaid.

License fee and record.
R.S., c. 27, § 4.

SEC. 4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted.

Duty of innholders to provide entertainment.
R.S., c. 27, § 5.

SEC. 5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travellers, and with stable room, hay, and provender for their horses and cattle; and with pasturing, if required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travellers, and others.

Liability in case of fire.
1874, c. 174, § 2.

SEC. 6. In case of loss by fire, innholders shall be answerable to their guests only for ordinary and reasonable care in the custody of their baggage or other property.

Liability of innholders for guests' losses.
1874, c. 174, § 1.

SEC. 7. Innholders shall not be liable for losses sustained by their guests, except wearing apparel, articles worn or carried upon the person to a reasonable amount, personal baggage, and money necessary for travelling expenses and personal use, unless upon delivery or offer of delivery, by such guests, of their money, jewelry, or other property, to the innholder, his agent or servants, for safe custody.

Losses by negligence of guests.
1874, c. 174, § 3.

SEC. 8. An innholder against whom a claim is made for loss sustained by a guest, may in all cases show that such loss is attributable to the negligence of the guest himself, or to his non-compliance with the regulations of the inn; *provided*, such regulations are reasonable and proper, and are shown to have been brought to the notice of the guest.

Duties of victualers.
R.S., c. 27, § 8.
10 Me., 439.
16 Me., 122.

SEC. 9. Every victualer shall have all the rights and privileges and be subject to all the duties and obligations of an innholder, except furnishing lodging for travellers, and stable room, hay, or provender for cattle.

Innholders and victualers to keep up signs.
R.S., c. 27, § 9.

SEC. 10. Every innholder and victualer shall, at all times, have a board or sign affixed to his house, shop, cellar, or store, or in some conspicuous place near it, with his name at large thereon, and the employment for which he is licensed.

SEC. 11. No innholder or victualer shall have or keep for gambling purposes about his house, shop, or other buildings, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes any of said games, or any other unlawful game or sport therein; and every person who shall use or exercise any such game or sport for gambling purposes in any place herein prohibited, shall forfeit five dollars.

SEC. 12. No innholder or victualer shall suffer any revelling, riotous or disorderly conduct in his house, shop, or other dependencies; nor any drunkenness or excess therein.

SEC. 13. No person shall be a common innholder or victualer without a license, under a penalty of not more than fifty dollars.

SEC. 14. The licensing board shall prosecute for any violations of the foregoing sections that come to their knowledge, by complaint, indictment, or action of debt, in any court of competent jurisdiction; and all penalties recovered shall be for the use of the town where the offence is committed. *

STATE AGENCY FOR SALE OF INTOXICATING LIQUORS.

SEC. 15. The governor, by the advice and consent of the council, shall appoint a commissioner to furnish municipal officers of towns in this state and duly authorized agents of other states, with pure, unadulterated intoxicating liquors, to be kept and sold for medicinal, mechanical and manufacturing purposes. Said commissioner shall reside and have his place of business in this state and hold his office during the pleasure of the governor and council, and until another is appointed in his stead. He shall not sell any spirituous, intoxicating or fermented liquors to any municipal officers of this state except such as have been tested by a competent assayist and found to be pure. He shall not take of said officers, for such liquors sold to them, more than seven per cent. above the cost thereof at the place where they were by him purchased. He shall, before entering upon the duties of his office, give a bond to the treasurer of state, in the penal sum of not less than ten thousand dollars, for the benefit of such towns as may be injured by a breach of the conditions, for the faithful performance of his duties and compliance with such regulations and conditions as the governor and council may prescribe. In case of his resignation, removal from office, or decease, and the appointment of a successor, the stock of liquors remaining on hand at the time of his resignation, removal or decease, shall be taken at cost by the new

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Innholders and victualers to allow no gambling on their premises.
R.S., c. 27, § 10.
Penalty.

Nor revelling, drunkenness, &c.
R.S., c. 27, § 11.

Penalty for neglecting a license.
R.S., c. 27, § 12.

Licensing board to prosecute.
R.S., c. 27, § 13.
12 Me., 204.

State commissioner, how appointed.
R.S., c. 27, § 14.
68 Me., 189.

Term of office.

To sell no impure, untested liquors.

Commission of 7 per cent. allowed him.

Bond.

Condition of bond.

Commissioner, resignation, removal or decease of.

Successor is

* [NOTE BY THE COMMISSIONER. Sections 6 and 7 of chapter 27 of the Revised Statutes seem to be superseded by sections 3, 4 and 5 of chapter 50 of the public acts of 1881, embodied in sections 27, 28 and 29 of this revision.]

CHAP. 27. commissioner, and he shall be required, before entering upon his office, to pay for the same in cash, or to settle for the same to the satisfaction of his predecessor or his legal representatives.

required to
take and pay
for same.

Notice of ap-
pointment
and place of
business of,
to town
officers.

R.S., c. 27, § 15.
68 Me., 189.

Liquors, of
whom to be
bought.

1877, c. 215, § 2.

SEC. 16. Immediately after appointing such commissioner, the governor shall issue to the municipal officers of the towns of this state, a notice of the name and place of business of said commissioner, and such municipal officers shall purchase such intoxicating liquors as they may keep on sale for the purpose specified herein, of such commissioner or of such other municipal officers as have purchased such intoxicating liquors of him, and of no other person or persons.

Penalty for
buying
liquors con-
trary to law.
R.S., c. 27, § 16.
68 Me., 189,
190.

Or for adul-
terating or
diluting
them.

SEC. 17. If any municipal officer or officers shall purchase any intoxicating liquors to be sold according to the provisions of the laws of this state, of any other person or persons except those specified in the preceding section, or if he or they or any person or persons in his or their employ[ment,] or by his or their direction, shall sell or offer for sale any such liquors that have been decreed to be forfeited under this chapter, or shall adulterate or cause to be adulterated, any intoxicating, spirituous, or malt liquors which he or they may keep for sale under this chapter, by mixing with the same any coloring matter, or any drug or ingredient whatever, or shall mix the same with other liquors of a different kind or quality, or with water, or shall sell or expose for sale such liquor so adulterated, knowing it to be such, he or they shall forfeit for such offence to the town, city, or plantation to which he or they may belong, and for the use of said city, town or plantation, a sum not less than twenty nor more than one hundred dollars, to be recovered by indictment.

How recov-
ered.

Commission-
er to keep
record of
sales.

R.S., c. 27, § 17.

—to report
annually to
governor
and council.

SEC. 18. Said commissioner shall keep a record of the names of the towns to which liquors are sold, of the persons purchasing for said towns, the kind and quantity of liquor sold to each, and the price paid for the same, and shall make report thereof to the governor and council annually in the month of December, to the last day of the preceding month, to be by them laid before the legislature. And said commissioner shall, under oath, on the first days of March, June, September and December, furnish a printed statement of all liquors purchased by them, enumerating the different kinds and the quantity of each kind, the price paid and the terms of payment; also, the names of the parties of whom the liquors were purchased, and their place of business and date of purchase, which statement shall be sent by mail at the end of each quarter, to each city, town or plantation, who are purchasers at his establishment.

Mail quar-
terly state-
ment to pur-
chasing
towns, &c.

Municipal
agents to
keep record

SEC. 19. The agents of towns authorized to sell intoxicating liquors, shall keep a record in a book kept for that purpose, of the

amount of intoxicating liquors purchased by them, specifying the kind and quantity of each, price paid, and of whom purchased; and they shall also keep a record of the kind and quantity of liquors sold by them, the date of sale and the price, the name of the purchaser and the price for which it was sold; specifying in case such sale is made to the municipal officers of any other town, the name of such town, which [record] shall be open to inspection. And if such agent fails to keep such a record, he shall forfeit and pay for every such offence a sum not less than ten nor more than twenty dollars, to be recovered on complaint or indictment before any court competent to try the same, to the use of his town. And if any person knowingly misrepresents to the said agent the purposes for which he purchases the intoxicating liquors, he shall for such offence be fined twenty dollars, to be recovered on complaint or indictment before any court competent to try the same, to the use of his town.

SEC. 20. No contract made by the provisions of this chapter shall pledge the credit of the state for the payment of any sum to said commissioner, or for the payment of any liquors purchased by him.

CITY AND TOWN AGENCIES.

SEC. 21. The selectmen of any town and mayor and aldermen of any city may, on the first Monday of May annually, or as soon thereafter as may be convenient, purchase such quantity of intoxicating liquors, as may be necessary to be sold under the provisions of this chapter, and may appoint some suitable person as the agent of said town or city to sell the same at some convenient place therein, to be used for medicinal, mechanical and manufacturing purposes and no other; and such agent shall receive such compensation for his services, and in the sale of such liquors shall conform to such regulations, not inconsistent with the provisions of law, as the board appointing him shall prescribe, and he shall hold his situation one year unless sooner removed by them or their successors in office. Vacancies occurring during the year are to be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors or in the profits of the sale thereof. Such agent may sell to such municipal officers intoxicating liquors, to be by said officers disposed of in accordance with the provisions of this chapter.

SEC. 22. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes only; but such certificate shall not be delivered to the person so appointed until he shall have exe-

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of sales.
R.S., c. 27, § 18.

To be open
for inspection.

Failure or
neglect,
penalty for.

How recovered.

Fines, to
whom paid.

False representation to
agent.

Penalty,
how
recovered.

State credit
not pledged
to pay for
liquors.
R.S., c. 27, § 19.

Municipal
officers to
purchase.
1872, c. 59.
See § 16.
48 Me., 553.
51 Me., 255.
Agents to
be appointed
to sell for
certain purposes.
42 Me., 307.
67 Me., 61-2.
68 Me., 189.

Pay and
duty.
Term.

Vacancy,
how filled.
Not to be
interested.
May sell to
municipal
officers.
See § 26.

Shall have a
certificate.
R.S., c. 27, § 27.
40 Me., 310.

—give bond.
67 Me., 61.

CHAP. 27. cuted and delivered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance, as follows :

Form.

"Know all men, that we, — — —, as principal and — — —, — — —, as sureties, are holden and stand firmly bound to the inhabitants of the town of — — —," (or city as the case may be) "in the sum of six hundred dollars, to be paid them, to which payment we bind ourselves, our heirs, executors and administrators, firmly by these presents.

Condition of bond.

Scaled with our seals, and dated this — — — day of — — —, A. D., — — —.

