

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. 77.

TITLE EIGHT.

Judicial Courts, County Commissioners, and Officers
connected with them.

- CHAP. 77. Supreme judicial court. Attorney general. Reporter.
78. County commissioners.
79. Clerks. County attorneys. Attorneys at law.
80. Sheriffs and their deputies. Coroners. Constables.
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CHAPTER 77.

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SUPREME JUDICIAL COURT. ORGANIZATION, GENERAL JURISDICTION AND POWERS.

Constitution of the court. --judges may act though their county is interested. R.S., c. 77, § 1.

SEC. 1. The supreme judicial court shall consist of a chief justice and seven associate justices, learned in the law and of sobriety of manners, who are conservators of the peace throughout the state, and may act in any case, [al-] though the county in which they reside or own property is interested therein.

Jurisdiction of all actions and prosecutions, may punish for contempts and administer oaths. R.S., c. 77, § 2. 41 Me., 17, 35. 49 Me., 400. 58 Me., 375.

SEC. 2. The court has cognizance of all offences and misdemeanors, and of civil actions between party and party and between the state and individuals, legally brought before it; may render judgment and award execution thereon; may exercise its jurisdiction according to the common law not inconsistent with the constitution or any statute; and may punish contempts against its authority by fine and imprisonment or either, and administer oaths in civil or criminal cases.

Superintendence of inferior courts, and of records and clerks of former courts; power to make rules for itself. R.S., c. 77, § 3.

SEC. 3. It has the general superintendence of all inferior courts for the prevention and correction of errors and abuses, where the law does not expressly provide any remedy; control of all records and documents in the custody of its clerks, including those of former courts whose jurisdiction it has, and the powers of its clerks are the same respecting all of them; and it may establish and cause to be recorded rules not repugnant to law, respecting the modes of trial and conduct of business in suits at law and in equity. (a)

Affidavit to plea or motion in

SEC. 4. The affidavit required by rule VI, of the supreme [judicial] court, to pleas or motions in abatement, may be made at

(a) 43 Me., 176; 53 Me., 88, 110; 57 Me., 23; 67 Me., 433, 435.

any time before the entry of the action or before filing the same, CHAP. 77.
as provided by the rule aforesaid.

SEC. 5. It may issue writs of error, certiorari, mandamus, prohibitions, quo warranto, and all writs and processes necessary for the furtherance of justice, or the execution of the laws, in the name of the state of Maine, under the seal of the court, attested by any justice not a party or interested in the suit, and signed by the clerk.

abatement,
when to be
made.
1881, c. 39.
Writs, and
how attested.
R.S., c. 77, § 4.
41 Me., 17, 55.
53 Me., 88.
67 Me., 433.
70 Me., 328.

EQUITY POWERS.

SEC. 6. It has jurisdiction as a court of equity in the following cases: (a) Its equity
powers.
R.S., c. 77, § 5.

First.—For the redemption of estates mortgaged.

Second.—For relief from forfeiture of penalties to the state, 53 Me., 63.
and from forfeitures in civil contracts and obligations, and in recognizances in criminal cases.

Third.—To compel the specific performance of written contracts, and to cancel and compel the discharge of written contracts, whether under seal or otherwise, when a full performance or payment has been made to the contracting party. 40 Me., 132.
42 Me., 40.
46 Me., 41.
47 Me., 315.
63 Me., 99.

Fourth.—For relief in cases of fraud, trusts, accident, or mistake. (b)

Fifth.—In cases of nuisance and waste. 60 Me., 194.

Sixth.—In cases of partnership, and between part owners of vessels and of other real and personal property, for adjustment of their interests in the property and accounts respecting it, and in cases arising out of the law providing for the application of receipts and expenditures of railroads by trustees in possession under mortgage. 1877, c. 197.
52 Me., 57.
62 Me., 114.

Seventh.—To determine the construction of wills and whether an executor, not expressly appointed a trustee, becomes such from the provisions of a will; and in cases of doubt, the mode of executing a trust, and the expediency of making changes and investments of property held in trust. (c)

Eighth.—In cases where the power is specially given by statute, and for discovery in the cases before named, according to the course of chancery proceedings. 43 Me., 574.
46 Me., 301.
53 Me., 441.

Ninth.—When counties, cities, towns, school districts, village corporations, or other public corporations by whatever name, for a purpose not authorized by law, vote to pledge their credit or to raise money by taxation or [to] exempt property from taxation, or to pay money from their treasury, or *for such purpose* any of 1872, c. 29.
55 Me., 65.
56 Me., 37.
60 Me., 127.
1873, c. 140, § 3.
See c. 3, § 36.

(a) 7 Me., 231; 8 Me., 322; 17 Me., 110, 141, 294, 407; 18 Me., 210; 19 Me., 127, 366, 434; 20 Me., 271; 21 Me., 257, 276; 22 Me., 196, 209, 265, 515; 23 Me., 48, 100, 178, 270, 451; 24 Me., 47, 335; 25 Me., 282, 345, 381, 537; 29 Me., 276, 496; 31 Me., 31, 96, 342; 32 Me., 210, 402, 483; 33 Me., 224, 534; 34 Me., 144, 372; 36 Me., 52, 124, 583; 37 Me., 269, 310; 40 Me., 240; 41 Me., 119; 50 Me., 239; 59 Me., 78; 72 Me., 281.

(b) 43 Me., 211; 44 Me., 216; 45 Me., 131; 49 Me., 366; 57 Me., 510.

(c) 49 Me., 302; 57 Me., 143, 524; 59 Me., 330, 481; 62 Me., 541; 64 Me., 493; 68 Me., 35, 581; 69 Me., 289; 70 Me., 210.

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their officers or agents attempt to pay out such money, [without authority] the court shall have equity jurisdiction on application of not less than ten taxable inhabitants therein.

1877, c. 158.
71 Me., 70.

Tenth.—In suits for the re-delivery of goods or chattels taken or detained from the owner, and secreted or withheld, so that the same cannot be replevied, and in bills in equity, by a creditor or creditors, to reach and apply in payment of a debt, any property right, title or interest, legal or equitable, of a debtor or debtors residing or found within *this* [the] state, which cannot be come at to be attached on writ, or taken on execution in a suit at law against such debtor or debtors, and which is not exempt by law from such attachment and seizure, and any property or interest conveyed in fraud of creditors.

1874, c. 175.
69 Me., 303.
71 Me., 554,
569.

Eleventh.—And has full equity jurisdiction, according to the usage and practice of courts of equity, in all other cases where there is not a plain, adequate and complete remedy at law.

Jurisdiction
to adjust
matters in
equity be-
tween part-
ners and part
owners, not
to affect
rights of
persons not
parties to
suit.

1873, c. 140, § 1.

SEC. 7. The supreme judicial court *shall have* [has] jurisdiction in equity between partners or part owners, to adjust all matters of the partnership between such part owners, compel contribution, make final decrees, and enforce their decrees by proper process in all cases where all persons interested within the jurisdiction of the court are made parties, notwithstanding there may be other persons interested, not within the jurisdiction of the court, who are not made parties; but in such cases no decree shall affect the rights of any person not a party to the suit, unless such person shall voluntarily become a party before final decree, except as hereinafter provided.

Partners or
co-tenants
out of juris-
diction of
court, rights
of, how
protected.

1873, c. 140, § 2.

SEC. 8. In all such cases, the court *shall have* [has] jurisdiction, if the case requires it, over all property of the partnership or co-tenancy within the state, and the other partners or co-tenants, out of the jurisdiction, may protect their interest by coming in at any time as parties to the bill; but, if there is no such property within the state, the jurisdiction of the court *shall be* [is] limited to the adjustment of accounts and compelling contribution between the parties over whom the court has jurisdiction.*

Masters in
chancery
to be ap-
pointed and
sworn; their
tenure of
office, duties
and fees.
R.S., c. 77, § 8,
40 Me., 53.
53 Me., 216,
352.

SEC. 9. The court by majority, shall appoint masters in chancery not more than five in a county, and make all needful rules relating to proceedings before them. Such masters shall be sworn, and hold their offices five years unless sooner removed by the court; perform the duties pertaining to their offices according to equity practice, and be entitled to the fees therefor allowed by the court. Unless the parties agree upon another person, all cases shall be committed to them.

* [NOTE. The commissioner is not sure that portions of §§ 6, 7 and 8 may not have been superseded by the equity act of 1881, c. 68, being §§ 10, 11, and 13 to 37 of this chapter.]

SEC. 10. The supreme judicial court shall always be opened in each county for equity proceedings, except upon days upon which, by law, no court is to be held, and in the first instance, except as herein provided, all hearings shall be had, all orders and decrees made, and all process issued by a single justice of said court, except upon appeal or exceptions as hereinafter provided, and said court shall establish rule-days for the return of subpoenas and the transactions of business relating to equity cases.

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The supreme judicial court to be open for equity proceedings. 1881, c. 68, § 1.

SEC. 11. All causes in equity shall be begun by bill of complaint filed in the clerk's office, upon which subpoena shall issue as matter of course returnable to [on] the first day of a term of court for the county where it is filed, or upon a rule-day, which in either case shall be held within sixty days after the filing of such bill, and such subpoena shall be served at least fourteen days before the return day thereof; or by order of the court such subpoena may be made returnable on any day in or out of term, and be served as directed in such order; or such bill *without the signature of the complainant** may be inserted in a writ of attachment, upon which property may be attached and which shall be made returnable as writs at common law. In all cases, service shall be made by copy of the subpoena and bill or writ of attachment. The bill of complaint shall state the material facts and circumstances relied on by the complainant, with brevity, omitting immaterial and irrelevant matters, and may be amended or *re-formed* [re-framed] at the discretion of the court, with or without terms, at any time before final decree is entered in said cause.

Causes in equity, how begun, return of subpoena, etc. 1881, c. 68, § 2. 56 Me., 76. 71 Me., 169.

R.S., c. 77, § 6.

Service, how made.

Bill of complaint may be amended.

SEC. 12. When any bill in equity is required to be verified by the oath of the complainant, such verification by a party for whose benefit the bill sets forth it is prosecuted, shall be sufficient and have the same effect.

SEC. 13. If discovery is sought, it may be by bill, with or without interrogatories annexed thereto, for the purpose of such discovery. Answers thereto shall be made within thirty days after the return day of such bill, or within such time as the court shall order, and questions arising thereon shall be determined by the rules established by *the supreme judicial* [said] court as herein provided, and in the absence thereof, by the rules applicable to bills of discovery in equity procedure.

Bill, how verified. 1881, c. 190.

Bill of discovery and answers thereto. 1871, c. 68, § 3.

SEC. 14. When process is made returnable to [at] any regular term of the court, the respondent shall appear within the first three days of the term, otherwise he shall appear on the return day of such process; and in default of such appearance, on motion of the complainant in writing, the bill shall be taken, pro confesso,

When respondent shall appear. 1881, c. 68, § 4.

Proceedings in case of default.

* [NOTE. The commissioner is in doubt whether it was the legislative intention to supersede this unrepealed clause of R. S., c. 77, § 6, by the equity act of 1881, c. 68.]

CHAP. 77. as matter of course, at the expiration of ten days after the filing of such motion, but such decree for good cause shown, on motion of the respondent, may be opened within ten days after it is made, and in such case the court shall fix the time for making a defence.

Defence, how
and when
made.
1881, c. 68, § 5.

Proceedings
in case of
default.

Form of
answer.

Replication,
when to be
filed.
1881, c. 68, § 6.

Time for
taking
testimony.
1881, c. 68, § 7.

Testimony
to be filed,
submitted to
other party
for inspec-
tion, and
either party
may on mo-
tion have
publication
thereof.
1881, c. 68, § 8.
Cause may
be heard on
motion of
either party.

SEC. 15. Defence shall be made by answer, plea or demurrer, within thirty days next after the time for appearance shall have elapsed, or within the time ordered by the court, as provided in the preceding section; but for good cause shown the court may in either case enlarge the time therefor. In default of such defence the bill shall be taken, pro confesso, as matter of course, on motion of complainant in writing, filed on any day after such default and served on the respondent. But such decree may be opened on motion of respondent within ten days thereafter as provided in section fourteen. All answers shall be signed by the respondent and sworn to by him if the complainant in his bill asks for an answer upon oath, otherwise it may be signed by the respondent, his agent or attorney, and in such case [it] shall have no effect as evidence, except to cast the burden of proof upon the plaintiff.