The condition of this obligation is such, that whereas the above bounden — — — has been duly appointed an agent for *the* [said] town" (or city) "to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes and no other, until the — — — of — — — A. D., — — —, unless removed from said agency: now if the said — — — shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such regulations as now are or shall be from time to time established by the board making the appointment, then this obligation [is] to be void; otherwise to remain in full force."

Agents not to sell to minors, Indians, soldiers, drunkards, &c.
R.S., c. 27, § 52.

SEC. 23. No person authorized as aforesaid to sell intoxicating liquors, shall sell such liquors to any minor without the direction in writing of his parent, master or guardian, to any Indian, *to any* soldier in the army, *to any* drunkard, *to any* intoxicated person, or to any such persons as are described in the fourth section of the sixty-seventh chapter, as being liable to guardianship, knowing them respectively to be of the condition herein prescribed; nor to any intemperate person, of whose intemperate habits he has been notified by the relatives of such person, or by the aldermen, selectmen or assessors, respectively, of any city, town or plantation. And proof of notice so given by aldermen, selectmen or assessors, or by their authority, shall be conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter; and notice so given by the relatives of such person shall be presumptive evidence of such habits.

—notice of selectmen, sufficient evidence.

—of relatives, presumptive.

Selectmen, &c., to give notice to agents on information.
R.S., c. 27, § 53.

SEC. 24. *It shall be the duty of the aldermen, selectmen and assessors aforesaid, whenever [such municipal officers are] they shall be informed by the relatives of any person that he is of intemperate habits, and shall be satisfied that such is the fact, [they shall] forthwith to give notice thereof, to all persons authorized to sell intoxicating liquors within their respective cities, towns and plantations, and in such adjoining places as they may deem expedient.*

Commissioner, or agents vio-

SEC. 25. Any person, authorized as aforesaid, who shall violate any of the provisions of section thirty-four shall be punished, *on*

conviction thereof, by a fine of twenty dollars for every such offence, and shall also be liable, notwithstanding such *conviction and punishment*, to a suit upon his bond *given as aforesaid*; and it shall be the duty of the aldermen, selectmen and assessors, respectively, of the city, town or plantation to which such bond was given, to [shall] cause the same to be put in suit and prosecuted to judgment and satisfaction to the use of the city, town or plantation. The court by which judgment shall be rendered upon any such bond, or upon any bond required to be given by the provisions of this chapter relating to spirituous liquors, shall have such chancery powers therein, as the supreme judicial court now has in cases of forfeiture of penalties to the state. And whenever any such conviction shall be obtained or judgment recovered as aforesaid, all the authority of such person to sell intoxicating liquors shall be absolutely vacated; and it shall be the duty of the aldermen, selectmen and assessors, respectively, to [shall] revoke such authority whenever they shall be satisfied of any violation of the [its] conditions of the same.

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ating provisions, how punished.

R.S., c. 27, § 54. Liable also on bond.

Duty of selectmen, &c., to sue bond.

Chancery powers of court.

Authority to sell, ceases on conviction, &c., see § 27.

Aldermen, &c., to revoke on violation.

SEC. 26. No such liquors owned by any city, town or plantation, or kept by any agent of any city, town or plantation, as is provided by law, shall be protected against seizure and forfeiture, under the provisions hereof, by reason of such ownership, unless all the casks and vessels in which they are contained shall be at all times plainly and conspicuously marked with the name of such city, town or plantation, and of its agent. When any such liquors shall be seized, bearing such marks as are herein required to be upon liquors owned by cities, towns or plantations, if such liquors are in fact not owned by any such city, town or plantation, such false and fraudulent marking shall be conclusive evidence that the same are kept or deposited for unlawful sale, and render them liable to forfeiture under the provisions of this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious; and [they] shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if so adulterated or made factitious and they have knowledge of the fact.

Liquors owned by towns or kept by agents, casks and vessels to be marked.

R.S., c. 27, § 51. 68 Me., 190.

Liquors not so owned may be seized although marked.

—false marks conclusive evidence, liquors forfeited.

—adulterated or factitious, not protected.

SEC. 27. If any agent appointed under the provisions of section nineteen to sell intoxicating liquors shall be convicted of violating any of the provisions of this chapter, he shall forever thereafter be disqualified from holding such office.

Unfaithful agents forever disqualified. 1872, c. 73. See § 25.

MANUFACTURE OF INTOXICATING LIQUORS FOR SALE.

SEC. 28. Any person who shall manufacture for sale any intoxicating liquor, except cider, shall be punished as provided in the section following. (a)

Manufacturing for sale, penalty. 1877, c. 215, § 2.

SEC. 29. Any person who shall sell any intoxicating liquors man-

Penalty, if

CHAP. 27. manufac-
turer sells.
1877.c.215,§3.
See § 52.
69 Me.,134-5.
Pure cider
may be sold
in any quan-
tity, save for
beverage.&c.
1881, c. 89.
1880,c.247,§3.

ufactured by him in this state, except cider, shall be punished by im-
prisonment two months in the county jail, and by fine of one thous-
and dollars, and stand committed until the fine and costs are paid.

SEC. 30. The provisions of this chapter shall not apply to the sale
of unadulterated cider, unless the same is sold to be used as a bev-
erage or for tippling purposes, nor extend to the manufacture and
sale of unadulterated cider in any case, when sold in quantities of
five gallons or upwards, delivered and taken away at one time. (a)

LIQUOR PEDDLING AND LIQUORS IN TRANSIT.

Otherwise,
not less than
five gallons.
Travelling
liquor ped-
lars and
dealers pro-
hibited.
R.S.,c.27,§20.
61 Me., 388.
64 Me., 425.
65 Me., 136.

SEC. 31. No person shall travel from town to town, or from
place to place, in any city, town or plantation in this state, on foot
or by any kind of land or water, public or private conveyance
whatever, carrying for sale, or offering for sale, or offering to
obtain, or obtaining orders for the sale or delivery of any spirituous,
intoxicating or fermented liquors, in any quantity, under a penalty
of not less than twenty nor more than one hundred dollars for
each offer to take an order, and for each order taken and for each
sale so made, to be collected on complaint or by indictment
before any court competent to try the same; one half of such fine
to the complainant, and the other half to the county in which the
offence is committed.

Penalty, how
recovered.

To whom
accrues.

Intoxicating
liquors not
to be brought
into the state
for unlawful
sale.
1875,c. 42, § 1.
Penalty.

SEC. 32. No person shall knowingly bring into this state, or
knowingly transport from place to place in this state, any intoxi-
cating liquors, with intent to sell the same in this state in violation
of law, or with intent that the same shall be so sold by any per-
son, or to aid any person in such sale, under a penalty or fine
of fifty dollars for each offence. All such intoxicating liquors
intended for unlawful sale in this state may be seized while in
transit and proceeded against, the same as if they were unlaw-
fully kept and deposited in any place.

—may be
seized while
in transit.
1875,c.42, § 2.

Magistrates
have concu-
rent juris-
diction with
S. J. C.
R.S.,c.27,§21.

SEC. 33. Municipal and police judges and trial justices within
their counties, shall have concurrent jurisdiction with the supreme
judicial court in all offences arising under sections seventeen to
twenty-two inclusive and section thirty-three, and may punish by
fine when the penalty does not exceed the sum of twenty dollars.

UNLAWFUL SALE OF INTOXICATING LIQUORS. COMMON SELLERS.

DRINKING HOUSES AND TIPLING SHOPS. SEARCH
AND SEIZURE. DRUNKENNESS.

Sale of intox-
icating
liquors pro-
hibited.
Intoxicants
defined.
1880,c.247,§2.
1881, c. 89.

SEC. 34. No person shall be allowed at any time, to sell, by
himself, his clerk, servant or agent, directly or indirectly, any
intoxicating liquors, of whatever origin, except as hereinafter
provided; wine, ale, porter, strong beer, lager beer, and all other
malt liquors, and cider when kept or deposited with intent to sell

the same for tippling purposes, or as a beverage, unless in quantities of five gallons or more delivered and taken away at one time, as well as all *other* distilled spirits, shall be considered intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating. (a)

SEC. 35. If any person, by himself, clerk, servant or agent, shall at any time sell any intoxicating liquors in violation of the provisions of this chapter, he shall forfeit and pay on the first conviction a fine of thirty dollars and the costs of prosecution, or instead of such fine, in the discretion of the court imposing sentence, shall be imprisoned in the county jail thirty days; on the second conviction he shall pay twenty dollars and the costs of prosecution, and in addition thereto shall be imprisoned in the county jail sixty days; on the third and every subsequent conviction, he shall pay twenty dollars and the costs of prosecution, and shall be imprisoned in the county jail three months, and in default of the payment of the fines and costs prescribed by this section for [on] the first conviction, the convict shall not be entitled to the benefit of chapter one hundred and thirty-five until he shall have [has] been imprisoned two months; in default of fines and costs provided for [on] the second conviction, he shall not be entitled to the benefit of said chapter until he shall have [has] been imprisoned three months; and in default of payment of fine and costs provided for [on] the third and every subsequent conviction, he shall not be entitled to the benefit of said chapter until he shall have [has] been imprisoned four months. And if any clerk, servant, agent or other person in the employment or on the premises of another, shall violate the provisions of this section, or aid and assist therein, [such violation] he shall be held equally guilty with the principal, and, on conviction, shall suffer like penalty.

SEC. 36. No person shall be a common seller of intoxicating liquors. Any person, convicted of a violation of this section, shall be punished by fine of one hundred dollars and costs of prosecution, and in default of the payment thereof, he shall be imprisoned sixty days in the county jail, or instead of such fine, he may be imprisoned in the county jail three months. On a second conviction and every subsequent conviction, he shall be punished by a fine of two hundred dollars and costs of prosecution and imprisonment four months in the county jail; and in default of the payment of the fine and costs, he shall be punished by four months additional imprisonment.

SEC. 37. Persons selling by authority and according to the provisions of the fifteenth and twenty-first sections, are not common sellers.

(a) 6 Me., 413; 33 Me., 496, 501; 37 Me., 161; 54 Me., 503; 55 Me., 356, 422; 62 Me., 262; 63 Me., 224; 67 Me., 243; 69 Me., 134-5; 70 Me., 257.

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See c. 17,
§§ 1, 2, 3, 4.

Penalties for
selling liquors in
violation of law.
R.S., c. 27, § 28.
65 Me., 239,
247-8.

—first conviction.
See § 52.
—second conviction.

—third conviction.
71 Me., 455.

—fines not
paid, effect.
28 Me., 67.
33 Me., 497.
34 Me., 219.
45 Me., 321,
436.
53 Me., 539.
55 Me., 92.

—clerks and
others liable.

Common
sellers.
—punishment.
R.S., c. 27, § 29.
See § 52.

—second and
subsequent
convictions.
53 Me., 540.
54 Me., 383.
68 Me., 204.
72 Me., 426.

Who are
not common
sellers.
R.S., c. 27, § 30.

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Drinking
houses pro-
hibited.

R.S., c. 27, § 31.
69 Me., 135.

—who deem-
ed guilty of
keeping.

48 Me., 217.

See c. 17,

§§ 1, 2, 3, 4.

See § 52.

—penalty.

45 Me., 436.

53 Me., 539.

Possessor or
deposit with
intent to sell
prohibited.
R.S., c. 27, § 33.

Liquors kept
for unlawful
sale forfeit-
ed.

R.S., c. 27, § 34.

33 Me., 561.

47 Me., 427.

54 Me., 37.

55 Me., 424.

56 Me., 91, 92.

59 Me., 384.

63 Me., 217.

65 Me., 102,

557.

68 Me., 420-1.

71 Me., 357.

Warrants of
search and
seizure may
be granted on
complaint.

1880, c. 247, § 7.

See § 52.

33 Me., 530,

561, 569.

38 Me., 288.

42 Me., 305.

46 Me., 525.

47 Me., 360,

394, 429.

48 Me., 581.

49 Me., 286.

53 Me., 173.

54 Me., 36.

56 Me., 92.

59 Me., 384.

62 Me., 264,

422.

64 Me., 431,

532, 537.

66 Me., 130.

67 Me., 425.

68 Me., 410,

411, 418, 421-2.

70 Me., 201.

71 Me., 454.

SEC. 38. No person shall keep a drinking house and tippling shop *within this state*. If any person shall sell any intoxicating liquors, in any building, vessel or boat, *in this state* contrary to *the provisions of law*, and the same are there drank, he shall be deemed *and held to be* guilty of keeping a drinking house and tippling shop. Any person so convicted *of keeping a drinking house and tippling shop within this state*, shall be punished by a fine of one hundred dollars and costs *of prosecution*, and in default of payment *thereof*, by imprisonment *in the county jail* three months, or instead of such fine shall be imprisoned *in the county jail* three months on the first conviction, and on every subsequent conviction he shall be imprisoned six months in addition to the fine and costs.

SEC. 39. No person shall deposit or have in his possession any intoxicating liquors with intent to sell the same in *this* [the] state in violation of law, or with intent that the same shall be so sold by any person, or to aid or to assist any person in such sale. (a)

SEC. 40. All intoxicating liquors kept and deposited in *this* [the] state, intended for unlawful sale in *this* [the] state, and the vessels in which they are contained, are declared contra-band and forfeited to the *cities, towns and plantations* in which they are so kept at the time when they are seized *by virtue of any of the provisions of* [under] this chapter. And in all cases where *by any of the provisions of this chapter*, an officer is authorized to seize intoxicating liquors or the vessels containing them, *by vir-tue of* [upon] a warrant *therefor*, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

SEC. 41. If any person competent to be a witness in civil suits shall make complaint upon oath or affirmation, before any judge of any municipal or police court or trial justice, that he believes intoxicating liquors are unlawfully kept or deposited in any place in the state by any person or persons, and that said liquors are intended for sale within *this* [the] state in violation of law, such mag-istrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding *such officer* [him] to search the premises described and specially designated in such complaint and warrant, and if said intoxicating liquors are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action on the same, and make immediate return of said warrant. The name of the person so keeping said liquors, as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said war-rant, if he shall find said liquors or shall have reason to believe

(a) 47 Me., 427; 48 Me., 581; 50 Me., 514; 56 Me., 91; 59 Me., 384; 63 Me., 214.

such person has concealed them about his or her person, to arrest such person or persons and have him or them forthwith before such magistrate for trial. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and such magistrate shall thereupon issue his warrant as provided in the first clause of this section. If upon trial, the court, upon the evidence adduced, shall be of the opinion that the liquor was so as aforesaid kept and intended for unlawful sale by the person or persons named in said complaint, or by any other person or persons with his or their knowledge or consent, he or they shall be found guilty thereof, and sentenced to pay a fine of one hundred dollars and costs of prosecution, and in default of payment thereof to be imprisoned ninety days in the county jail, at hard labor, or instead of such fine shall be imprisoned in the county jail six months at hard labor. On every subsequent conviction after the first offence described in this section, the person or persons found guilty shall pay a fine of one hundred dollars and costs of prosecution, and stand committed until the same be paid; and in addition thereto shall be imprisoned in the county jail six months at hard labor.

SEC. 42. When liquors and vessels are seized as provided in the preceding section, it shall be the duty of the officer who made such seizure, immediately to libel the liquors and vessels so seized *by him* by filing with the magistrate before whom such warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale within the state in violation of law, and pray for a decree of forfeiture of said liquors and vessels, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of such libel, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable.

SEC. 43. If no claimant *shall* appear[s], such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the *city, town or plantation* in which they were seized. If any person *shall* appear[s] and claim[s] such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with such magistrate such claim in writing, stating specifically the right so claimed, and the foundation

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Name of person.

Penalty.

—on subsequent conviction.

Duty of officer on seizure.
 R.S., c. 27, § 36.
 33 Me., 561,
 573.
 47 Me., 400.
 48 Me., 188,
 581.
 53 Me., 172.
 54 Me., 37.
 Libel to be filed, what to set forth.
 62 Me., 265.
 Proceedings of magistrate in case of libel.
 61 Me., 523.

Notice of hearing.

In case no claimant appears.
 R.S., c. 27, § 37.
 48 Me., 583.
 49 Me., 286.
 Claimant how to proceed.
 61 Me., 523.
 62 Me., 422.

CHAP. 27. thereof, the items so claimed, and the time and place of the seizure, and the name of the officer by whom the same were seized, and in 69 Me., 525. it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath or affirmation to the truth of the same before said magistrate. If any person shall so make claim, he shall be admitted as a party to the process; and the said magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellants or claimants. If the claimant shall, upon the hearing, be satisfied that the said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part of the same, he shall give to such claimant an order in writing, directed to the officer having the same in custody, commanding him to deliver to the said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand.

Declaration. If the magistrate shall find the claimant entitled to no part of said liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the *city, town or plantation* where seized. The claimants may appeal and shall be required to recognize with sureties as on appeals in civil causes from said magistrate.

Oath.

Claimant to be admitted as a party.

Trial.

Duty of magistrate if claimant is entitled. Otherwise, judgment for costs, and liquors forfeited.

Appeal.

Dwelling house not to be searched except in certain cases. R.S., c. 27, § 38. 62 Me., 422.

SEC. 44. No warrant shall be issued to search a dwelling house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint shall be made, is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, and that said liquor is intended for sale in this state, in violation of law.

Liquors and vessels forfeited, order of court. R.S., c. 27, § 39.

SEC. 45. All liquors declared forfeited by any court by virtue of the provisions of this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to such court or magistrate. And such liquors shall be destroyed by pouring the same upon the ground. All vessels forfeited under the provisions of law may be sold by said officers at public or private sale, and the proceeds thereof paid into the treasury of such *city, town or plantation*. *

Officer to destroy liquors. —and sell vessels.

Warrant to be issued against

SEC. 46. If complaint shall by any person be made upon oath to any magistrate against any person who is a claimant under the

* [QUERY BY THE COMMISSIONER. Ought not all pure liquors which have been adjudged "forfeited to a town" (§§ 42, 43) to be delivered by the officers to such town for sale by its agent, so that waste may be avoided, as in case of "vessels forfeited" ?]

provisions of this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and if found guilty of the offence therein charged, he shall be punished by a fine of fifty dollars and costs *of prosecution*, and stand committed until the same *be* [are] paid or he *be* [is] otherwise discharged by due course of law; or instead thereof [he] may be punished by imprisonment in the county jail three months on the first conviction; and on every subsequent conviction he shall be imprisoned three months in addition to fine and costs.

SEC. 47. If any officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors and to arrest the owner or keeper thereof, shall be prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if on *the* trial it shall appear by competent testimony that such liquors were so poured out or destroyed, and that the liquors so poured out or destroyed were *such as were* described in the warrant, and [that] they were so kept or deposited and intended for unlawful sale, and if the person so arrested shall be found to be owner or keeper thereof, he shall be fined and sentenced in the same manner as he would have been, if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer.

SEC. 48. If any deputy sheriff, after having executed such a warrant by a seizure shall die or go out of office before final execution in the proceedings be done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer shall die or go out of office under like circumstances, it shall be the duty of the magistrate before whom the proceedings were commenced, to designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

SEC. 49. Any person found intoxicated in any streets or highways, or who, being intoxicated in his own house, or in any other

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claimant
upon oath of
complainant.
R.S., c. 27, § 40.

Arrest.

Trial.

Punishment
if found
guilty.

Officer hav-
ing a war-
rant, duty of
when pre-
vented.
R.S., c. 27, § 41.
65 Me., 102.

—to arrest
the alleged
owner.
How to make
return in
such cases.
47 Me., 360.

Trial of
owner.

Penalty if
found guilty.

Deputy
sheriff dy-
ing, &c.
R.S., c. 27, § 42.

Other officer
dying, duty
of magis-
trate.

Persons
drunk in
streets, and

CHAP. 27. building or place, shall become quarrelsome, or shall in any other way disturb the public peace or that of his own or any other family, so as to render it necessary for the police or peace officers to interfere, may be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer or watchman, and committed to the watch house or restrained in some other suitable place, till a complaint can be made and warrant issued in due form, upon which he may be arrested and tried, and if found guilty of being intoxicated in the streets or highways, or of being intoxicated in his own house or any other building or place and becoming quarrelsome and disturbing the public peace, or that of his own or any other family, he shall be punished by fine not exceeding ten dollars, or by imprisonment in the common jail or house of correction not exceeding thirty days. For the second offence such person may be punished by fine not exceeding twenty dollars, or by imprisonment not more than ninety days. The judge or justice may remit any portion of said punishment, and order the prisoner discharged, whenever he shall become satisfied that the objects of this law and the good of the public and the prisoner would be advanced thereby. But said punishment or any part thereof shall not be remitted unless the prisoner, under oath, gives information from whom and where he procured the liquors upon which he became intoxicated.

Penalty.

—for second offence.

Remittance of punishment restricted.