SEC. 16. The complainant shall file a replication within fifteen days after notice has been served on him or his counsel that answer or plea has been filed, but such time may be enlarged on such terms as the court shall order, or the bill may be dismissed for want of prosecution on motion filed by respondent at any time after said fifteen days, or at the expiration of the time ordered by the court for filing such replication.

SEC. 17. Sixty days after issue joined shall be allowed for taking testimony, or the court, on motion of either party, may fix the time for complainant's testimony, to be followed by respondent's testimony, and testimony of complainant in rebuttal, each within a fixed time, and in either case, the court may enlarge the time for good cause shown.

SEC. 18. When the time for taking testimony in chief, in answer, and in rebuttal is fixed in successive periods, as provided in the foregoing section, at the close of each period or the enlargement thereof, the testimony taken therein shall be filed, opened by the clerk and submitted to the inspection of the other party, and when the time for taking testimony shall be finally closed, either party may, on motion, as matter of course, have publication thereof, and on motion of either party the cause may be set down by the court, to be heard on bill, answer, or plea, and proofs, at any time after publication; and on like motion it may be set down to be heard on bill and demurrer at any time after the demurrer is filed, and on motion of complainant it may be set down to be heard on bill and answer or plea, at any time after the expiration of the time fixed for taking testimony.

SEC. 19. The justice before whom such hearings shall be had, shall have full power to decide any motion or cause so heard, and shall make and enter such order and decree, as shall seem just and proper to him, and in accordance with the established principles of equity jurisprudence, subject to appeal and exceptions as hereinafter provided. Evidence may be taken by deposition or orally in presence of the court, or by an examiner appointed by the court. But all oral evidence shall be taken and reduced to writing by a stenographer or an examiner, and his copy, approved by the judge or certified to by the examiner, shall be used as testimony in the cause the same as a deposition.

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Justice to decide cause, subject to appeal.
1881, c. 68, § 9.

Evidence, how taken and used.

SEC. 20. From all final decrees of such justice, an appeal shall lie to the next law court to be held in the district where the cause is pending. Said appeal shall be claimed by an entry on the docket of the court from which the appeal is taken, within ten days after such decree is signed, entered and filed, and notice thereof has been given by such clerk to the parties or their counsel. The appellant shall enter such appeal, and furnish written or printed copies of the case on the first day of said law term, and for good cause shown, the law court may enlarge the time for furnishing such copies. Such appeals shall be heard at the term to which they are taken, unless otherwise agreed, or the law court shall for good cause, order a further time for the hearing thereof, and the law court shall on such appeal, affirm, reverse, or modify the decree of the court below, or remand the cause for further proceedings, as it shall deem proper. All cases in which appeals or exceptions are taken from a final decree, shall remain on the docket of the court below, marked "law," and decree shall be entered therein by a single justice, in accordance with the certificate and opinion of the law court.

Appeal to next law court, how claimed, and when heard.
1881, c. 68, § 10.

Law court shall affirm, reverse or modify decree of court below, or remand for further proceedings. Cases shall remain on docket of court below, marked law.

SEC. 21. When an appeal is taken from a final decree, any justice may also make such order for the appointment of receivers for injunction and prohibition, or for continuing the same in force, and such other orders as are needful for the protection of the rights of the parties, or are usual in equity proceedings in such cases, until the appeal shall be determined by the law court. Such orders may be modified or annulled by such justice, or by such law court, while the appeal is pending before it.

Justice may make orders for protection of rights of parties while appeal is pending.
1881, c. 68, § 11.

SEC. 22. An appeal may be claimed and taken in like manner from any interlocutory decree or order, but such appeal shall not suspend any proceedings under such decree or order, or in the cause, and shall not be taken to the law court until after final decree. Upon an appeal from a final decree, all previous decrees and orders shall be open for revision, reversal or approval.

Appeal may be taken from interlocutory decree or order; its effect.
1881, c. 68, § 12.

SEC. 23. Upon a hearing in any cause in equity, the justice Justice may

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report cause to law court, if parties agree.

1881, c. 68, § 13.

Cause, how entered, heard and decided.

Justice may grant further time for appeal in certain cases.

1881, c. 68, § 14.

Aggrieved party may take exceptions to rulings of justice.

1881, c. 68, § 15.

Exceptions when claimed, made up, allowed and filed.

Proviso.

Upon request, the justice shall give separate findings of law and fact. Other proceedings not suspended.

Date of order and decree.

1881, c. 68, § 16.

Process to enforce final decree shall not issue for ten days after entry, unless appeal is waived.

1881, c. 68, § 17.

What proceedings may be had out of the county in which the cause is

hearing the same may report the cause to the next law court held within the district in which the cause is pending, if he is of opinion that any question of law is involved, of sufficient importance or doubt to justify the same, and the parties agree thereto. The cause shall be entered and copies furnished by the complainant, and the same shall be heard and decided by said law court in like manner and with like results as is herein provided in case of appeals.

SEC. 24. If any party intending to appeal, shall, within the time limited therefor, fail to do so by accident or mistake, he may within thirty days after the entry of the decree apply to any justice for leave to take such appeal, which may be granted on such terms as shall appear to *it* [him], to be just and equitable.

SEC. 25. Either party aggrieved may take exceptions to any ruling of law made by a single justice in any matter, the same to be accompanied only by such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within the time allowed for appeal, and shall be made up, allowed and filed in the time provided therefor, unless further time is granted by the court, or by agreement of parties. In all other respects, such exceptions shall be taken, entered in the law court, and there heard and decided in like manner as appeals, with the same power in the single justice to make orders for injunction and prohibition, and the protection of the rights of the parties, and in the law court, to make orders and decrees pending the same and upon decision thereof; *provided*, that no question of fact shall be open to the law court on such exceptions. And upon request of either party, the justice hearing the cause shall give separate findings of law and fact. The allowance and hearing of exceptions shall not suspend the other proceedings in the cause.

SEC. 26. Every order and decree shall bear date upon the day on which it is filed and entered, and the day of such filing and entering shall be entered by the clerk upon the docket and on the decree.

SEC. 27. No process for the enforcement of a final decree save for the appointment of receivers, for injunction or prohibition, or for continuing the same, shall issue until the lapse of ten days from the entry of such decree, unless all parties waive an appeal by entry on the clerk's docket, or by writing filed in the cause, or consent in like manner to the issue thereof.

SEC. 28. Any hearing on a motion for an interlocutory decree or order may be had, or such order or decree passed, out of the county in which the cause is pending, on notice to the adverse party therefor. And the justice hearing the same shall transmit to the clerk of the county where the cause is pending any order

or decree made at such hearing, but no trial before a jury upon issues framed therefor or final hearing of the cause, shall be had out of the county where the bill is pending, without the consent of the parties.

SEC. 29. All evidence before the court below or an abstract thereof, approved by the justice hearing the case, shall on appeal be reported. No witnesses shall be heard orally before the law court as a part of the case on appeal, but it may authorize additional evidence to be taken when the same has been omitted by accident or mistake, or discovered after the hearing, in such manner and on such terms as it shall deem proper.

SEC. 30. *After the pleadings are filed, and before the testimony is taken,** the court may, in its discretion and upon the application of either party, frame issues of fact in equity causes to be tried by a jury in the county where such cause is pending; *provided, that the party desiring such trial gives notice thereof to the other party, by inserting such notice, if plaintiff, in his replication, and if defendant, in his answer.** A single justice may confirm any verdicts rendered upon such issues of fact, and enter appropriate decrees thereon, or such justice may set aside such verdicts, and render such decrees as equity may require, as if such issues of fact had not been framed. In all causes where such issues of fact are framed and tried, an appeal may be taken, and exceptions had to rulings of law, as herein before provided, and upon such appeal or exception, the law court shall have power to confirm or set aside the verdicts rendered in the cause, or order a new trial of such issues of fact, and make such *disposition* [disposal] of the cause as the equity of the case shall demand. All such appeals and exceptions shall be taken, heard and determined as provided by this act.

SEC. 31. Writs of seizin or execution as well as all other process appropriate to causes in equity may be issued by the court, to enforce its decrees.

SEC. 32. Preliminary injunctions may be granted by a single justice *in term time or in vacation, to continue in force until the end of the next term of the court, unless sooner dissolved,** upon the complainant filing a bond with sufficient sureties conditioned to pay all damages and costs caused thereby, if he shall finally be found not entitled to such injunction, unless a single justice, on motion to dissolve the same and hearing on the merits thereof, shall refuse to dissolve it. Such damages and costs shall be awarded by the court on motion, but if not so awarded before final decree they may be determined in a suit on such bond. Such

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pending on
notice to ad-
verse party.
1881, c. 68, § 18.

Evidence in
court below,
how re-
ported.
No witnesses
heard orally
before law
court.
1881, c. 68, § 19.
Additional
evidence.

The court
may frame
issues of
fact in equity
cases to be
tried by jury.
1876, c. 103, § 1.
1881, c. 68, § 20.
1873, c. 130.
65 Me., 447.
A single
justice may
confirm or
set aside
verdicts.

Appeal may
be taken and
exceptions
had to rul-
ings of law.

Writs of
seizin or ex-
ecution, &c.,
may issue.
1881, c. 68, § 21.

Preliminary
injunctions
may be
granted
complainant.
1881, c. 68, § 22.
R. S., c. 77, § 7.
42 Me., 127.
49 Me., 322,
399.
54 Me., 404.
—granted to
either party,
if court
directs.
55 Me., 551.

* [NOTE. The commissioner is in doubt whether these unrepealed provisions of 1876, c. 103, and R. S. of 1871, c. 77, § 7, are not superseded by the equity act of 1881, c. 68.]

CHAP. 77. injunction may also be granted to either party on hearing, without bond being given, upon oral evidence, depositions or affidavits, and upon such notice and with such time for pleading, evidence and hearing as the court shall direct. No preliminary injunction shall be granted to either party unless his pleadings shall contain an application therefor; but an injunction may be granted pending the suit in proper cases therefor, upon motion and hearing. Perpetual injunctions may be granted by the court or any justice thereof making final decree.

Perpetual injunctions, by whom granted.

Summary process shall issue by order of court when decree is disobeyed. 1881, c. 68, § 23. 49 Me., 399. 60 Me., 336.

Proceedings and punishment, when found guilty of contempt.

SEC. 33. Whenever any party shall complain in writing, and under oath, that the process, decree or order of the court, which is not for the payment of money only, has been disregarded or disobeyed, summary process shall issue by order of any justice of the court, requiring the person so alleged to have disregarded or disobeyed such process to appear on a day certain and show cause why he should not be adjudged guilty of contempt, and such process shall fix a time for answer to the complaint, and may fix a time for hearing on oral testimony, depositions, or affidavits, or may fix successive times for proof, counter proof, and proof in rebuttal, or the time for hearing and manner of proof may be subsequently ordered upon the return day or thereafter. The court may, for good cause, enlarge the time for such hearing. If the person so summoned shall not appear as directed, or shall not attend the hearing at the time appointed therefor, as enlarged, or if he is found, upon hearing, to have been guilty of such disregard or disobedience, he shall be adjudged in contempt, and the court may issue a *capias* to bring him before it to receive sentence, and may punish him by such reasonable fine or imprisonment as the case may require. The court may allow such offender to give bail to appear at a time certain, at which such punishment may be imposed, if he shall continue in contempt. But when a second time found guilty of contempt in disregarding or disobeying the same order or decree, no bail shall be allowed. When such person shall purge himself of his contempt, the justice may remit such fine or imprisonment or any portion thereof. No appeal shall lie from any order or decree for such punishment, nor shall exceptions thereto be allowed, save upon questions of jurisdiction, nor in any case shall such exceptions suspend the enforcement of any such order or decree, unless the court shall so direct.