Parties injured by drunken persons, who are responsible to.
1872, c. 63, § 4.
66 Me., 472.
67 Me., 519.
69 Me., 84.
Exemplary damages.

Liability of owner or lessee of building.

Relationship to drunkard, reputation prima facie proof of.

Liquors, &c., seized, not replevable pending proceedings.
62 Me., 535.
Final judgment bar to

SEC. 50. Every wife, child, parent, guardian, husband or other person who shall be injured in person, property, means of support or otherwise, by any intoxicated person, or by reason of the intoxication of any person, shall have a right of action in his or her own name against any person or persons who shall by selling or giving any intoxicating liquors, or otherwise have caused or contributed to the intoxication of such person or persons; and in any such action the plaintiff shall have a right to recover actual and exemplary damages. And the owner or lessee or person or persons renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein in violation of law, shall be liable, severally or jointly with the person so selling or giving intoxicating liquors as aforesaid. And in every action by any wife, husband, parent or child, general reputation of the relation of husband and wife, parent and child, shall be prima facie evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property.

SEC. 51. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in the proceedings herein provided, shall in all cases be a bar to all suits for

the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

SEC. 52. All prosecutions against persons for manufacturing liquors in violation of law, for keeping drinking houses and tippling shops, and for being common sellers of intoxicating liquors, shall be by indictment; and in all other prosecutions under this chapter, judges of municipal and police courts and trial justices shall have jurisdiction, by complaint, original and concurrent with the supreme judicial court. All prosecutions in the supreme judicial court shall be by indictment. The magistrates aforesaid, in cases not within their jurisdiction, may examine and hold to bail. And in all appeals from any judgment or sentence before any such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before any such magistrate, shall be in a less sum than two hundred dollars; nor in the supreme judicial [or superior] court [in] less than five hundred dollars.

SEC. 53. Every trial justice, recorder, clerk, and judge of a municipal or police court, and every county attorney, having knowledge of any previous conviction of any person accused of violating [any provision of] this chapter [, relating to intoxicating liquors,] in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon; and, after an indictment in any such case is entered in court, no county attorney shall dismiss or fail to prosecute the same except by special order of said court. If any trial justice, recorder, clerk, or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney *shall* fail[s] to prosecute as provided in this section, he shall forfeit one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney general in behalf of the state.

SEC. 54. When a person has been found guilty, in the supreme judicial [or superior] court, of a violation of any of the provisions of this chapter, relating to *spirituous* [intoxicating] liquors, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court, the case may be continued for sentence one term, but no longer.

SEC. 55. If any party *shall* appeal[s], the proceedings *in all matters* shall be the same in the appellate court as they would be *upon the same matters* in the court of the magistrate, and *said proceedings* shall be conducted in said [appellate] court by the attorney for the state in the county *where the proceedings are pending*. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication of the court; and if a claimant or other respondent *shall* fail[s] to appear for trial in the appellate court, the judgment of the court below, if against

CHAP. 27.

all suits.
R.S., c. 27, § 43.
Prosecutions, how commenced and conducted.
R.S., c. 27, § 44.
8 Me., 113.
54 Me., 566.
60 Me., 107.

Complaints and indictments to allege previous convictions.
1877, c. 215, § 5.
—indictments not to be dismissed, but by special order of court.
—neglect or refusal to allege previous conviction, or failure to prosecute, penalty for.

County attorney to cause speedy sentence.
R.S., c. 27, § 46.

Appeal, proceedings in case of.
1871, c. 189.
61 Me., 117.
—jury to find specially.

—affirmation of judgment.
—recognizances.

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33 Me., 573.
37 Me., 161.
48 Me., 581.
49 Me., 286.
60 Me., 105.
—penalty
not to be re-
mitted, nor
surety dis-
charged by
surrender of
principal,
except in
case of
sentence.
1879, c. 80.

Custom
house cer-
tificates, &c.,
notevidence.
R.S., c. 27, § 48.
49 Me., 287.

Action not
maintain-
able for liq-
uors sold or
kept in vio-
lation of law.
R.S., c. 27, § 50.

—exception.

Delivery,
evidence of
sale.
R.S., c. 27, § 55.
67 Me., 129.
—partner
liable.
54 Me., 563.

—who may
be included
in complaint.
—mayor, al-
dermen, &c.,
may com-
mence suit
on bond.

—duty to
prosecute
for violation.

him, shall be affirmed. No portion of the penalty of any recognizance taken under so much of this chapter as relates to intoxicating liquors shall be remitted by any court in any suit thereon, nor shall any surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section forty-three, shall be entered as all other appeals in criminal cases, and [be] subject to the same requirements of law appertaining to them.

SEC. 56. Custom house certificates of importation, and proofs of marks on the casks and packages corresponding thereto, shall not in any proceedings under this chapter, be received as evidence that the identical liquors contained in said casks and packages were actually imported in said casks and packages.

SEC. 57. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of *the provisions of* this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation of this chapter; but *the provisions of* this section shall not extend to negotiable paper in the hands of any holder for a valuable consideration and without notice of the illegality of the contract. (a)

SPECIAL PROVISIONS FOR THE PROSECUTION AND ENFORCEMENT
OF THE LAW.

SEC. 58. Whenever an unlawful sale is alleged, and a delivery proved, it shall not be necessary to prove a payment, but such delivery shall be sufficient evidence of sale. A partner in business shall be liable for the unlawful keeping or selling of his copartner, done in the copartnership business, or by any other person, in any shop, store, or *any* other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen or assessors, may cause a suit to be commenced on any bond or recognizance given under the provisions of this chapter relating to *spirituous* [intoxicating] liquors, in which his city, town or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. It shall also be the duty of the mayor and aldermen, selectmen, assessors and constables respectively, in every city, town and plantation, to make complaint and prosecute any violations of the said provisions of this chapter, and promptly to enforce the laws

(a) 44 Me., 54; 46 Me., 527; 47 Me., 60, 126, 473; 48 Me., 188, 552; 50 Me., 79; 51 Me., 255; 55 Me., 356, 431, 541; 57 Me., 180, 359; 63 Me., 31; 66 Me., 141; 70 Me., 257; 72 Me., 279.

against drinking houses. If any municipal officer of any *city, town or plantation*, after being furnished with a written notice of a violation of any provisions of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offence, willfully neglects or refuses to institute proceedings therefor, he shall be liable to a fine of not less than twenty nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be in substance that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true.

CHAP. 27.
Penalty for
municipal
officers neg-
lecting to
prosecute.

If any execution or other final process, issued in any civil or criminal suit instituted under the said provisions of this chapter, shall be placed in the hands of any proper officer to be by him executed, and he shall unreasonably neglect or refuse so to do, an action may be commenced against him by any voter in the county for such neglect, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it be a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty dollars nor more than five hundred dollars.

What the
judgment
shall be.

Selectmen of towns herein mentioned shall be construed to include assessors of plantations. The word town shall in all cases used herein be construed to include plantations.

Assessors.
Plantations.

In any suit, complaint or indictment, or other proceeding against any person for a violation of any of the provisions of this chapter relating to spirituous liquors, other than for the first offence, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege briefly, that such person has been convicted of a violation of any particular provision or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings, before final judgment, may be amended, without terms, and as a matter of right. Any process, civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

Allegation
of previous
conviction
sufficient.
65 Me., 247,
273.
69 Me., 576-7.

—may be
amended.

Any process
may be
amended.

SEC. 59. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit upon any jury in any case arising under this chapter; and when information shall be communicated to the court that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the juryman of whom such belief is entertained; and no answer which he shall make shall be used against him in any case arising under this chapter; but if he shall answer falsely,

Persons en-
gaged in un-
lawful traffic
not to sit
upon jury.
R.S., c. 27, § 56.
—duty of
court to in-
quire.

False an-

CHAP. 27.

swer, effect of.

—may decline, effect. Proceedings under this chapter not barred within six years. 1874, c. 228. Absence from state deducted.

Special duty of sheriff and deputies to enforce the laws against the illegal sale of intoxicating liquors and the keeping of gambling places and houses of ill-fame. 1872, c. 62, § 2. 67 Me., 375.

Special per diem compensation.

But not during attending court. 1875, c. 54.

Similar duty of county attorneys. 1872, c. 62, § 3.

Governor after hearing, may remove delinquent county attorneys. 1880, c. 247, § 5.

he shall be incapable of serving on any jury in this state ; but he may decline to answer in which case he shall be discharged by the court from all further attendance as a jurymen.

SEC. 60. The offences described in this chapter shall fall within the provisions of section fourteen of chapter one hundred and thirty-one of the revised statutes, and none of such offences shall be barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

SEC. 61. It shall be the duty of sheriffs and their deputies, diligently and faithfully to inquire into all violations of the laws of the state, within their respective counties, and to institute legal proceedings against violations or supposed violations of law, and particularly the laws against the illegal sale of intoxicating liquors, and the keeping of drinking houses and tippling shops, gambling houses or places, and houses of ill-fame, either by promptly entering a complaint before a magistrate competent to examine or try the offence charged and to execute [executing] such warrants as may be issued on such complaints, or by furnishing the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. For services under the provisions of this section, sheriffs and their deputies, acting under their directions, shall be entitled to the same per diem compensation, as for attendance on the supreme judicial court, and the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as may be just and proper ; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to the said sheriffs or their deputies, for any day for which said sheriffs or their deputies shall be entitled to any fees or compensation for any attendance at or service in any court.

SEC. 62. County attorneys shall cause to be summoned promptly before the grand jury of their several counties, all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in the preceding section, and shall faithfully direct inquiries before that body into violations of law, and shall prosecute persons indicted, and secure the prompt sentence of such as shall be convicted. Whenever the governor shall, after investigation and hearing of the parties, be satisfied that any county attorney has willfully refused or neglected to discharge the duties imposed upon him by this section, it shall be his duty to remove such attorney from office, and fill his place by appointment.

SEC. 63. Upon petition and representation of thirty or more well known tax-payers in any county, that chapters seventeen and twenty-seven, are not faithfully enforced by county or local officers, it shall be the duty of the governor and council to inquire into such representations, and if, in their judgment, such representations are well founded, the governor, by and with the consent of the council, shall appoint two or more constables for such county, who shall diligently enforce said chapters, and for this purpose such constables shall have like powers and duties as sheriffs and deputies. For such services [such] constable shall receive the same compensation as sheriffs and deputies.

CHAP. 27.

When constables may be appointed by governor to enforce chapters 17 and 27.
1880, c. 247, §4.