Justice may certify exceptions to be frivolous and intended for delay, on motion, to chief justice. 1881, c. 68, § 24.

SEC. 34. When any justice deems any exceptions allowed by him, or any appeal in any proceeding in equity, *provided for by this chapter*, to be frivolous and intended for delay, he may so certify on the motion of the party not excepting, and such exceptions and appeal and the record connected therewith shall be transmitted to the chief justice, and shall be argued in writing on both

sides within thirty days thereafter, unless the judge transmitting the same, shall, for good cause, enlarge the time, and [it] shall be considered and decided by the justices of said court as soon as may be, and the decision certified to the clerk of the county where the cause is pending; and if the decision shall be adverse to the party taking such appeal or exceptions, treble costs may be allowed the prevailing party.

CHAP. 77.
Proceedings.

SEC. 35. In case of any decree, an absent respondent whose property has been attached and who does not appear by the record to have been served with process within the state and has made no appearance before final process, shall have a review within one year after final decree, as of right, with stay or supersedeas of such process. The respondent may in such case apply to any justice by petition setting forth the grounds for such review, whereupon if such justice shall order reasonable notice to the other party, to appear at time and place named therein, to show cause why such review should not be granted, when such review is granted, the justice may prescribe the time in which the respondent's defence shall be made. Reviews may also be granted on petition, whenever without fault of the party against whom decree was ordered by fraud, accident or mistake, justice has not been done; provided, the petition therefor shall be filed within six years after final decree, and notice may be ordered and served with like rights of stay or supersedeas as herein provided. Upon granting the review, the court may fix a time within which the next proceeding shall be had.

Absent respondent not served with process, shall have review within one year.
1881, c. 68, § 25.
Proceedings.

When review may be granted on petition.

Proviso.

SEC. 36. Nothing herein contained shall abridge the power of the court to hold all interlocutory orders and decrees subject to revision, at any time before final decree, except when they shall have been decided on appeal.

Revisory power of court, save on appeal, not abridged.
1881, c. 68, § 26.

SEC. 37. *It shall be the duty of* the court [shall] *to make all proper rules for the regulation of the [equity] practice in equity causes,* necessary to simplify proceedings, discourage delays and lessen the expense of litigation, and [it] shall have full power for that purpose; but no rule of court now existing is repealed hereby, except so far as it is inconsistent herewith.

Court to make rules for practice in equity cases.
1881, c. 68, § 27.

LAW COURT.

SEC. 38. When sitting as a court of law, to determine questions of law, arising in suits at law and in equity, and in criminal trials and proceedings, the court shall be composed of five or more of the justices, who shall hear and determine such questions by the concurrence of five members; but when any of them cannot act in a case by reason of interest or other disqualification, a majority of the others shall be sufficient; and in any civil action in which

Five or more judges sit as a court of law; when less suffice. Verdict to stand, unless majority concur in granting new trial.

CHAP. 77. there is a subsisting verdict, if a majority of the justices qualified to act in the case, after mature consideration and consultation, do not concur in granting a new trial, the court shall order judgment on the verdict.

R.S., c. 77, § 9.
41 Me., 17.
45 Me., 153,
418.

57 Me., 510.

Law districts defined, and when courts are to be held in each.

Annual session of all judges to decide all undecided cases.

R.S., c. 77, § 10.

SEC. 39. For the purpose of the law court the state is divided into three districts, denominated the Western, Middle and Eastern. The first is composed of the counties of Franklin, Oxford, Androscoggin, York and Cumberland; and an annual session of the court shall be held therein, at Portland, on the third Tuesday of July. The second is composed of the counties of Somerset, Knox, Lincoln, Sagadahoc and Kennebec; and an annual session of the court shall be held therein, at Augusta, on the fourth Tuesday of May. The third is composed of the counties of Aroostook, Washington, Piscataquis, Hancock, Waldo and Penobscot; and an annual session of the court shall be held therein, at Bangor, on the third Tuesday of June. A meeting of all the justices shall be annually held at Augusta during the law term; and all undecided questions of law and equity previously submitted, shall then be decided.

By consent cases heard out of the district, and when.

R.S., c. 77, § 11.

SEC. 40. By consent of parties any action or other matter which properly comes before the law court, may be entered and heard in either judicial district, and shall be in order after the regular business of the district is disposed of.

Clerks of districts. Cases to be entered on district docket.

R.S., c. 77, § 12.

57 Me., 510.

62 Me., 320.

68 Me., 203.

72 Me., 104.

SEC. 41. The clerks of the counties of Cumberland, Kennebec, and Penobscot, shall be clerks of the districts including those counties. A docket for the district shall be kept, on which all cases pending on the dockets of the counties within it and marked "law," and all other cases of which the *court of law* [court] has jurisdiction, are to be entered and heard in the order of the counties as above named.

Jurisdiction of the law court.

What entry to be made on county docket.

1874, c. 231.

41 Me., 18.

45 Me., 153,

418.

46 Me., 331.

50 Me., 272.

56 Me., 233.

57 Me., 23.

59 Me., 580.

70 Me., 333.

Law cases, how marked.

SEC. 42. The following cases only come before the court as a court of law: Cases in which there are motions for new trials upon evidence reported by the judge; questions of law arising on reports of cases; bills of exceptions; agreed statement[s] of facts; cases, civil or criminal, presenting a question of law; cases in equity presented on demurrer to the bill or when prepared for a final hearing; motions to dissolve injunctions issued after notice and hearing, or continued after a hearing; questions arising on writs of habeas corpus, mandamus, and certiorari, when the facts are agreed [on], or ascertained and reported by a judge. They are to be marked "law" on the docket of the county where pending, and there continued until their determination is certified by the clerk of the district to the clerk of the county, and the court shall immediately after the decision of the question submitted to it, make such order, direction, judgment, or decree, as *it* is fit and proper for the disposal of the case, and cause a rescript in all civil suits, briefly stating the points therein decided, to be filed therein, which rescript

—how disposed of.

Rescript.

shall be certified by the clerk of the district to the clerk of the county where the action is pending, and to the reporter of decisions; and if no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued, the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.

CHAP. 77.

SEC. 43. When parties enter an agreement on the docket of a county under cases named in the preceding section, and transmit arguments in writing to the court before or at its next session for the district, such cases need not be entered on the docket of the district; and the court may pronounce judgment in any county, and cause it to be certified and entered in the county where pending, as of the preceding term.

Parties may argue in writing without entering on docket.
R.S., c. 77, §14.
57 Me., 510.

SEC. 44. When cases mentioned in section forty-two are not entered on the docket of the district within the first two days of the next law term, the opposite party may at that term, enter a complaint, briefly setting forth the facts, and the court, if satisfied of the truth thereof, may render judgment in his favor, as in other cases decided by it; and if the case is on exceptions, treble costs shall be awarded from the time they were filed.

Complaint may be filed for not entering cases on law docket, and how disposed of.
R.S., c. 77, §15
36 Me., 35.
Treble costs.

SEC. 45. The clerk of a county, by virtue of a certificate, provided for in this chapter, received in vacation, shall enter judgment as of the preceding term, and execution may issue as of that term; but all attachments then in force continue thirty days after the next term in that county; and if the defendant was arrested on mesne process and gave bond to disclose after judgment, he may do so after said next term without breach of his bond. *Provided*, that in all cases where a party to a suit dies while the action is pending before the law court, and no suggestion of such death has been made upon the docket of the county where the action is pending, at the time the certificate of decision is received by the clerk of the court in such county, any justice of the supreme judicial court may, in term time or vacation, order such action to be brought or carried forward on such county docket to a subsequent term of the court in such county, in order that such death may be suggested upon the docket, and the proper party or parties entitled to defend or prosecute such suit may enter their appearance therein, and that the judgment in said action may be entered up at such subsequent term, in accordance with such certificate from the law court.

Clerks to enter judgment on certificate as of preceding term; attachments and right to disclose preserved till thirty days after next term.
1877, c. 181.
68 Me., 203.
Provision, where a party to a suit dies, while action is pending before law court.

SEC. 46. When the plaintiff in an action dies before the expiration of thirty days from the rendition of judgment in his favor, or before the expiration of thirty days after the next term of court in the county where the action was pending, in cases where a certificate of decision, provided for in this chapter, shall be received by

Attachments to continue in certain cases where plaintiff dies within thirty days after

CHAP. 77. the clerk of said county, in vacation, and no suggestion of such judgment in his favor, death has been made upon the docket of said courts, execution 1879, c. 86. may issue as is now provided, and all attachments then in force shall continue ninety days after the next term of the court in that county; and if the defendant was arrested on mesne process, and If defendant has been arrested, —proceedings. gave bond to disclose after judgment, he may do so after said next term without breach of his bond.

TRIAL COURTS.

Trial terms, to be held by one judge in each county. **R.S., c. 77, § 17.** **SEC. 47.** For the trial of civil actions and of persons accused of offences, and for the transaction of all other business, except cases named in section forty-two, the court shall be held annually by one of the judges, at the following places and times; and the judges shall so hold said terms, under the direction of the chief justice, that their services shall be divided to each county as equally as may be.

Andros-
coggin. In the county of Androscoggin, at Auburn, on the third Tuesdays of January, April and September.

Aroostook. In the county of Aroostook, at Houlton, on the last Tuesday of February and third Tuesday of September.

Cumberland. In the county of Cumberland, at Portland, on the second Tuesdays of January, April and October, for the transaction of civil business.

Franklin. In the county of Franklin, at Farmington, on the first Tuesday of March and fourth Tuesday of September.

Hancock. In the county of Hancock, at Ellsworth, on the Second Tuesdays of April and October.

Kennebec. 1878, c. 12, §§ 1, 2. In the county of Kennebec, at Augusta, on the first Tuesday of March and the third Tuesday of October, for the transaction of civil business.

Knox. In the county of Knox, at Rockland, on the second Tuesdays of March and December and third Tuesday of September.

Lincoln. In the county of Lincoln, at Wiscasset, on the fourth Tuesdays of April and October.

Oxford. 1881, c. 86. In the county of Oxford, at Paris, on the second Tuesday of March, and third Tuesday of September.

Penobscot. In the county of Penobscot, at Bangor, on the first Tuesdays of January, April and October, for the transaction of civil business, and on the first Tuesday of February and second Tuesday of August, for the transaction of criminal business.

Piscataquis. In the county of Piscataquis, at Dover, on the last Tuesday of February and second Tuesday of September.

Sagadahoc. 1877, c. 150. In the county of Sagadahoc, at Bath, on the first Tuesday of April and third Tuesdays of August and December.

In the county of Somerset, at Skowhegan, on the third Tuesday of March, September and December. **CHAP. 77.**

In the county of Waldo, at Belfast, on the first Tuesday of January, and the third Tuesdays of April and October. Somerset.
1872, c. 8, § 1.
60 Me., 363.
Waldo.

In the county of Washington, at Machias, on the first Tuesdays of January and October, and at Calais, on the fourth Tuesday of April. Washington.

In the county of York, at Saco, on the first Tuesday of January, and at Alfred, on the third Tuesdays of May and September. York.

SEC. 48. No court shall be held on Christmas day, the fourth [day] of July, second Monday of September, thirtieth day of May, or [on] any day designated for choice of president and vice-president of the United States, or for the annual fast or thanksgiving; and when the time fixed for a term of said court falls on either of said days it shall stand adjourned until the next day, which shall be deemed the first day of the term for all purposes. Legal holidays.
1874, c. 202, § 2.

SEC. 49. The justice presiding at such terms shall decide any cause without the aid of a jury, when the parties enter upon the docket an agreement authorizing it. When judge may try cases alone.
R.S., c. 77, § 19.
5 Me., 140.
65 Me., 81.

SEC. 50. When no justice attends on the day for holding a court, the sheriff, or in his absence, the clerk, shall by oral proclamation in the court house and by notice posted on the door thereof, adjourn the court from day to day till a justice attends, and, in case of necessity, without day; and when so adjourned, actions brought for that term shall be entered by the clerk, and they, with all actions on the docket, shall be continued to the next term. When judge does not attend, court to be adjourned; proceedings.
R.S., c. 77, § 20.
56 Me., 425.

SEC. 51. When the court is held by one justice, a party aggrieved by any of his opinions, directions, or judgments, in any civil or criminal proceeding, may, during the term, present written exceptions in a summary manner, signed by himself or counsel, and when found to be true they shall be allowed and signed by such judge; but if he deems them frivolous and intended for delay, he may so certify on the motion of the party not excepting; and such exceptions may then be transmitted at once by such judge to the chief justice, and shall be argued in writing on both sides within thirty days thereafter, unless the judge, for good cause, enlarges the time, and [they shall] be considered and decided by the justices of said court as soon as may be, and the decision certified to the clerk of the county where the case is pending. This section shall apply to exceptions filed in any criminal proceeding in either of the superior courts. (a) Exceptions in civil and criminal cases.
R.S., c. 77, § 21.

—proceedings, if they are deemed frivolous.

—foregoing provisions applied to superior courts.
1880, c. 188.

SEC. 52. When a dilatory plea is overruled and exceptions taken, the court is to proceed and close the trial, and the action Trial to proceed when dilatory

(a) 41 Me., 18; 45 Me., 154, 418; 49 Me., 401; 56 Me., 25, 250, 540; 57 Me., 292; 58 Me., 233; 60 Me., 465; 62 Me., 321; 64 Me., 210; 65 Me., 81; 67 Me., 77, 231, 387, 444.

CHAP. 77. shall then be continued and marked "law," subject to the provisions of the preceding section. (a)

pleas are overruled. R.S., c. 77, §22.

Copies in law cases may be printed or written. 1879, c. 121, § 36.

Interest on verdicts and awards.

1873, c. 138. 36 Me., 122. 50 Me., 338. 53 Me., 515.

Att'y gen'l to attend law courts and instruct co. att'ys.

R.S., c. 77, §24. 1876, c. 114, §1.

To cause witnesses to recognize, and procure attendance of those out of state. R.S., c. 77, §25.

To make annual report. R.S., c. 77, §26.

Not to receive pay from prosecutor. R.S., c. 77, §27.

Reporter; appointment, oath and tenure of office. R.S., c. 77, §28.

He is to make reports, have

SEC. 53. In all cases taken to the law court for argument and decision, except appeals by attorneys at law from judgments of court rendered against them on information, all copies of the case, abstracts containing the substance of all the material facts, pleadings and documents on which the parties rely, may either be printed or fairly and legibly written on good paper.

SEC. 54. Interest is to be allowed on verdicts and amounts reported by referees to be due, from the time of finding such verdicts or making such reports, to the time of judgment.

ATTORNEY GENERAL.

SEC. 55. The attorney general, when practicable, shall attend all the terms of the law court, and [shall] give all proper instructions to county attorneys when he is absent and at other times.

SEC. 56. When a criminal prosecution, in which he appears, is continued, he shall cause the witnesses in behalf of the state to recognize to appear at the next term, unless otherwise directed by court, and may procure the attendance of a witness living out of the state deemed by him material in procuring an indictment or conviction; and the court shall allow such witness a reasonable compensation beyond his legal fees.

SEC. 57. He shall, annually, on the first day of December, make a report to the governor and council of the amount and kind of official business done by him, and [by] the several county attorneys during the year preceding, stating the number of persons prosecuted, their alleged offences, the results, and the punishments awarded, with such suggestions as are deemed useful.

SEC. 58. He shall not receive any fee or reward, from or in behalf of any prosecutor, for official services, or during the pendency of a prosecution, be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts.

REPORTER.

SEC. 59. The governor, with advice of council, in case of a vacancy, shall appoint a person learned in the law, to be reporter of the decisions of the law court, who shall be sworn and hold his office during the pleasure of the executive. (b)

SEC. 60. He shall, by his personal attendance when practicable, or by the best other means in his power, prepare correct reports

(a) 53 Me., 541; 65 Me., 367; 67 Me., 38.

(b) 72 Me., 543-565, 559, 563.

of all legal questions argued, reporting the cases more or less at large according to his judgment of their importance. He shall be entitled to the profits of the work, and shall publish at least one volume yearly, and furnish the usual number of copies to the state at a price fixed by the governor and council; and for two years after publication, shall furnish them at the same price for use in the state, unless he relinquishes to the state his right to the profits thereof. The volumes shall be of the average size of *Metcalf's* [the present Massachusetts] reports, and equal to them in paper, printing, binding, general finish and quantity of printed matter.

SEC. 61. After ceasing to hold office, he shall prepare and publish any unpublished cases argued while in office; and if a reporter dies, his successor shall complete his unfinished work; furnish copies thereof to the state as the deceased was bound to do, and be entitled to the profits thereof, paying to the legal representatives of the deceased such consideration for his interests therein, as the governor and council deem equitable.

CHAP. 78.
the profits,
and sell to
the state at
a price fixed
by executive.
Size and
style of
volumes.
R.S., c. 77, § 29.

After retir-
ing, he is to
publish cases
argued while
in office.
Death of
reporter,
proceedings
in case of.
R.S., c. 77, § 30.

CHAPTER 78.

COUNTY COMMISSIONERS.

THEIR ELECTION AND TENURE OF OFFICE.

- SEC. 1. Board of commissioners to consist of chairman and two resident citizens elected or appointed. Chairman to be designated January first.
2. Vacancies by expiration of term, filled by election; tenure of office.
 3. Vacancies occurring otherwise are filled by appointment.
 4. Mode of election.
 5. Mode of determining who is elected; when they enter on discharge of duties. Provisions applicable to other officers. Copy may be substituted for defective return.

THEIR REGULAR SESSIONS AND CLERK.

- SEC. 6. Regular sessions; times and places thereof.
7. Clerk of the courts to be clerk of commissioners. When he may appoint clerk pro tem. His oath and duty.

THEIR POWERS AND DUTIES.

- SEC. 8. Two are a quorum. Adjournment when only one or none attends.
9. Officers to execute precepts of the board.
 10. Commissioners to be financial agents of the county; manage its business and property, and do all that the law prescribes.

- CHAP. 78.** SEC. 11. They are to provide and keep in repair court houses, jails and fire-proof rooms for the records and papers of the county offices.
12. May provide jail work shops, and raise by loan or otherwise \$5,000 therefor.
 13. May furnish materials and implements, establish rules for government of prisoners employed, and contract for their labor.
 14. Must notify towns of intention to remove site of county buildings; and towns to decide by vote thereon.
 15. To examine jail at each session.
 16. Commissioners and sheriff to publish report of jails each December.
 17. Their power to obtain loans restricted.
 18. Warrants of distress, when and how issued.
 19. Action of debt on a judgment of the board.
 20. No commissioner to be agent to expend money, raised by his board.

THEIR COMPENSATION.

- SEC. 21. Compensation for services and travel, fixed.
22. Accounts of services and travel, how kept and settled. Copy to be published in newspaper and returned to secretary of state.
23. Penalty for overcharging, and how collected.

CUMBERLAND COUNTY.

- SEC. 24. Commissioners of Cumberland, to publish annual financial report.

THEIR ELECTION AND TENURE OF OFFICE.

Board to be a chairman and two other resident citizens. Chairman to be designated Jan. 1. R.S., c. 78, § 1.

SEC. 1. There shall be a board of commissioners for each county, consisting of a chairman and two other citizens resident in the county, elected, or, in case of a vacancy, appointed by the governor, with advice of council. The chairman shall be designated by them at their first meeting on or after the first day of January annually, to act for one year.

Vacancies in office of county commissioners, how filled. 1880, c. 239, § 32. Full term of election, six years.

SEC. 2. Vacancies to occur by expiration of the term of office at the end of any year in which a biennial election is held shall be filled by election on the second Monday of September, in such year. If but one is elected he shall hold the office for six years; if two, the one having the highest number of votes, shall hold for six years, and the next highest for four years; if three, two shall hold as last provided, and the other for two years. If two have an equal number of votes, the governor, with advice of council, shall designate who shall hold for the longer and who for the shorter term.

Vacancies happening otherwise, filled by appointment. R.S., c. 78, § 3. 1880, c. 239, § 33. 50 Me., 609. 61 Me., 604.

SEC. 3. When no choice is effected, or a vacancy happens by death, resignation, or removal from the county, or at the expiration of any present term of office at the end of any year in which no biennial election is held, the governor, with advice of council, shall appoint a person to fill the vacancy, who shall hold office until the first day of January after another has been chosen to fill the place.

Mode of election. R.S., c. 78, § 4.

SEC. 4. County commissioners shall be elected on the second Monday of September, in the year one thousand eight hundred

and eighty and every two years thence following, by the written votes of electors qualified to vote for representatives. The votes shall be received, sorted, counted, and declared, as votes for representatives are; the names of the persons voted for, the number of votes for each, and the whole number of ballots received, shall be recorded by the clerk in the town records, and true copies thereof, sealed and attested as returns of votes for senators, shall be transmitted to the secretary of state within thirty days.

SEC. 5. The governor and council, on or before the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return when found to be erroneous may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, and reasonable notice thereof given to the person to be affected by such correction, and during said twenty days any person voted for, either personally, by or with counsel, shall have the privilege of examining said returns in the presence of the governor and council, or either of them, or any member of the council. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and [they] shall be notified thereof by the secretary of state, be sworn, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected. But, in order to ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes intentionally cast for such person, although his name upon the ballot is misspelled or written with only the initial or initials of his christian name or names; and they may hear testimony upon oath, in relation to such votes, in order to get at the intention of the electors, and decide accordingly. The provisions of this section shall be applied in determining the election of all county officers, and, so far as they relate to the examination and correction of returns, and to ascertaining for whom votes were intentionally cast, they shall be applied in determining the election of representatives to congress, senators and representatives to the state legislature, and electors of president and vice president of the United States. In all cases when a return is defective by reason of any informality, a duly attested copy of the record may be substituted therefor.

CHAP. 78.

1880, c. 239,
§ 34.
64 Me., 592,
594.

Mode of
determining
what officers
are elected.
1880, c. 230.
1880, c. 230,
§ 35.
26 Me., 498.
54 Me., 603,
605.
64 Me., 590,
591, 598-9.
70 Me., 561,
571, 587.
71 Me., 370,
373, 384, 386,
389.

—how noti-
fied.
—when they
shall enter
upon official
duties.

Highest
number of
votes, how
ascertained.

Governor
and council
may hear
testimony.
To the elec-
tion of what
officers
applicable.

In cases of
defective
return, at-
tested copy
of record
may be sub-
stituted.
70 Me., 561,
587.

CHAP. 78.

THEIR REGULAR SESSIONS AND CLERK.

- Regular sessions, times and places. R.S., c. 78, § 6. Androscoggin.
- SEC. 6. They shall hold annual sessions in the shire town of each county at the times following :
- In the county of Androscoggin, on the first Tuesdays of April and October.
- Aroostook. 1871, c. 213. In the county of Aroostook, on the first Tuesdays of January and July.
- Cumberland. In the county of Cumberland, on the first Tuesdays of January and June.
- Franklin. In the county of Franklin, on the last Tuesdays of April and December.
- Hancock. In the county of Hancock, on the fourth Tuesday of January and the second Tuesdays of April and October.
- Kennebec. 1872, c. 55. In the county of Kennebec, on the third Tuesdays of April and August, and the third Tuesday of December.
- Knox. In the county of Knox, on the first Tuesdays of April and December, and the third Tuesday of August.
- Lincoln. In the county of Lincoln, on the second Tuesday of May, the first Monday of September and the last Monday of December.
- Oxford. 1881, c. 81. In the county of Oxford, on the second Tuesday of May, the first Tuesday of September, and the last Tuesday of December, at Paris.
- Penobscot. 1871, c. 193. In the county of Penobscot, on the first Tuesdays of January, April, July, and October.
- Piscataquis. In the county of Piscataquis, on the first Tuesdays of April, August and December.
- Sagadahoc. In the county of Sagadahoc, on the first Tuesdays of March, July and November.
- Somerset. In the county of Somerset, on the first Tuesdays of March and August, and the second Tuesday of December.
- Waldo. In the county of Waldo, on the third Tuesdays of April, August and December.
- Washington. 1881, c. 30, §§ 1, 3. In the county of Washington, at Machias, on the first Tuesdays of January and October, and at Calais, on the fourth Tuesday of April.
- York. In the county of York, at Alfred, on the second Tuesdays of April, and October.
- Clerk of the court to be clerk of the commissioners. When he may appoint clerk pro tem. His oath and duty. R.S., c. 78, § 7. 67 Me., 436.
- SEC. 7. The clerk of the judicial courts in each county is clerk of the commissioners; and when the supreme judicial court and the commissioners are in session at the same time, he may appoint a clerk pro tempore to the commissioners, for whose doings he is responsible. Such clerk shall be sworn, and make a daily record of their doings, and they shall examine it, and when correct certify it, and it shall be copied into their records by the stated clerk.