—compensation.

SEC. 64. The forms herein set forth, with such changes as will adapt them for use in *cities*, towns and *plantations*, shall be deemed sufficient in law, for all the cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order fifty cents.

Forms deemed sufficient.
R. S., c. 27, §57.
65 Me., 273.
67 Me., 129.
69 Me., 576-7.
Costs taxable.

Form of indictment in case of common seller.

STATE OF MAINE.

“—, ss.—At the supreme judicial court begun and holden at —, within and for the county of —, on the — Tuesday of —, in the year of our Lord one thousand eight hundred and —:

Form of indictment.
63 Me., 214,
273.

The jurors for said state upon their oath present, that A. B. of —, in said county, at —, in said county of —, on the — day of —, in the year of our Lord one thousand eight hundred and —, and on divers other days and times between said — day of — aforesaid and the day of the finding of this indictment, without any lawful authority, license or permission, was a common seller of intoxicating liquors, against the peace of said state, and contrary to the form of the statute in such case made and provided;” (in case of a former conviction add,) “and the jurors aforesaid, upon their oaths aforesaid, do further present, that the said —, has been — before convicted as a common seller under the laws for the suppression of drinking houses and tippling shops, in said county of —. A true bill:

— —, *County Attorney.*

— —, *Foreman.”*

CHAP. 27.

Form of complaint for single sale.

STATE OF MAINE.

Form of
complaint
for single
sale.
65 Me., 247.

“—, ss.—To —, esquire, a trial justice within and for the county of —.

A. B. of —, in said county, on the — day of —, in the year of our Lord one thousand eight hundred and —, in behalf of said state, on oath complains, that —, of —, in said county, on the — day of —, aforesaid, at said —, in said county of —, without any lawful authority, license or permission therefor, did then and there sell a quantity of intoxicating liquors, to wit: one — of intoxicating liquor to one —,” (or if the individual be unknown, “to some person to said complainant unknown,”) “against the peace of said state, and contrary to the form of the statute in such case made and provided.

A. B.

On the — day of — aforesaid, the said —, makes oath, that the above complaint, by — subscribed, is true.

Before me, —, *Trial Justice.*”

Form of warrant upon the same.

STATE OF MAINE.

Form of war-
rant for
same.

“—, ss.—To the sheriff of our said county of —, or either of his deputies, or either of the constables of the town of —, or either of the towns in said county, GREETING.

[L. s.] Whereas, A. B. of —, on the — day of —, in the year of our Lord one thousand eight hundred and —, in behalf of said state, on oath complained to me, the subscriber, one of the trial justices within and for said county of —, that —, of —, in said county, on the — day of —, at said —, in said county of —, without any lawful authority, license or permission therefor, did sell a quantity of intoxicating liquors, to wit: one — of intoxicating liquor to one —, against the peace of said state and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the state of Maine, you are commanded forthwith to apprehend the said —, if he may be found in your precinct, and bring — before me, the subscriber, or some other trial justice within and for said county, to answer to said state upon the complaint aforesaid.

Witness, my hand and seal at — aforesaid, this — day of —, in the year of our Lord one thousand eight hundred and —.

—, *Trial Justice.*”

Form of a recognizance in case of a single sale.

CHAP. 27.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of —, at my office in —, in said county, on the — day of —, in the year of our Lord one thousand eight hundred and [A. D., 18—,] personally appeared — —, — — and — —, and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit :

Form of
recog-
nizance in
same.

The said — —, as principal, in the sum of — dollars, and the said — — and — —, as sureties, in the sum of — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default be made in the condition following :

The condition of this recognizance is such, that whereas the said — — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath of — —, charging him, the said — —, with having sold at said —, one — of intoxicating liquors to one — —, without any lawful authority, license or permission therefor, against the peace of said state, and contrary to the form of the statute in such case made and provided. And said — — having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to — ; and the said — — having appealed from said sentence to the supreme judicial" (or superior) "court, next to be *holden* [held] at —, within and for said county of —, on the — Tuesday of —, in the year of our Lord one thousand eight hundred and [A. D., 18—.]

Now therefore, if the said — — shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void, otherwise [shall] remain in full force and virtue.

Witness,

— —, *Trial Justice.*"

Form of mittimus.

STATE OF MAINE.

"County of —, ss. —To the sheriff of the county of —, or his deputies, or the constables of the town of —, and to the keeper of the jail in —, in our said county, GREETING.

Form of
mittimus.

[L. s.] Whereas E. F., of —, in our county of —, now stands convicted before me, A. B., esquire, one of the trial justices in and for the county of —, on the complaint of — —, who, on his" (or their) "oath complains that" — (here insert the sub-

CHAP. 27. stance of the complaint) “— against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offence, he, the said E. F., is sentenced to pay a fine to the use of the state, of — dollars, and costs of prosecution, taxed at — dollars and — cents, (and to stand committed until the sentence be performed, all which sentence the said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefore, in the name of the state of Maine, to command you, the said sheriff, deputies and constables, and each of you, forthwith to convey the said E. F. to the common jail in —, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in — aforesaid, are hereby in like manner commanded, in the name of the state of Maine, to receive the said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal this — day of —, A. D. —.
A. B., *Trial Justice.*”

Form of complaint in case of seizure.

STATE OF MAINE.

Form of
complaint in
case of
seizure.

“—, ss.—To A. B., esquire, one of the trial justices within and for the county of —.

A. B., C. D., and E. F., of —, in said county and competent to be [a] witnesses in civil suits, on the — day of —, in the year *eighteen hundred and* [A. D., 18—,] in behalf of said state, on oath complain[s], that *they* [he] believe[s], that on the — day of —, in said year at said —, intoxicating liquors were, and still are kept and deposited by — —, of —, in said county, in —” (here describe with precision the place to be searched,) “said — — not being then and there authorized by law to sell said liquors within said —; and that said liquors then and there were, and now are intended by the said — — for sale in *this* [the] state in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

We [I] therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that *the* said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said — — be forthwith apprehended and

held to answer to said complaint, and to do and receive such sentence as may be awarded against him. (a) CHAP. 27.

A. B.

C. D.

E. F.

—, ss.—On the — day of — aforesaid, the said A. B., Oath.
C. D. and E. F. made oath that the above complaint by *them*
[him] signed is true.

Before me,

— —, *Trial Justice.*”

Form of warrant in case of seizure.

STATE OF MAINE.

“—, ss.—To the sheriff of our said county of —, or either of his deputies, or the constables of the town of —, or [of] either of the towns within said county. Form of warrant in case of seizure.

[L. s.] Whereas A. B., C. D. and E. F., of —, in said county, and competent to be [a] witnesses in civil suits, on the — day of —, in the year eighteen hundred and —, in behalf of said state, on oath complained to the subscriber, one of the trial justices within and for said county, that *they* [he] believe[s], that on the — day of —, in said year, at said —, intoxicating liquors were and still are deposited and kept by — —, of —, in said county, in —” (here follows a precise description of the place to be searched,) “and that said — — then and there intended and now intends to sell the same in this state, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that the said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said — — be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

You are therefore required in the name of the state, to enter the — before named, and therein search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision be had on the same; and to apprehend the said — — forthwith, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to

(a) Complaint may be made by one person. See § 41.

CHAP. 27. answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, — — — esquire, at — — aforesaid, this — — day of — —, in the year eighteen hundred and — —.

— — —, *Trial Justice.*"

Form of recognizance in case of seizure.

Form of recognizance in case of seizure.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of — —, at my office in said — —, on the — — day of — —, in the year of our Lord one thousand eight hundred and — —, personally appeared A. B., C. D. and E. F., and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit :

The said — — — as principal, in the sum of — — dollars, and the said — — — and — — — as sureties, in the sum of — — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default be made in the condition following :

The condition of this recognizance is such, that whereas the said — — — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., I. J. and K. L. of — —, all competent witnesses in civil suits, charging him, the said — — —, with having at — —, on the — — day of — —, kept and deposited certain intoxicating liquors in — —" (here describe the place where the same are deposited) "with intent to sell the same in said — —, in violation of law ; said — — — not being then and there authorized or appointed to sell the same in said — —, and a search warrant having been duly issued upon said complaint, and said liquors above described, having been seized thereon, and the said — — — duly arrested thereon ; and said — — — having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to — —. And the said — — — having appealed from said sentence to the supreme judicial court, next to be holden at — —, within and for said county of — —, on the — —, Tuesday of — —, in the year of our Lord one thousand eight hundred and — —.

Now therefore, if the said — — — shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license ; then this recognizance shall be void, otherwise remain in full force and virtue.

— — —, *Trial Justice.*"

*Form of libel.*CHAP. 27.

STATE OF MAINE.

“County of —, ss.—To A. B., a trial justice, in and for said county: Form of libel.

The libel of C. D., of —, shows that he has by virtue of a warrant duly issued by — esquire of —, seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: —” (here follows a description of the liquors,) “because the same were kept and deposited at —” (describing the place) “in the county of —, and were intended for sale within this state, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at —, in said county, this — day of —, in the year of our Lord one thousand eight hundred and —.

(Signed.) — —.”

Form of monition and notice.

STATE OF MAINE.

“County of —, ss.

[L. s.] To all persons interested in —” (here insert the description of the liquors, as in the libel), Form of monition and notice.

“The libel of C. D., hereunto annexed, this day filed with me, A. B., esquire, a trial justice in and for said county, shows that he has seized said liquors and vessels, because” (insert as in the libel), “and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are therefore, hereby notified thereof, that you may appear before me, the said justice, at —, on the — day of —, and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at —, on the — day of —, in the year of our Lord one thousand eight hundred and —.

— —, *Trial Justice.*”

CHAP. 27. [NOTE. The first prohibitory law was one of ten public acts passed at the short session of 1851, and took effect upon its approval by Governor Hubbard, June 2. It has been followed by thirty-nine statutes in reference to intoxication and the sale of intoxicating liquors.]

This body of legislation is thus entitled:

An act for the suppression of drinking houses and tippling shops. 1851, c. 211. (18 §§.)

An act in addition to chapter 211 of the statutes of 1851. 1853, c. 48. (14 §§.)

An act for the suppression of drinking houses and tippling shops. 1855, c. 166. (34 §§.)

An act to restrain and regulate the sale of intoxicating liquors, and to prohibit and suppress drinking houses and tippling shops. 1856, c. 255. (29 §§.)

An act for the suppression of drinking houses and tippling shops. 1858, c. 33. (35 §§.)

An act to establish forms of proceedings which may be used in prosecutions under an act entitled "an act for the suppression of drinking houses and tippling shops," approved March 25, 1858. 1858, c. 48. (1 §.)

An act to ascertain the will of the people concerning the sale of intoxicating liquors. 1858, c. 50. (4 §§.)

An act for the suppression of certain common nuisances. 1858, c. 54. (4 §§.)

An act to punish for intoxication. 1859, c. 63. (3 §§.)

An act to regulate the agencies for and to prevent imposition in the sale of intoxicating liquors. 1862, c. 130. (10 §§.)

An act additional to chapter 130 of the laws of 1862 entitled "an act to regulate the agencies for, and to prevent imposition in the sale of intoxicating liquors." 1863, c. 191. (1 §.)

An act additional to an act entitled "an act for the suppression of drinking houses and tippling shops," approved March 25, A. D., 1858. 1864, c. 275. (1 §.)

An act in addition to an act approved March 19, 1862, entitled "an act to regulate agencies for, and to prevent imposition in the sale of intoxicating liquors." 1865, c. 299. (1 §.)

An act to provide for a state police in certain cases. 1867, c. 129. (5 §§.)

An act additional to and amendatory of chapter 33 of the laws of 1858, for the suppression of drinking houses and tippling shops. 1867, c. 130. (9 §§.)

An act amendatory of chapter 33 of the laws of 1858, for the suppression of drinking houses and tippling shops. 1867, c. 131. (2 §§.)

An act to ascertain the will of the people concerning the sale of intoxicating liquors. 1867, c. 133. (4 §§.)

An act to repeal chapter 129 of the public laws of 1867 entitled "an act to provide for a state police in certain cases." 1868, c. 143. (2 §§.)

An act explanatory of chapter 33 of the public laws of 1858, entitled an act for the suppression of drinking houses and tippling shops, and of chapter 130 of the public laws of 1867, additional to and amendatory of the same. 1868, c. 218. (2 §§.)

An act to require municipal officers and constables of towns and cities, and assessors of plantations, to enforce the laws against drinking houses, gambling rooms and houses of ill-fame. 1868, c. 222. (1 §.)

An act additional to and amendatory of chapter 33 of the laws of 1858, and of chapter 130 of the laws of 1867 for the suppression of drinking houses and tippling shops. 1868, c. 224. (3 §§.)

An act to amend section second, chapter 130, of the acts of 1862, relating to the purchase of intoxicating liquors by towns. 1869, c. 51. (1 §.)

An act additional to chapter 33 of the public laws of 1858, relating to the sale of intoxicating liquors. 1870, c. 125. (7 §§.) CHAP. 27.

An act additional to "an act to regulate the sale of intoxicating liquors." 1870, c. 152. (3 §§.)

An act to amend section 47 of chapter 27 of the revised statutes, concerning recognizances in appeals from magistrates. 1871, c. 189. (2 §§.)

An act to amend section 26 of chapter 27 of the revised statutes, relating to town liquor agents. 1872, c. 59. (1 §.)

An act relating to the duties of sheriffs and county attorneys. 1872, c. 62. (4 §§.)

An act to amend chapter 27 of the revised statutes concerning innholders, victuallers and intoxicating liquors. 1872, c. 63. (5 §§.)

An act additional to chapter 27 of the revised statutes, relating to town liquor agents. 1872, c. 73. (1 §.)

An act amendatory of chapter 63 of the public laws of 1872, and of chapter 27 of the revised statutes relating to intoxicating liquors. 1873, c. 150. (1 §.)

An act additional to chapter 17 of the revised statutes relating to nuisances. 1873, c. 152. (1 §.)

An act explanatory of, and additional to chapter 27 of revised statutes, relating to intoxicating liquors. 1874, c. 228. (2 §§.)

An act to amend section 49 of chapter 27 of the revised statutes, relating to the punishment of intoxication. 1874, c. 255. (1 §.)

An act to repeal section 36 of chapter 124 of the revised statutes, relating to offences against morality and decency. 1874, c. 264. (1 §.)

An act additional to c. 27 of the revised statutes, relating to intoxicating liquors. 1875, c. 42. (2 §§.)

An act to amend an act entitled "an act relating to the duties of sheriffs and county attorneys." 1875, c. 54. (1 §.)

An act to amend chapter 27 of the Revised Statutes, relating to Drinking Houses and Tippling Shops. 1877, c. 215. (6 §§.)

An act to amend section 49, chapter 27 of the Revised Statutes, relating to the Sale of Intoxicating Liquors. 1880, c. 228. (1 §.)

An act amendatory of chapters 17 and 27 of the Revised Statutes in relation to common nuisances and the sale of intoxicating liquors. 1880, c. 247, (7 §§.)

An act explanatory of section 25 of chapter 27 of the Revised Statutes, as amended by section 3 of chapter 247 of the Public Laws of 1880, in relation to the sale of cider. 1881, c. 89. (§ 1.)

CHAP. 28.

CHAPTER 28.

APOTHECARIES, AND THE SALE OF POISONS.

APOTHECARIES.

- SEC. 1. Governor and council shall appoint three commissioners of pharmacy.
 Terms. Vacancies, how filled.
2. Commissioners shall examine all candidates touching their skill in pharmacy, and may grant certificates to be registered in the office of secretary of state. Fees.
3. Candidates must prove qualifications.
4. Commissioners may grant certificates to apothecaries already in business, on suitable evidence.
5. Rights and duties of registered apothecaries. Legislature may impose restrictions. Intoxicating liquors not to be sold.
6. Penalty for future unregistered apothecaries. How recovered.
7. Exceptions.

SALE OF POISONS.

- SEC. 8. Sale of poisons regulated. Poison for wolves, foxes, dogs, or other large animals not to be deposited near highways or improved lands. Penalty.

Commis-
sioners of
pharmacy,
appointment
of.
1877,c.204,§1.

—terms of
office.

—vacancies.

Sworn.

—powers
and duties.
1877,c.204,§2.

—fees.

Com'rs to
examine

SEC. 1. The governor, with the advice of the council, shall appoint three suitable persons to be commissioners of pharmacy, one of whom shall hold his office for one year, one for two years, and the other for three years, and each until his successor shall be appointed and qualified; and each year thereafter another commissioner shall be so appointed for three years and until a successor is appointed and qualified. If a vacancy occurs in said commission, another shall be appointed, as aforesaid, to fill the unexpired term. Before entering upon the duties of their office, the commissioners shall be sworn faithfully and impartially to discharge the same, and a record thereof shall be made on their commissions.

SEC. 2. Said commissioners shall examine any person who desires to engage in the business of an apothecary, and if found skilled in pharmacy, they shall give him a certificate of that fact, and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two commissioners. In a suitable book, to be kept in the secretary of state's office, they shall register the names and places of residence of all persons to whom they issue certificates, and the dates thereof, and for each certificate of registration given under the provisions of this chapter, said commissioners shall receive from the applicant five dollars, in full for all services and expenses.

SEC. 3. Every person entering upon the business of an apothecary shall first be examined by said commissioners, and shall

present, to them satisfactory evidence that he has been an apprentice or been employed in an apothecary store where physicians' prescriptions are compounded, at least three years, or has graduated from some regularly established medical school, or college of pharmacy, and is competent for the business, and the commissioners may then grant him a certificate and registry as hereinbefore provided.

SEC. 4. Any person engaged in the business of apothecary on the eleventh day of March, eighteen hundred and seventy-seven may receive a certificate and be registered as aforesaid, on application to said commissioners, and presenting to them satisfactory evidence of his competency therefor.

SEC. 5. Apothecaries registered as herein provided, shall have the right to keep, under such restrictions as the legislature may impose, all medicines and poisons authorized by the United States dispensatory and pharmacopœia as of recognized medicinal utility; *provided*, that nothing herein contained shall be so construed as to authorize the sale of intoxicating liquors.

SEC. 6. If any person who was not engaged in the business of an apothecary on the eleventh day of March, eighteen hundred and seventy-seven, engages in said business contrary to the provisions of this chapter, he shall be subject to a penalty of fifty dollars for each week he shall so continue in such business, to be recovered by an action of debt for the use of any person suing therefor, or by indictment for the use of the county.

SEC. 7. This chapter shall not apply to physicians putting up their own prescriptions, or to the sale of proprietary medicines.

SALE OF POISONS.

SEC. 8. If any person who was not in the business of an apothecary on the eleventh day of March, A. D. 1877 has heretofore engaged in said business contrary to the provisions of this chapter, or shall hereafter so engage; or if any druggist or other person sells any arsenic, corrosive sublimate, nux vomica, strychnine, or prussic acid, except on the prescription of a physician in regular standing in his profession, without labeling each parcel sold with the name of the article, and the word "poison" legibly written or printed thereon, and recording such sale in a book kept for that purpose, open to the inspection of all persons, specifying the kind and quantity, when and to whom sold; or if any person for the purpose of killing wolves, foxes, dogs or other animals, and not for the destruction of insects or vermin in a building, leaves or deposits any such poisons within two hundred rods of a highway, pasture, field or other improved land, he shall be punished by a fine not less than twenty, nor more than fifty dollars; or by imprisonment not less than thirty, nor more than sixty days.

CHAP. 28.

apothecaries entering on business.

1877, c. 204, §3.

—qualifications.

—certificate.

—registry.

Apothecaries already in business.

1877, c. 204, §4.

Registered apothecaries their duties and restrictions.

1877, c. 204, §5.

No liquors to be sold.

Penalty for violation of this chapter.

1877, c. 204, §6.

—how recovered.

Exceptions to application.

1877, c. 204, §7.

Poisons, concerning sale of; to kill wolves, &c., not to be deposited near highways or improved lands.

R. S., c. 28.

Penalty.

CHAP. 29.

CHAPTER 29.

PUBLIC EXHIBITIONS, BOWLING ALLEYS, AND BILLIARD ROOMS.

PUBLIC EXHIBITIONS.

- SEC. 1. Penalty for exhibiting pageantry, sleight of hand tricks, circuses, shows, or theatrical performances, without a license.
2. Licenses how granted ; fee therefor ; time allowed for performance ; unlicensed to be prosecuted ; penalties how recovered and appropriated.

BOWLING ALLEYS.

- SEC. 3. Penalty for keeping bowling alley without a license.
4. Licenses how granted and fees therefor.
5. Persons licensed to give bond ; conditions of bond.
6. If conditions of bond are violated, license to be revoked and payment of bond enforced ; person not to be licensed again.
7. Penalty for obstructing officers from entering billiard rooms to enforce the laws. Penalties how recovered and appropriated.