THEIR POWERS AND DUTIES.

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SEC. 8. Two commissioners constitute a quorum; when only one attends, he may adjourn to a convenient time and place; when no one attends, the clerk may adjourn as provided in section fifty of chapter seventy-seven.

Two a quorum. Adjournment when none or only one attends.

1877, c. 157.

SEC. 9. Sheriffs and their deputies, coroners, and constables, shall execute all legal processes directed to them by the commissioners.

Officers to execute precepts of board.

R.S., c. 78, § 9.

SEC. 10. They shall make the county estimates and cause the taxes to be assessed as required by law; examine, allow and settle accounts of the receipts and expenditures of the moneys of the county; represent it; have the care of its property and management of its business; by an order recorded, appoint an agent to convey its real estate; lay out, alter or discontinue ways, and perform all other duties prescribed by law.

Comm'r's financial agents of county, and do all that law prescribes.

R.S., c. 78, § 10.

60 Me., 363.

69 Me., 364,

375.

SEC. 11. They shall in the shire town of their county, provide and keep in repair, court houses; jails with apartments for debtors separate from criminals; and fire proof buildings of brick or stone for the safe keeping of records and papers belonging to the offices of register of deeds and of probate, and the clerk of the courts, with separate fire proof rooms and suitable alcoves, cases or boxes for each office, and also any other necessary buildings.

To provide and keep in repair court houses, jails and fire-proof rooms for records and papers of county offices.

R.S., c. 78, § 11.

SEC. 12. They may make such additions in workshops, fences and other suitable accommodations, in, adjoining, or appurtenant to the jails in the several counties as may be found necessary for the safe keeping, governing and employing of offenders legally committed thereto by authority of the courts and magistrates of the state, or of the United States. They may raise by loan to their several counties, or otherwise, a sum not exceeding five thousand dollars, to make such alterations and improvements, and to [may] expend so much of said money as may be necessary for the purpose.

May provide workshops, &c., for employment of prisoners in jail.

1873, c. 133, § 1.

—authorized to raise money to make alterations in jails.

1875, c. 3.

SEC. 13. They may provide at the expense of their several counties, suitable materials and implements sufficient to keep at work all persons committed as aforesaid to either of such jails, and may from time to time establish needful rules for employing, reforming and governing the persons so committed, for preserving such materials and implements, and for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed, and may make all necessary contracts in behalf of their several counties.

They may furnish materials, implements, &c.

1873, c. 133, § 2.

—may establish rules, &c.

—and make contracts.

SEC. 14. They shall not remove a county building in the shire town, or erect a new one instead of it more than a half mile from the former location, without first giving notice of their intentions and of the place where they propose to locate it, to the municipal

They are to notify towns of intention to remove site of county

CHAP. 78. buildings; and towns to decide by vote thereon. R.S., c. 78, §12.

officers of each town in the county; who shall present the same to the town at its next annual meeting for the choice of state or town officers, and receive, sort and count the votes of the voters qualified to vote in town affairs, for and against the proposal; and they and the clerks shall certify and return such votes to the clerk of said commissioners, who shall examine them and act according to the decision of a majority.

To examine jails at each session, and may authorize employment of prisoners. R.S., c. 78, §13. 64 Me., 331, 333.

SEC. 15. At the commencement of each session required by law, they shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness, and for their accommodation; and may authorize the employment for the benefit of the county, of prisoners committed for crime, in some suitable manner not inconsistent with their security and the discipline of the prison.

Report of county commissioners and sheriff. 1873, c. 133, § 14.

SEC. 16. The county commissioners and sheriff of each county, shall jointly or separately, in the month of December annually, make a report of the prisons under their charge, embracing therein the moral, intellectual and financial condition thereof, which report shall be published in some newspaper published in said county.

Their power to obtain loans restricted. R.S., c. 78, §14.

SEC. 17. They have power to obtain loans of money for the use of their county, and to cause notes or obligations, with coupons for lawful interest, to be issued for payment thereof at such times as they deem expedient; but such loans shall not exceed ten thousand dollars, without first obtaining the consent of the county, substantially as provided in section fourteen.

Warrants of distress, when and how issued on judgments of the board. R.S., c. 78, §15.

SEC. 18. Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within two years after judgment, and made returnable to the clerk's office within ninety days from their date. New warrants may be issued, within two years from the return day of the last preceding warrant, for sums remaining unsatisfied. No warrant shall be originally issued against a town until twenty days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages is to be included and collected by such warrants as in executions.

Action of debt thereon. R.S., c. 78, §16. 37 Me., 36. 53 Me., 218. No comm'r to be agent to expend money. R.S., c. 78, §17.

SEC. 19. A party, for whose benefit a judgment is rendered by them, may recover the amount in an action of debt founded on such judgment.

SEC. 20. No commissioner shall be appointed to expend money assessed or raised for any purpose by the board of which he is a member.

THEIR COMPENSATION.

Pay of comm'rs \$2.00 a day, and 8 cts. a

SEC. 21. Each commissioner shall receive two dollars a day while actually employed in the service of the county, including

the time spent in travelling, for which he shall have eight cents a mile for the distance actually travelled; but he shall not have more than one travel in the same hearing or session, nor for more than two adjournments of any regular term; nor for service or travel on more than one petition or case at the same time; nor anything for travel or attendance at the legislature connected with the annual county estimates; nor for any additional trouble or expense of any kind.

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mile travel.
1879, c. 150, §6.

SEC. 22. Each shall keep an accurate account of his time and travel, specifying the kind of service performed each day or part of a day, and the places from and to which he travelled each day, and he shall not be allowed for services not so specified. His account shall be audited and examined by the county attorney and clerk, to the truth of which he shall be sworn before one of them; and they shall certify the amount allowed, and no further sum shall be paid. The clerk shall cause a copy of such account to be published in a newspaper printed in the county, if any, and return one to the secretary of state on or before the first day of January in each year.

Accounts of services, how kept and settled. Copy to be published in newspaper and returned to secretary of state.
R.S., c. 78, §19.

SEC. 23. If a commissioner charges in his account any miles not actually travelled, or time not spent, he forfeits ten dollars for each such charge, to be recovered in an action of debt in the name of the county, one half to the complainant, the other to the county.

Penalty for over-charging, and how collected.
R.S., c. 78, §20.

CUMBERLAND COUNTY.

SEC. 24. At the end of each year, the commissioners of Cumberland county shall make out a statement of *the* [its] financial condition *of the county*, showing in detail, all moneys received into and paid out of the treasury, and such other facts and statistics, as may be necessary to exhibit the true state of the finances of the county; and publish in pamphlet form, a reasonable number of copies for distribution among the citizens of the county.

Annual financial report to be published.
R.S., c. 78, §21.
1879, c. 150, §6.

CHAP. 79.

CHAPTER 79.

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

CLERK OF THE JUDICIAL COURTS.

- SEC. 1. Clerks of courts, their election, tenure of office and duties.
2. To be sworn and give bond to the state.
 3. To keep account of moneys received for services, and pay balance to county treasurer annually; other moneys to be paid in thirty days or bond sued.
 4. To receive and give discharges for fines and costs voluntarily paid.
 5. Copies of law cases in which state is party, to be furnished attorney general.
 6. To complete records of deceased clerk; valid when approved by court.
 7. To record lists of justices; copies, evidence. Also discharges of soldiers and seamen; copies, evidence when originals are lost. Fees.
 8. Penalty for taking more than legal fees.
 9. Clerk may appoint sworn deputy, to be paid by him, and for whom he is responsible. Deputy's oath and bond.
 10. The court may appoint clerk pro tem. in absence of clerk; his oath and bond.
 11. Clerks to make extended records in certain civil cases. Brief records in others.
 12. Extended records in indictments for felonies. In misdemeanors, brief record. In criminal appeals, record, how made.
 13. Records to be examined, and if deficient, to be made or corrected.
 14. Disposal of money collected by suit on clerk's bond.
 15. No clerk, register or recording officer to be attorney or to commence suits in his own court.

COUNTY ATTORNEYS.

- SEC. 16. County attorneys, their election and tenure of office. Only residents eligible. Removal vacates.
17. He shall attend all trial terms of court, and the law court, in absence of attorney general; and act with him in law court.
 18. He shall enforce collection of fines and costs, by officers; and annually move county commissioners for examination of officers' bonds. Penalty for neglect, how recovered.
 19. To make annual report to attorney general of the business of his office. Penalty for neglect, and how collected.
 20. When he is absent from a term, court to appoint pro tem., and pay deducted from his salary.
 21. Under same restrictions and obligations as attorney general.
 22. Attorney of Cumberland County may appoint assistant, with approval of justice of S. J. court. His oath, duties, tenure, pay.

ATTORNEYS AT LAW.

- SEC. 23. Qualifications for admission to the bar.

- SEC. 24. Examination to be public before a justice of the S. J. court. Notice of application to be published. Recommendation and fees. CHAP. 79.
25. Oath in open court.
26. Persons not admitted, cannot recover pay for services.

SUMMARY PROCEEDINGS AGAINST ATTORNEYS FOR PAYMENT OF MONEY
COLLECTED.

- SEC. 27. If attorney fails to pay over money collected, court, on written motion, under oath, to cite him to show cause, to be served five days before hearing.
28. To file answer under oath; otherwise, motion taken as confessed.
29. Either party may except to decree of court.
30. If attorney does not perform decree, to be imprisoned.
31. Claimant may sue at common law; attorney not to cite to disclose until he has been in jail ninety days.

REMOVAL OF UNWORTHY ATTORNEYS.

- SEC. 32. Upon information by attorney general or committee of bar, any justice of supreme court may issue rule against any attorney. Service and return.
33. Attorney to file denial before return day.
34. Otherwise, judgment by confession.
35. Judgment final unless appealed from within one week.
36. Appeal, how heard and decided. Appeal may be entered by prosecution, if respondent fails.
37. Prosecution, by whom conducted. Witnesses and costs.
38. Construction of six preceding sections.
39. Penalty for falsely advertising or representing ones-self an attorney.
40. Parties may manage their causes, and employ not exceeding two counsel, or any moral person by power of attorney; but persons disbarred for misconduct are forbidden to appear for any party and are ineligible as magistrates.

CLERKS OF THE JUDICIAL COURTS.

SEC. 1. Clerks of the judicial courts shall be elected and notified, their elections determined and vacancies filled; and they shall enter upon the discharge of their duties at the same time as is provided respecting county commissioners by chapter seventy-eight and hold their offices for *the term of* four years, and perform all duties required by law.

Clerks of courts, how elected.
—vacancies, how filled.
1880, c. 239, § 36.
See c. 78, §§ 1 to 5.
—term.

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

To be sworn and give bond to the state.
R.S., c. 79, § 2.
60 Me., 429.

SEC. 3. He shall keep a true and exact account of all moneys that he receives, or is entitled to receive, for services by virtue of his office, and on the first Wednesday of January annually, render to the treasurer of the county, under oath, a true account thereof,

To keep account of moneys received for services, and pay balance

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to county treasurer annually; other moneys to be paid in thirty days, or bond sued. R.S., c. 79, § 3. 1879, c. 150, § 5.

Receive and discharge fines and costs voluntarily paid. R.S., c. 79, § 4.