PUBLIC EXHIBITIONS.

Penalty for exhibiting pageantry, &c., without a license.
R.S., c. 29, § 1.

SEC. 1. If any person, for money or other valuable article, exhibits in this state any images, pageantry, sleight of hand tricks, puppet show, circus, feats of balancing, wire dancing, personal agility, dexterity, or theatrical performances, without a license therefor as hereinafter provided, he shall forfeit, for every such offence, not more than one hundred, nor less than ten dollars ; but this prohibition shall not extend to any permanently established museum.

Licenses, how granted ; fee.
R.S., c. 29, § 2.

SEC. 2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving for the use of their town such sum as they deem proper ; twenty-four hours being allowed *there* for [each exhibition or performance] ; and they shall prosecute, by *an* action of debt, in the name and for the use of their town, all persons violating the provisions of section one.

BOWLING ALLEYS AND BILLIARD ROOMS.

Penalty for keeping unlicensed alleys and billiard rooms.
1873, c. 109.
30 Me., 74.

SEC. 3. No person shall keep a bowling alley or billiard room without a license, under a penalty of ten dollars for each day such alley or room shall be so kept, to be recovered upon complaint before a judge of a municipal or police court or trial justice, or by indictment to the use of the person prosecuting.

Town officers may license alleys and billiard

SEC. 4. The municipal officers of towns may license suitable persons to keep bowling alleys and billiard rooms therein, in any place where it will not disturb the peace and quiet of a family,

for which the person licensed shall pay ten dollars to the use of such town ; and such licenses shall expire on the first day of May next after they are granted, unless sooner revoked. CHAP. 29.
rooms.
1881, c. 13.

SEC. 5. Every person licensed to keep a bowling alley or billiard room shall at the time he receives his license, give a bond to the town with two good and sufficient sureties, in a sum not less than one hundred dollars, conditioned that he will not permit any gambling or drinking of any intoxicating liquors in or about his premises ; or any minor to play or roll therein without the written consent of his parent, guardian or master ; or his alley or billiard room to be opened or used from ten o'clock in the evening to sunrise. Keepers of
alleys, &c.,
to give bond.
R.S., c. 29, § 5.
Conditions.

SEC. 6. If any person, so licensed, violates any of the conditions of his bond, the municipal officers, on being furnished with proof thereof, shall revoke the license and enforce the payment of the bond for the use of their town ; and no person, whose license is so revoked, shall afterwards be licensed in said town for such purpose. Bond vio-
lated, license
to be revoked,
&c.
R.S., c. 29, § 6.

SEC. 7. The keeper of any bowling alley or billiard room, who violates any of the provisions of section five, shall forfeit ten dollars for the first offence, and twenty dollars for each subsequent offence, on complaint or indictment to the use of the person prosecuting ; and any marshal, sheriff, police or other officer may at any time enter said bowling alley or billiard room or rooms connected therewith, for the purpose of enforcing this or any other law ; and any person who obstructs his entrance shall forfeit not less than five, nor more than twenty dollars. The penalties provided in this section may be recovered by complaint, indictment or action of debt to the use of the person so prosecuting. Penalties.
R.S., c. 29, § 7.
30 Me., 78.

Officer may
enter at any
time.

Penalty for
obstructing
officer's
entrance.
How recovered.

CHAP. 30.

CHAPTER 30.

MISCHIEVOUS DOGS, WOLVES AND BEARS, MOOSE AND DEER,
AND OTHER WILD GAME.

MISCHIEVOUS DOGS.

- SEC. 1. Towns may pass by-laws relating to dogs. Owners of dogs liable for double damages done by them.
2. Dogs assaulting a person, or killing domestic animals, may be killed.
3. Penalty for not confining or killing dangerous dogs, after complaint and notice, and how appropriated. Dog again at large may be killed.
4. Owner of dog assaulting a person, or killing animals after notice, liable to treble damages.

WOLVES AND BEARS.

- SEC. 5. Bounty on wolves and bears to be paid from town treasury.
6. Bounty not to be paid till skins are exhibited and sworn certificate delivered to treasurer. Treasurer to burn nose and ears, pay bounty, take receipt, and make sworn certificate to treasurer of state.
7. Certificates and receipts to be sent to treasurer of state, laid before legislature, allowed and paid to towns.
8. Forms of certificates, receipts and oaths.
9. No bounty to be paid except on town treasurer's certificate.

MOOSE, DEER AND CARIBOU, AND OTHER WILD GAME.

- SEC. 10. Penalty for killing or hunting moose with dogs, and for killing or hunting moose between January and October 1.
11. Similar protection to deer and caribou. Dogs unlawfully employed may be killed.
12. Possession of any part of carcass or hide, presumptive evidence. Same forfeited to prosecutor.
13. Transportation of carcass and hide during close time prohibited.
14. Appointment of county moose and game wardens; tenure of office; deputies and their bonds. Duty to enforce law, and make annual returns. Penalties for not making returns, how proved, recovered and appropriated.
15. Wardens chosen by towns have concurrent jurisdiction, and make annual returns. Wardens and deputies may require aid as sheriffs.
16. Penalties how recovered and appropriated. If wardens do not prosecute within fourteen days, any one may.
17. Secretary of State to communicate to legislature doings under seven preceding sections.
18. Destruction of minks, beavers, sables, otter, fisher or muskrat, prohibited between May 1 and October 15.
19. Destruction of certain birds prohibited between May 1 and September 1;—others from December 1 to September 1, &c., &c.
20. Destruction of certain birds restricted. Proviso.
21. Insectivorous birds protected.
22. Destruction of eggs, nests, and young prohibited. Penalty.

- SEC. 23. Transportation of birds in close time forbidden. Penalty.
 24. Taxidermists exempted.
 25. Penalties of seven preceding sections, how recovered. Full costs. Forfeitures, to whom paid.
 26. Quail protected until September 1, 1883. Penalty.
 27. Powers and duties of fish commissioners and wardens extended to game.

CHAP. 30.

MISCHIEVOUS DOGS.

SEC. 1. Towns may pass by-laws to regulate the going at large of dogs *within them* [therein]. When any dog does any damage to a person or his property, his owner or keeper, and also the parent, guardian, master, or mistress, of any minor or servant, who owns or keeps such dog, shall forfeit to the injured person double the amount of the damage done; to be recovered by action of trespass.

Towns may pass by-laws. Owners liable for double damages. R.S., c. 30, § 1. 62 Me., 279. See § 10; c. 3, § 57, item 4.

SEC. 2. Any person may lawfully kill a dog, that suddenly assaults him or another person when peaceably walking or riding, or is found worrying, wounding, or killing any domestic animals out of the inclosure or immediate care of the owner.

When dogs may be killed without notice. R.S., c. 30, § 2.

SEC. 3. Whoever is [so] assaulted, or finds a dog strolling out of the inclosure or immediate care of his master, may, within forty-eight hours thereafter, make oath before a justice of the peace that he really suspects such dog to be dangerous or mischievous, and notify his master by giving him a copy of said oath, signed by the justice; and if the master neglects for twenty-four hours thereafter, to confine or kill such dog, he shall forfeit five dollars to any person suing therefor; and if such dog is again at large out of the care of the master, any person may lawfully kill him.

Penalty for not confining or killing dangerous dogs, after notice. R.S., c. 30, § 3.

SEC. 4. If a dog, after notice given as aforesaid, wounds any person by a sudden assault as aforesaid, or wounds or kills any domestic animals, the owner or keeper shall be liable to pay the person injured treble damages and costs.

Owner liable to treble damages after notice. R.S., c. 30, § 4.

WOLVES AND BEARS.

SEC. 5. A bounty of five dollars for every wolf and bear killed in any town in this state shall be paid by the treasurer thereof to the person killing it, on his complying with the following provisions.

Bounty on wolves and bears. R.S., c. 30, § 5.

SEC. 6. No bounty shall be paid unless the person claiming it, within ten days after he has killed such animal, or within ten days after he has returned from the hunting in which he killed it, exhibits to the town treasurer the entire skin thereof with the ears and nose on it in as perfect a state as when killed, except natural decay, and signs and makes oath to a certificate, which oath said treasurer is hereby authorized to administer, in which he shall

Claimant must apply within ten days and exhibit entire skin. R.S., c. 30, § 6.

Certificate on oath required.

CHAP. 30.

Town treasurer to destroy ears and nose.

Treasurer's certificate to state treasurer.

Certificates to be laid before governor and council. 1876, c. 136.

Form of claimant's certificate. R.S., c. 30, § 8.

Form of claimant's receipt.

Form of treasurer's certificate.

state that he killed such animal, and the time when and the place where he killed it, showing it to be within *this* [the] state ; and the said treasurer shall thereupon cut off the whole of the ears and *the whole* of the nose from such skin and entirely destroy them by burning ; then he shall pay the bounty and take the receipt of the claimant therefor upon the same paper with such certificate. The treasurer shall immediately make upon the same paper a certificate under oath addressed to the treasurer of state, that he first cut off the ears and nose from the skin of such animal and destroyed them by burning, and then paid the said bounty to the claimant.

SEC. 7. Said certificates and receipts shall annually, in the month of December, be transmitted to the treasurer of state, and be by him laid before the governor and council as early as convenient ; and when allowed by the governor and council shall be paid by the treasurer of state to such towns.

SEC. 8. The certificate shall be in the following form :

Claimant's Certificate.

"To the treasurer of _____. I hereby certify that on the ____ day of _____, A. D., 18____, at _____, in the state of Maine, I killed the _____, the skin of which I now exhibit to you ; and I claim the bounty allowed by law for killing the same.

Dated at _____, this ____ day of _____, A. D., 18____.
_____, *Claimant.*

Subscribed and sworn to before me the day and year aforesaid.
_____, Treasurer of _____."

Claimant's Receipt.

"On this ____ day of _____, A. D., 18____, I received of _____, treasurer of _____, _____ dollars, being the bounty allowed by law for killing the _____ described in the above certificate.

_____, *Claimant.*"

Treasurer's Certificate.

"I hereby certify that as required by law, I first cut off the whole of the ears and nose from the skin of [the] _____ described in the foregoing certificate and destroyed the same by burning, and then paid to the said _____ the bounty for which I have taken his receipt as above.

Dated at _____, this ____ day of _____, A. D., 18____.
_____, Treasurer of _____.