Copies of law cases in which state is a party to be furnished to attorney general. R.S., c. 79, § 5.

To complete records of deceased clerk; valid, when approved by court. R.S., c. 79, § 6. 60 Me., 420.

He shall record lists of justices; copies, evidence. Also discharges of soldiers and seamen, copies evidence, when originals are lost. R.S., c. 79, § 7. 60 Me., 420. See c. 81, § 69.

His fees.

Penalty for taking illegal fees. R.S., c. 79, § 8.

Deputy clerk, his appointment and pay. 1874, c. 240, § 1.

specifying the items from which it accrued, and after deducting his salary and the amount allowed him for clerk hire, pay over the residue, if any, to *him* [said treasurer] for the use of the county; but all other moneys belonging to the county shall be paid in thirty days after [they are] received by him; and if he neglects to do so in either case, he shall pay twenty-five per cent. interest thereon *till* [until] paid; and the county treasurer shall notify the state treasurer of any such known delinquency and the clerk's bond shall then be sued.

SEC. 4. He shall receive all fines, forfeitures, and bills of costs, arising or imposed to the use of the state, paid or tendered to him before a precept is issued to enforce collection; and give discharges therefor and enter them of record.

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

SEC. 6. Under the direction of the supreme judicial court, he shall complete unfinished records of a former clerk deceased, when from entries on the dockets and papers on file it sufficiently appears what judgment was rendered. Such record being made and approved by the court shall be deemed valid.

SEC. 7. He shall record the list of justices of the peace and other magistrates furnished by the secretary of state, in a book kept for that purpose; and such record, and also copies thereof duly attested by him, shall be deemed legal, but not conclusive evidence of the due appointment and qualification of all such officers. He shall also record in a book kept for that purpose, properly indexed, certificates of discharge of soldiers and seamen from the army and navy of the United States, for which he shall be entitled to twenty-five cents each; *and* certified copies from such record, when the originals are lost, shall be evidence in court, and in the absence of other proof, [shall] have the same effect as the originals, and only twenty-five cents shall be allowed for such copy.

SEC. 8. A clerk, who exacts or receives more fees, than are allowed by law, forfeits fifty dollars, to be recovered in an action of debt by any person suing therefor to his own use, or by indictment, half to the prosecutor and half to the state.

SEC. 9. Any clerk may appoint a deputy to be paid out of the clerk's salary, for all whose official acts the clerk shall be responsible. Before entering upon his official duties, said deputy shall be sworn and give bond to the clerk, approved by the county commis-

sioners of the county and lodged in the office of the county treasurer, in the sum of eight thousand dollars, with two or more sureties, conditioned that he will faithfully perform all the duties of his office as the statutes relating to clerks of courts now provide. Whenever the clerk is unable to perform the duties of his office, said deputy shall have all the powers and perform all the duties thereof as the clerk, and he shall be subject to the same penalties for any neglect of duty.

SEC. 10. When a clerk is absent or the office is vacant, and an existing or immediate session of the court renders the appointment of a clerk necessary, the court may appoint one to supply the vacancy, until an appointment is made by the governor and council, or during such absence; who shall be sworn, and give such bond as the court orders.

SEC. 11. Clerks shall, without unreasonable delay after the rendition of final judgment, make extended records of proceedings in court, in all actions contested by an issue joined before the court or jury, in actions of flowage, cases in equity, real actions, libels for divorce, petitions for partition, petitions to enforce liens, and actions upon mortgages. In all other [civil] cases, it shall be sufficient to record the names of the parties, date of writ, the term of the court at which [it was] entered, date of service or notice to defendants, the time of rendition of judgment, its nature and amount, and the number of [the] case upon the docket at the judgment term, *and that*, [but] upon motion of either party, the court may, if special cause is shown, order a full record in any case.

SEC. 12. *In criminal prosecutions*, in all indictments for felonies, clerks of judicial courts shall make extended records of the process, proceedings *and* judgment. [and sentence.] In all other indictments, it shall be sufficient to record the title of the case, the nature of the indictment, the term when it was found, the proceedings in brief thereon, and the judgment and sentence of the court. And in all prosecutions brought up by appeal from inferior courts, it shall be sufficient *for such clerks* to record the title of the case, the nature and date of the complaint, the name and official character of the magistrate before whom the case was tried, and the sentence appealed from and [its] date *of the sentence*; to be followed by correct minutes of the proceedings and judgment in the appellate court.

SEC. 13. The supreme judicial court shall cause the records of each clerk to be examined at least as often as there is a change of the clerk, and when they are found to be deficient, direct them to be immediately made or corrected, and when such order is not obeyed, the fact of such deficiency shall be certified to the treasurer of state, who shall cause the clerk's bond to be sued.

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Bond of deputy clerk. 1874, c. 249, § 2.

His powers and duties. 1874, c. 249, § 3.

Court may appoint a clerk pro tem. in absence of clerk, who shall be sworn and give bond. R. S., c. 79, § 9.

Clerks to make extended records in certain cases. 1881, c. 35, § 1.

Brief records in other civil cases.

Extended records in indictments for felonies. 1877, c. 211, § 1. In misdemeanors, brief record.

In criminal appeals, record, how made.

Records to be examined, and when found deficient, made or corrected. R. S., c. 79, § 10. 60 Me., 429. 70 Me., 432.

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Disposal of money collected by suit on clerk's bond. R.S., c. 79, § 11.

No clerk, register or recording officer to be attorney or to commence suits in his own court. 1879, c. 128.

County attorneys how elected; vacancies, how filled. 1880, c. 239, § 37. 71 Me., 384.

To attend all trial terms, and the law court in absence of attorney general. R.S., c. 79, § 13. 67 Me., 129. —to act with attorney general in law court. 1878, c. 65.

He is to enforce collection of fines and costs by officers; and annually move county commissioners for an examination of officers' bonds. Penalty for neglect, how recovered. R.S., c. 79, § 14. See c. 80, § 3.

To make annual report to attorney general of business of his office.

SEC. 14. The money recovered in such suit shall be applied, under the direction of the court, to complete the deficient records. If more than sufficient, the balance enures to the state. If not sufficient, the balance may be recovered by the treasurer of state in an action on the case founded on the bond and facts.

SEC. 15. No clerk, register or recording officer of any court *in this State*, shall be attorney or counsellor in any suit or matter pending in the court in which he is such clerk, register or recording officer; neither shall he commence actions to be entered in his said court.

COUNTY ATTORNEYS.

SEC. 16. County attorneys shall be elected and notified, their elections determined and vacancies filled, and they shall enter upon the discharge of their duties at the same time as is provided respecting county commissioners by chapter seventy-eight, and [they shall] hold their offices for *the term of* two years. None but a permanent resident of the county shall hold such office, and removal from it vacates the office.

SEC. 17. The county attorney shall attend the terms of the court held in his county, and act for the state in all cases in which the state or county is a party or interested, and in the absence of the attorney general from a term in the county or district, [shall] perform his duties in cases in the county, and coming from the county to the district under directions from him; and it shall be the duty of each county attorney to appear and act for the state with the attorney general, in the law court of his district, in all state cases coming into said court from his county; but no additional compensation shall accrue to the county attorney by the discharge of such duties.

SEC. 18. He shall enforce the collection and payment to the treasurer of the county, of all fines, forfeitures, and bills of costs, that accrue to the state, and the faithful performance of their duties by sheriffs, coroners, and constables, and give information to the court of their defaults in this respect; and shall annually move the county commissioners at their meeting, next following the third Tuesday of June, to examine and consider the sufficiency of the sheriff's and coroners' bonds. If he neglects either of said duties, he forfeits not more than a hundred dollars, to be recovered in an action of debt, in the name of the state treasurer and to the use of the state.

SEC. 19. He shall annually by the twentieth day of November, make such a report to the attorney general of the business done in his office during the year ending on the first day of November as he is required to make by section fifty-seven, chapter seventy-

seven, and in case of his failure to do so, he shall forfeit one half of his salary for the current quarter, to be deducted by the governor and council in drawing his salary warrant unless they are satisfied there was reasonable cause therefor.

SEC. 20. When he does not attend a session of the court, or the office is vacant, the court may appoint an attorney to perform his duties during the session, and allow him a reasonable compensation for his services, to be paid from the treasury of the county, and charged to the state as bills of costs are in criminal cases, and the judge shall notify the treasurer of state, who shall deduct the same from the salary of such county attorney.

SEC. 21. He is under the same restrictions and obligations to cause witnesses to be recognized as are imposed on the attorney general, by sections fifty-eight and fifty-six of chapter seventy-seven.

SEC. 22. The county attorney of the county of Cumberland [may] *is hereby authorized to* appoint an assistant, to be approved by the judge of the supreme court for said county. Said assistant shall take the *same oath as that* prescribed for county attorneys; shall assist the county attorney in the ordinary duties of his office, in the drawing of indictments, and in the hearing of complaints before the grand jury, and [in] the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints, before judges of municipal courts and trial justices. The salary of said assistant shall be five hundred dollars, payable in the same manner as that of county attorney, and [he] shall hold his office during the term of the county attorney by whom he is appointed, but may be removed at any time by the court.

ATTORNEYS AT LAW.

SEC. 23. No person who has not been a member of the bar of another state, in good standing and in active practice, for at least three years, shall be admitted to practice law in the courts of this state, unless he shall have studied for at least two years in the office of some attorney at law, or part of the time in such office, and the remainder in some law school, and shall also have passed a satisfactory examination in his legal studies.

SEC. 24. All examinations shall be public, and in the presence of some justice of the supreme judicial court during term time. The time for holding [the] same in each county, not exceeding twice in each year, shall be fixed by the chief justice. The examination shall be partly oral and partly written, and shall be conducted by an examining committee of the bar, in each county, to be appointed by the chief justice. No candidate shall be admitted

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Penalty for neglect and how collected.

R.S., c. 79, § 15.

When he is absent from a term, court to appoint pro tem. and pay deducted from salary.

R.S., c. 79, § 16.
67 Me., 129.

Under same restrictions and obligations as att'y gen'l.
R.S., c. 79, § 17.

Assistant county attorney for Cumberland county.

1873, c. 117, § 1.

—oath of office.

—duties.

—shall act as counsel for state when directed.

—salary.

—term of office.

Qualifications for admission to the bar.
1881, c. 62, § 1.

Examination to be public before a justice of S. J. court.
1881, c. 62, § 2.

Admission of

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candidates.

Recommendation and fees.

Attorney's oath.
R.S., c. 79, § 18.
1881, c. 62, § 2.
See c. 122, § 12.

Person not admitted, cannot recover pay for services.
R.S., c. 79, § 20.
63 Me., 183.

If attorney fails to pay over money collected, court on written motion under oath, shall cite him to show cause, to be served five days before hearing.
R.S., c. 79, § 21.

To file sworn answer; if he does not, motion taken as confessed.
R.S., c. 79, § 22.

Either party may except.

whose examination or character is not satisfactory to the presiding justice, nor unless notice of the intended application is given by the clerk of the court to which application is to be made in some newspaper, for thirty days at least before such admission. All candidates must present to the examining committee, written recommendation from the members of the bar with whom they have studied, and must pay all fees now prescribed by law.

SEC. 25. Upon admission to the bar, he shall, in open court, take and subscribe an oath to support the constitution of the United States, and take the following oath :

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

SEC. 26. No person commencing practice as an attorney or counsellor at law in any other state or place, or in any court in this state, without the qualifications, oaths, and payment of the duty aforesaid, shall be entitled to demand or recover any remuneration for his professional services rendered in this state.

SUMMARY PROCEEDINGS FOR PAYMENT OF MONEY COLLECTED.

SEC. 27. If an attorney at law receives money or any valuable thing on a claim left with him for collection or settlement, and fails to account for and pay over the same to the claimant for ten days after demand, he shall be deemed guilty of a breach of duty as an attorney; and such claimant may file in court in the county where such attorney resides, a motion in writing, under oath, setting forth the facts; and thereupon the court shall issue a rule requiring the attorney to appear on a day fixed and show cause why he should not so account and pay, and to abide the order of court in the premises; which shall be served by copy in hand at least five days before the return day.

SEC. 28. If he then appears, he shall file an answer to such motion, under oath, and the court may examine the parties and other evidence pertinent thereto. If he does not appear and answer, the facts set forth in the motion shall be taken as confessed; and in either case, the court shall render such decree as equity requires.

SEC. 29. Either party may allege exceptions to any ruling or

decree of the court; and they shall be allowed unless deemed frivolous. CHAP. 79.
R.S., c. 79, § 23.

SEC. 30. If the attorney does not perform the decree of the court, he shall be committed for contempt till he does, or is otherwise lawfully discharged; and his name shall be struck from the roll of attorneys. Not performing decree, imprisoned.
R.S., c. 79, § 24.

SEC. 31. The claimant may have his suit at common law against such attorney before filing such motion, or after an adverse decision thereon; and if judgment is recovered against the attorney in either mode, the fact shall be noted on the margin of the execution issued thereon; and when the debtor is arrested thereon, he shall be committed to jail, and no citation to disclose shall be issued till he has been there ninety days. Claimant may sue at common law; debtor not to cite to disclose until in jail ninety days.
R.S., c. 79, § 25.

REMOVAL OF UNWORTHY ATTORNEYS.

SEC. 32. Whenever an information shall be filed in the clerk's office of the supreme judicial court in any county, by the attorney general, or by a committee of the bar of such county, charging that any attorney at law has become and is disqualified for the office of attorney and counsellor at law in the courts of *this* [the] state, for reasons specified in the information, any justice of said court, in term time or in vacation, may issue, in the name of the state, a rule requiring the attorney informed against, to appear on a day fixed, to show cause why his name should not be struck from the roll of attorneys, which rule, with an attested copy of the information, shall be served upon such attorney in such manner as the justice shall direct, at least fourteen days before the return day, and shall be made returnable, either in the county where such attorney resides or where it is charged that the misconduct was committed. Information may be filed in clerk's office by att'y gen'l or committee of bar against any attorney.
1879, c. 138, § 1.
Justice to issue rule on att'y to appear on day fixed and show cause why his name should not be struck from roll.
Service.
Where returnable.

SEC. 33. If the attorney on whom such service has been made shall, on or before said return day, file in the clerk's office of said court in said county of return, a denial of the charges specified in the information, the information shall thereupon stand upon the docket of said court, for hearing at the next term thereof in said county, by the justice presiding, upon such lawful evidence as may be *pronounced* [produced] either by the state or by the respondent. Attorney filing denial of charges, information to stand upon docket for hearing at next term.
1879, c. 138, § 2.
Evidence.

SEC. 34. If such attorney fails to file his denial as aforesaid, the facts set forth in the information shall be taken as confessed, and if the justice presiding shall find that the facts so confessed are sufficient to disqualify the respondent from holding the office of attorney and counsellor at law, or [if] in case of denial the justice shall upon hearing find that any of the charges specified are true and that the acts proved are sufficient to disqualify the respondent as aforesaid, he shall give judgment accordingly and shall enter Attorney failing to file his denial, facts taken as confessed.
1879, c. 138, § 3.
If acts confessed or proved are sufficient to

CHAP. 79. a decree that the respondent be removed from the office of attorney and counsellor at law in all the courts of *this* [the] state and that his name be struck from the roll of attorneys.

disqualify,
name struck
from rolls.

Judgment
final unless
appealed
within one
week.
1879,c.138,§4.

Appeal—
how heard.
1879,c.138,§5.
Respondent
failing to
enter appeal,
—counsel for
prosecution
shall enter it.

Who shall
conduct
prosecution.
1879,c.138,§6.

Witnesses.
Judgment.
Costs.

Construction
of foregoing
sections.
1879,c.138,§7.

Penalty for
any person
falsely ad-
vertising or
representing
himself to be
an att'y or
counsellor.
1881,c.62, § 3.

Parties may
manage their
own causes,
or employ
not exceed-
ing two coun-
sel, or any
moral person
by power of
attorney.
R.S., c. 79, § 19.
1881, c. 62, § 3.
33 Me., 358.
36 Me., 339.
72 Me., 411.

SEC. 35. The judgment of such justice shall be final unless the respondent shall within one week, and before the adjournment of said term, file his appeal therefrom to the law court by entering his claim therefor upon the docket.

SEC. 36. Such appeal shall be heard upon printed copies of the case furnished by the respondent at the next law term held within the district. If the case is not argued, it shall be decided upon the record, and if the respondent fails to enter his appeal with the printed copies of the case during the first three days of said law term, the counsel for the prosecution shall enter the appeal with an attested copy of the judgment and decree, whereupon the same shall be affirmed by the law court.

SEC. 37. The prosecution shall be conducted by the county attorney for the county where the rule is returnable, unless the justice issuing the rule shall appoint some other suitable counsel to perform said duty. Compulsory process shall issue to compel the attendance of witnesses, and in case of decree of removal, judgment shall be rendered in behalf of the state against the respondent for full costs to be taxed by the court.

SEC. 38. The provisions of the six preceding sections shall not be construed to annul or restrict any authority hitherto possessed or exercised by the courts over attorneys.

SEC. 39. Any person not having been admitted to practice law in this state, or whose name shall have been struck from the roll of attorneys, who shall advertise as, or represent himself to be, an attorney [or counsellor] at law, shall, upon conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not more than three months.

SEC. 40. Parties may plead and manage their own causes in court or by the aid of such counsel, not exceeding two on a side, as they see fit to employ; or by any citizen of good moral character who produces in court a letter of attorney for that purpose; but no person whose name shall have been struck from the roll of attorneys for misconduct shall be allowed to plead or manage causes in court under a power of attorney for any other party, or be eligible for appointment as a trial justice, justice of the peace, or justice of the peace and quorum.

CHAPTER 80.

SHERIFFS, CORONERS, AND CONSTABLES.

SHERIFFS.

- SEC. 1. Sheriffs to be elected or appointed, and hold office as provided in the constitution. Oath and bond.
2. Sheriff's bond to be approved by county commissioners, and filed with state treasurer.
 3. Sufficiency of bonds to be examined annually by county commissioners and certified to state treasurer.
 4. If adjudged insufficient, new bond to be given.
 5. Forfeiture, if sheriff neglects to give bond; office vacant if neglect is continued. Proceedings in such cases.
 6. New bond may be required by governor and council in certain cases.
 7. New bond may be required on request of sureties to be discharged. Proceedings.
 8. Sheriff to notify coroners of the county of his election or appointment; may appoint deputies; sheriff answerable for their acts.
 9. To obey orders and directions of governor for enforcement of laws.
 10. Sheriff and deputies to serve precepts. Fees to be paid in advance.
 11. Writ against a deputy may be served by any other deputy.
 12. Sheriffs and deputies have same authority, and deputies under same obligations, to serve processes in their hands when ceasing to hold office, as before; neglects or misdoings of deputy in such case, breach of sheriff's bond.
 13. Actions against sheriff or deputy for neglect or misdoing, survive the sheriff, and may be sued against his executor or administrator.
 14. Person injured by neglect or misdoing of sheriff, may sue on bond, for ascertained damages, in name of state treasurer, at his own expense. Writ to be indorsed by person suing or his attorney, who alone are responsible for costs. How judgment is to be rendered if for or against treasurer.
 15. Proceedings in action on sheriff's bond. Declaration may be filed with clerk of courts, who shall issue summons to defendant, specifying cause of action. Plaintiff liable for costs.
 16. Property of defendant may be attached on such summons as on mesne process. Service of summons. Rights of person filing declaration. Defendant held to answer. Judgment rendered as in an original action.
 17. Damages assessed on rendition of judgment. Executions how issued.
 18. Copy of sheriff's bond to be delivered by state treasurer to any one paying for it. Copy competent evidence unless its execution is disputed.
 19. Sheriff not liable to arrest in civil action. Execution to issue against his property only. If not satisfied within forty days, sheriff vacates his office, and clerk may issue alias against property and body.
 20. Fees not to be paid by deputies to sheriff on justice executions, nor more than twelve per cent. in any case, notwithstanding bond provides otherwise.

- CHAP. 80. SEC. 21. Deputy sheriff to keep account of fees for travel and service and return same to sheriff under oath, within twenty days after first of December annually.
22. Sheriff to make return, under oath, to county treasurer, annually in December, making statement in detail of emoluments accruing to himself and deputies for the year.
23. What sums may be retained by sheriffs in their respective counties.

JAILS AND JAILERS.

- SEC. 24. Sheriff to have charge of the jail in his county and keep it himself or appoint a jailer, for whose conduct he is answerable.
25. When a vacancy occurs in office of sheriff, jailer to continue in charge until new sheriff is qualified; his misdoings, a breach of his principal's bond. Governor and council may appoint jailer, who shall give bond, as required of sheriff.
26. If office of jailer becomes vacant while office of sheriff is vacant, county commissioners may appoint jailer, who shall give bond. Tenure of his office.
27. Jail to be kept clean and healthy, by sheriff.
28. Jailer and family to reside in house provided by county commissioners; forfeiture for neglect to do so.
29. Sheriff or jailer may make contracts for work, with consent of commissioners, who shall audit all accounts.
30. Jailer shall furnish books and instruction to prisoners, and exclude immoral or irreligious books, &c.
31. Prisoners to be paid for labor performed before sentence.
32. Deduction from sentence, for good conduct; rate and proportion.
33. Sheriff to keep in a bound book, a calendar containing names and particular description of all persons committed, by what authority and for what cause; also time of discharge or escape.
34. Jailer to return to supreme or superior court, at each criminal session, a list of prisoners in custody, certifying cause of commitment, and by whom committed, and shall have calendar in court for inspection.
35. Official papers in relation to commitment or discharge of prisoners to be filed and kept with calendar and delivered to successor. Penalty for neglect.
36. Sheriff answerable for delivery of prisoner to his successor, and shall continue to have charge of jail for that purpose.
37. When jail is insecure, any justice of the supreme court may order the transfer of prisoners.
38. Sheriff liable to person committing if prisoner escapes through negligence of jailer or insufficiency of jail.
39. When escape happens through insufficiency of jail, amount paid by sheriff to be repaid by county; proceedings.
40. In action of sheriff against county, commissioners may appoint agent to defend; execution may be levied on property of any inhabitant; his remedy.
41. Prisoners for debt to be kept separate from those charged with crime, and minors separate from notorious offenders.
42. Penalty if prison keeper violates provisions of preceding section, or furnishes intoxicating liquors to prisoners.
43. Liability of prison keeper if criminal escapes through negligence. Liability of sheriff if debtor escapes.
44. Duty of jail keepers to receive and keep prisoners committed by authority of United States.

SEC. 45. When person dies in jail, his body to be delivered to his friends, disposed of for anatomical purposes, or buried in common burying ground; expense of burial to be paid by town where he had a legal settlement. CHAP. 80.

46. Fines to be applied to the building or repair of jails.

CORONERS.

SEC. 47. Coroners' appointment and bond.

48. Provisions of sections three, four, seven, and fourteen to eighteen, applicable to coroners as well as to sheriffs.

49. Powers of coroner to serve precepts.

CONSTABLES AND POLICE OFFICERS.

SEC. 50. Powers of constables to serve precepts. Constables to give bond to town; forfeiture for serving precept before giving bond.

51. Remedy for misconduct of a constable the same as on sheriff's bond.

52. Constables of Bristol may serve on Muscongus and Harbor islands.

53. Police officers of cities have power of constables in certain matters.

PROVISIONS RELATING TO SHERIFFS, CORONERS, AND CONSTABLES.

SEC. 54. Constable may serve certain warrants in any town in his county. Sheriff, deputy, coroner or constable may serve certain warrants, and convey prisoner, in any county.

55. Officers may serve precepts for work-jails in several counties.

56. Aid may be required by sheriff, deputy, coroner or constable. Penalty for neglect or refusal to give aid.

57. Service of precept being commenced, and officer becoming disqualified, it may be completed by another officer.

58. Copy of writ on which attachment has been made, to be delivered to defendant by officer, plaintiff, or attorney, on tender of fee. Penalty for neglect.