Subscribed and sworn to before me the day and year aforesaid.
_____, *Justice of the Peace.*"

SEC. 9. No bounty in any case shall be paid unless the *plantation, town or city* treasurer in the county where such animal was actually killed, shall be satisfied that the same was killed in such *plantation, town or city* in this state, between the first day of June and the first day of November in *each* [such] year, nor unless said treasurer shall so certify to the governor and council.

CHAP. 30.

Bounty to be paid only on certificate of town or county treasurer.
1881, c. 58, § 2.

MOOSE, DEER AND CARIBOU.

SEC. 10. No person shall hunt, kill or destroy, with dogs, any moose *within this state*, under a penalty of one hundred dollars for every moose so killed or destroyed; and no person shall, between the first day of January and the first day of October, in each year, in any manner hunt, kill or destroy any moose under the same penalty.

Hunting, &c., moose with dogs, prohibited, 1878, c. 50, § 3.
—penalty.
Hunting, &c., when prohibited.

SEC. 11. No person shall hunt, kill or destroy, with dogs, any deer or caribou, *within this state*, under a penalty of forty dollars for every such deer or caribou so killed or destroyed; and no person shall, between the first day of January and the first day of October, in any manner hunt, kill or destroy any deer or caribou, under the same penalty as above provided. Any person may lawfully kill any dog found hunting moose, deer or caribou.

Same prohibitions as to deer or caribou.
1878, c. 50, § 4.
Dog hunting moose, deer or caribou, may be killed.

SEC. 12. If any person has in his possession the carcass or hide, or any part thereof, of any such animal, between the first day of January and the first day of October, he shall be deemed to have hunted and killed the same contrary to law, and be liable to the penalties aforesaid; but he shall not be precluded from producing proof in defence. In case of his conviction, such carcass or hide, or any part thereof, so found in his possession, shall be decreed by the court forfeited to the use of the person prosecuting. And the warden, or either of his deputies as named in section sixteen of this chapter, shall have power to search for such carcass or hide, or any part thereof, subject to the provisions of sections twelve, thirteen and fourteen of chapter one hundred and thirty-two, but the warrant may be issued on complaint of said warden or either of his deputies.

Possession of any part of such animal, presumptive evidence of guilt.
1878, c. 50, § 5.
Carcass and hide forfeited.
1876, c. 61.
Warden and deputies, powers of.

SEC. 13. No person shall carry or transport from place to place *in this state* the carcass or hide, of any such animal, or any part thereof, during the period of time in which the killing of such animal is prohibited, under a penalty of forty dollars.

Transportation of carcass, &c., during close time, prohibited.

SEC. 14. The governor, with the advice of council, shall appoint one county moose and game warden for each county in the state to hold his office for the term of four years, unless sooner removed, each of whom may appoint in writing one or more deputies under him, and require of them suitable bonds for the faithful performance of their duties, and the payment to him

1878, c. 50, § 6.
Moose and game wardens to be appointed.
1878, c. 50, § 7.
—term.
—deputies.

CHAP. 30.

—duties.

Deputies to account annually.

Wardens to account to secretary of state annually.

—penalty for neglect.

County attorney to be notified of delinquency.

—shall prosecute.

—evidence.

Town moose and game wardens may be elected. 1878, c. 50, § 8.

—jurisdiction.

—shall make return to secretary of state.

—penalty for neglect.
—may require aid.

How penalties may be recovered. 1878, c. 50, § 9.

Any person may prosecute if officers neglect.

Action, where commenced.

of his fees, and said wardens and their deputies in their several counties, shall faithfully enforce the provisions of this act. Each of the deputies shall annually, on or before the first day of December, render to his principal an account under oath of all the penalties by him enforced for the preceding year, and shall pay to him one tenth part of the net proceeds thereof. Each county warden shall annually, in January, render to the secretary of state an account on oath of all the penalties enforced by himself or returned to him by his deputies, for the year ending on the first day of December. The penalty for neglecting to do so, shall be for a warden fifty dollars, and a deputy twenty-five dollars; and the warden shall immediately give notice to the county attorney of every county of such neglect of his deputy, and the secretary of state shall notify such county attorney of every such neglect of the warden; and the county attorney shall prosecute for every such neglect of which he has notice; and the penalties so recovered shall be for the use of the county. In such prosecutions the certificate of the secretary of state shall be sufficient evidence of the fact of such neglect to make return to him.

SEC. 15. The municipal officers of any town may insert in the warrant for their annual meeting an article for the choice of a town moose and game warden, who, in his town and anywhere within the distance of twelve miles from the exterior bounds thereof, shall have concurrent jurisdiction with, and the same powers and rights, as the county moose warden and his deputies; and he shall make a like return to the secretary of state, under a penalty of twenty-five dollars, to be proved, recovered, and appropriated in the same way. Each of said officers shall have the same authority to require aid in the execution of his office as sheriffs and their deputies have.

SEC. 16. The county wardens, their deputies or town wardens, may recover the penalties for unlawfully hunting and killing moose, deer, and caribou, in an action on the case in their own names, or by complaint or indictment in the name of the state; *and such officers may be competent witnesses*, and the sums recovered shall be paid, one half to the warden or deputy warden, and the other to the county or town, as the case may be. Any person may prosecute by action, complaint or indictment for any of the acts herein forbidden, provided no such warden or deputy, within fourteen days after the offence is committed, prosecutes therefor, and the sums recovered shall be paid, one half to the prosecutor, and the other to the county, and such action, complaint or indictment may be commenced in any county in which such animal is killed or hunted, or into which its carcass or hide, or any portion thereof, may be carried.

SEC. 17. The secretary of state is to communicate to the legislature, in the first month of each regular session, what has been done in execution of the seven preceding sections as appears by the returns received.

CHAP. 30.

Sec'y of state to report to legislature in Jan. 1878, c. 50, § 10. 1880, c. 239, §§ 30, 38.

MINK, BEAVER, SABLE, OTTER, FISHER, MUSKRAT AND BIRDS.

SEC. 18. No person shall in any way destroy, between the first day of May and the fifteenth day of October of each year, any mink, beaver, sable, otter, fisher or muskrat, under penalty of ten dollars for each animal so destroyed, to be recovered on complaint, one half thereof to the use of the county where the offence is committed, and one half to the prosecutor.

Destruction of certain animals between May 1 and Oct. 15, prohibited. —penalty. 1878, c. 50, § 11. R.S., c. 30, § 15.

SEC. 19. No person shall kill or have in his possession, except alive, or expose for sale, any wood duck, dusky duck, commonly called black duck, or other sea duck, between the first day of May and the first day of September; or kill, sell or have in possession, except alive, any ruffed grouse, commonly called partridge, or woodcock, between the first day of December and the first day of September following; or kill, sell, or have in possession, except alive, any quail or pinnated grouse, commonly called prairie chicken, between the first day of January and the first day of September, or plover, between the first day of May and the first day of August, following, under a penalty of not less than five nor more than ten dollars for each bird so killed, or had in possession, or exposed for sale. And no person shall kill, expose for sale or have in possession, except alive, any woodcock or ruffed grouse or partridge, during the months of September, October or November, except for consumption as food within this state, under the same penalty.

Certain birds not to be killed between May 1 and Sept. 1. 1879, c. 127. Others from Dec. 1 to Sept. 1. Others from Jan. 1 to Sept. 1, and May 1 to Aug. 1.

Woodcock and partridges. 1876, c. 98, § 1.

SEC. 20. No person shall at any time, or in any place *within this state*, with any trap, net, snare, device or contrivance, other than the usual method of sporting with fire-arms, take any wild duck of any variety, quail, grouse, partridge or woodcock, under a penalty of five dollars for each bird so taken. But this section and the preceding shall not apply to the shooting of ducks on the sea coast.

Destruction of certain birds, prohibited. 1878, c. 50, § 13. Penalty. Proviso. 1878, c. 50, § 19.

SEC. 21. No person shall kill or have in his possession, except alive, any of the birds commonly known as larks, robins, swallows, sparrows or orioles, or other insectivorous birds, crows and hawks excepted.

Insectivorous birds protected. 1878, c. 50, § 14.

SEC. 22. No person shall at any time wantonly take or destroy the nest, eggs, or unfledged young of any wild bird of any kind, except crows, hawks and owls, or take any eggs or young from such nests, except for preserving the same as specimens, or of rearing said young alive, under a penalty of not less than one nor more than ten dollars for each nest, egg or young so taken or destroyed.

Destruction of nests, eggs, &c., prohibited. 1878, c. 50, § 15. —exception. —penalty.

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Transportation of birds during certain seasons, prohibited, 1878, c. 50, § 16.
Taxidermists exempted, 1878, c. 50, § 17.

Penalties, how recovered, 1878, c. 50, § 18.

Full costs.

Forfeitures, to whom paid.

Quail, protected till Sept. 1, 1883, 1880, c. 189.

Powers and duties of fish commissioners and wardens extended to game. See c. 40, §

SEC. 23. No person shall carry or transport from place to place, *in this state*, any of the birds named herein, during the period in which the killing of such bird is prohibited, under a penalty of five dollars for each bird so carried or transported.

SEC. 24. The five preceding sections shall not apply to taxidermists, commissioned by the governor with the advice of the council, to take and kill birds for scientific purposes, provided they kill the birds for such purposes only.

SEC. 25. All penalties imposed by the seven preceding sections may be recovered by an action of debt, or by complaint or indictment in the name of the state, by any warden or his deputies, or any other person, before any court having jurisdiction thereof, in any county in which such offence may be committed or the accused resides ; and in all actions therefor in the supreme judicial court, or the superior court[s] for the county [ies] of Cumberland [and Kennebec], if the plaintiff recovers, he shall recover full costs without regard to the amount of such recovery. Such penalties, when collected, shall be paid, one half to the prosecutor, and the other to the overseers of the poor of the city or town where such prosecutor resides, for the use of such poor. *

SEC. 26. No quail shall be killed, nor had in possession except alive, at any time previous to September first, eighteen hundred and eighty-three, under penalty of twenty-five dollars for every offence, and one dollar additional for each quail killed, or had in possession except alive.

SEC. 27. The powers and duties of the commissioners of fisheries, and wardens, shall extend to all matters pertaining to game, and they shall have the same powers to enforce all laws pertaining to game as they now have in enforcing the laws relating to the fisheries.

* [NOTE BY THE COMMISSIONER. Such of the special provisions of 1874, c. 239, § 5 as are not incorporated into the act of 1878, c. 50, § 18 seem to have been substantially repealed thereby.]