59. Penalty for neglect of officer to pay, on demand, money collected.

60. No officer to appear as attorney or draw any paper relating to a suit, for any other person; such acts void. No employe of jailer to act as magistrate or attorney, and such acts void.

61. In actions against officers, when principal defendant is out of the state, service how made.

SHERIFFS.

SEC. 1. Sheriffs shall be elected or appointed and [shall] hold their offices according to the provisions of the constitution, and their election shall be effected and determined as is provided respecting county commissioners by chapter seventy-eight, and [if elected, they] shall enter upon the discharge of official duty on the first day of January following. Every person elected or appointed sheriff shall be duly sworn; and if for either of the counties of York, Cumberland, Kennebec or Penobscot, before receiving his commission, [he] shall give bond to the treasurer of the state, with at least three sufficient sureties, in the sum of forty thousand dollars; and if for either of the other counties, in the sum of twenty-five thousand dollars, conditioned for the faithful perform-

Sheriffs to be elected or appointed, and to hold office as provided in the constitution. Their oath and bond. R.S., c. 80, § 1.

CHAP. 80. ance of the duties of his office, and to answer for all neglects and misdoings of his deputies.

Bond to be approved by county commissioners, and filed with treasurer.
R.S., c. 80, § 2.
11 Me., 245.

SEC. 2. Every sheriff, having executed such bond within such term, shall file it in the office of the clerk of the county commissioners of his county, to be presented to them at their next meeting for approval, and after *being* [the bond has been] so approved the clerk shall record it and certify the fact thereon, and retaining a copy thereof, deliver the original to the sheriff, who shall deliver it to the treasurer of state, within twenty days after its approval, to be filed in his office.

Sufficiency of bonds to be examined annually.
R.S., c. 80, § 3.
See c. 79, § 18.

SEC. 3. The county commissioners in each county, at their first meeting after the third Tuesday of June, on motion of the county attorney, shall annually examine into the sufficiency of the bond of the sheriff in their county, and cause a record of their determination to be made by their clerks, who shall certify the same to the treasurer of state within thirty days.

If adjudged insufficient, new bond to be given.
R.S., c. 80, § 4.

SEC. 4. If the bond of any sheriff is adjudged insufficient, the clerk, within ten days, shall certify that fact to him, who, within twenty days thereafter, shall give a new bond with sufficient sureties, to be filed in the office of the clerk of the county commissioners and approved as aforesaid, and then filed in the office of the treasurer of state.

Forfeiture for neglect to give bond; office vacant if neglect is continued.
R.S., c. 80, § 5.

SEC. 5. Any sheriff, for each month's neglect to give the security required in the first or fourth section, shall forfeit *the sum of* one hundred and fifty dollars to the use of the state, to be recovered in an action of debt by the treasurer of state, and the attorney general shall prosecute therefor; and the clerk of his county shall certify such sheriff's name to the governor and council and the attorney general; and unless reasonable cause therefor is shown, or within twenty days after the clerk has so certified, he gives or renews his security to the satisfaction of the governor and council, he thereby vacates his office.

In what cases governor may require new bond.
R.S., c. 80, § 6.

SEC. 6. When the treasurer of state certifies to the governor and council that moneys due to the state on warrants, or any other sums or balances are in the hands of a sheriff, and furnishes the names of his sureties, and it appears to them that the sureties are insufficient, or have removed from the state, they may require him to give a new bond, with sufficient sureties, within sixty days after he is notified, to be filed as aforesaid, and if he neglects it, his office becomes vacant.

New bonds required on application of sureties.
R.S., c. 80, § 7.

SEC. 7. When a surety on the official bond of a sheriff, or his heirs, executors, or administrators, petitions the county commissioners of the same county to be discharged therefrom, they shall cause an attested copy of the petition to be served on such sheriff, and may require him to give a new bond to their satisfaction;

and when it is given and accepted, such surety or his legal representatives, shall not be liable for any neglects or misdoings thereafter.

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SEC. 8. Every sheriff, elected or appointed, shall give notice thereof to the coroners of his county; and may appoint deputies, for whose official misconduct and neglect he is answerable, and they shall be duly sworn. Their appointment and discharge shall be in writing, signed by him, and recorded in the office of the clerk of the courts in his county, and shall not be valid until so lodged and recorded, except by operation of law or by vacancy in the office of sheriff. For recording such appointment or discharge the sheriff shall pay the clerk twenty-five cents. He shall also furnish to the clerks of the courts in each county, the names of the deputies by him appointed from time to time, with their residence and post-office address. (a)

To notify coroners; may appoint deputies, and must furnish clerk of each county a list thereof.
R.S., c. 80, § 8.

SEC. 9. *It shall be the duty of sheriffs to* [shall] obey all such orders and directions relating to the enforcement and execution of the laws of the state as they shall from time to time receive from the governor.

To obey directions of governor.
1872, c. 62, § 1.
67 Me., 375.
See c. 27, § 61.

SEC. 10. Every sheriff and each of his deputies shall serve and execute, within his county, all writs and precepts issued by lawful authority, to him directed and committed, including those in which a town, plantation, parish, religious society, or school district, of which he is at the time a member, is a party or interested, but his legal fees for services shall first be paid or secured to him; and if they are not, when the process is delivered to him, he shall forthwith return it to the plaintiff or attorney offering it; or if sent to him by mail or otherwise, shall put it into some post office within twenty-four hours, directed to the person sending it; otherwise he shall be deemed to have waived his right to his fees before service.

Duty of sheriff and deputies to serve precepts; their fees to be paid or secured.
R.S., c. 80, § 9.
1 Me., 363.
22 Me., 16.
24 Me., 55.
42 Me., 426.
54 Me., 205.

SEC. 11. Any writ or precept in which the deputy of a sheriff is a party may be served by any other deputy of the same sheriff.

Writ against deputy may be served by other deputy.
1879, c. 82.

SEC. 12. Sheriffs and their deputies have the same authority, and the deputies are under the same obligation to serve, execute, and return all processes in their hands, when, for any cause, they cease to hold such office, as before; and official neglects or misdoings of a deputy after his principal is out of office, are a breach of such sheriff's bond.

Duty of sheriffs and deputies in serving processes, on vacating office.
R.S., c. 80, § 10.
55 Me., 548.

SEC. 13. Actions for the neglect or misdoings of a sheriff or his deputies shall survive the sheriff, and may be sued against his executors or administrators.

Actions survive against them.
R.S., c. 80, § 11.

(a) 18 Me., 63, 270; 19 Me., 439; 23 Me., 327; 25 Me., 312; 29 Me., 74; 31 Me., 165; 33 Me., 424; 36 Me., 544; 51 Me., 550.

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Persons injured by misdoings of sheriff may sue his bond, in name of state treasurer, at his own expense. Writ to be indorsed; costs.

How judgment is to be rendered.
R.S., c. 80, § 12.
46 Me., 498.
49 Me., 177.
51 Me., 518,
553.
56 Me., 218.

Actions on sheriff's bond, proceedings.
R.S., c. 80, § 13.

Service.
Right of person filing declaration.
Defendant to answer.
R.S., c. 80, § 14.

Damages assessed on rendition of judgment.
Execution, how to issue.
R.S., c. 80, § 15.

Any person entitled to a copy of the bond; unless contested, legal evidence.
R.S., c. 80, § 16.

SEC. 14. Any person, injured by the neglect or misdoings of a sheriff, who has first ascertained the amount of his damages by judgment in a suit against him, his executors or administrators, or by a decree of the probate court allowing his claim, may, at his own expense, in the name of the treasurer, institute a suit on his official bond in the county where he was authorized to act, and prosecute it to final judgment and execution. His name and place of residence, or that of his attorney, shall be indorsed on the writ, and the indorser alone shall be liable for costs. If judgment is rendered for the treasurer, it shall be for the damages ascertained as aforesaid, or so much thereof as remains unpaid, with interest, and the party's name for whose use the suit was brought, shall be expressed in the execution issued thereon. If the judgment is for the defendant, it shall be against the party for whose use the suit was brought.

SEC. 15. Any other person, having a right of action on such bond, may file an additional declaration in the same action in the office of the clerk of the courts, who shall issue a summons, directed to the defendant, specifying the cause of action and the amount demanded, returnable to the same court and indorsed by the name and place of residence of such other person, or his attorney; and such indorser shall be liable for costs the same as indorsers of writs.

SEC. 16. The property of the defendant may be attached on such summons as on mesne process, and it shall be served on the defendant as an original summons; and thereupon such person shall have all the rights of a plaintiff in the suit; and the defendant shall answer to said declaration, and judgment may be rendered thereon as if it was filed in an action originally instituted for the same cause.

SEC. 17. When judgment is rendered against the defendant in such action, damages shall be assessed on each declaration for the amount which the party filing it would recover in a suit on the bond, with costs; and executions shall issue therefor, in the name of each party so recovering, in the order in which the declarations were filed, but not beyond the amount of the bond. If judgment is for the defendant on any such declaration, execution shall issue against the party filing it for costs. No such action shall be dismissed, discontinued or nonsuited, except by order of court, without the consent of all parties interested as plaintiffs.

SEC. 18. The treasurer shall deliver an attested copy of a sheriff's bond to any one applying and paying for it, which shall be competent evidence in any case relating thereto, unless its execution is disputed, in which case, the court may order the treasurer to produce it in court for the purposes of the trial.

SEC. 19. No sheriff shall be arrested upon any writ or execution in any civil action; but when a judgment is rendered against him in his private or official capacity, the execution thereon shall issue against his property, but not against his body; yet he may, after notice that such execution has issued, unless upon a judgment for his own official delinquency, cite the creditor and make disclosure of the actual state of his affairs in the manner provided by law for poor debtors arrested upon execution; and if the execution is returned unsatisfied, and he shall not have made such disclosure, or if the judgment was rendered for his own official delinquency, the creditor may file an attested copy of such execution and return, with the governor and council, and serve on such sheriff a copy of such copy, attested by the secretary of state, with a notice under his hand of the day on which such copy was filed; and if such sheriff does not within forty days after such service, pay the creditor his full debt with reasonable cost for copies and services of them, he thereby vacates his office. But when he ceases to be sheriff, the clerk may issue alias executions against his property and body, if he has not before disclosed under the provisions of this *act* [chapter.]

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Sheriff not liable to arrest in civil action; executions issue against his property; but he may disclose. Failing to pay or disclose, he vacates his office. Alias execution against his body in such case. R.S., c.80, §17.

SEC. 20. No sheriff shall receive from his deputies any portion of the fees for levying and collecting executions issued by a justice of the peace, wherein the debt or damage does not exceed twenty dollars; nor more than at the rate of twelve per cent. on the amount of fees for travel and service of precepts; nor a percentage on any items, except travel and service, notwithstanding his bond otherwise provides.

Fees of sheriff from deputies. R.S., c.80, §18.

SEC. 21. Each deputy sheriff shall keep a true account, with the items *thereof*, of all fees for travel and service, and other emoluments accruing to him by virtue of his office, and within twenty days after the first day of December annually, return, under oath, to the sheriff, a true copy of such account up to that time.

Deputy to keep account of fees, and return to sheriff. R.S., c.80, §19.

SEC. 22. Each sheriff, within ten days after the twentieth day of December annually, from the accounts so returned to him by his deputies, shall state a true account of the amount of such fees for travel, services and other emoluments, specifying the different classes of items accruing to his deputies, and of the amount of such fees and other emoluments accruing to himself from his deputies within the preceding year, and make a true return thereof under oath, to the treasurer of his county, and pay to him, for the use of the county, the residue, after deducting the sum allowed him in the following section.

Sheriffs to make return of emoluments to county treasurer annually. R.S., c.80, §20.

SEC. 23. The sheriffs of the counties of York, Cumberland, What sums

CHAP. 80. Lincoln, Penobscot, and Kennebec, are allowed seven hundred dollars each; of Oxford and Somerset, five hundred dollars each; of Androscoggin, Hancock, Knox, Sagadahoc, Waldo and Washington, four hundred dollars each; of Piscataquis, three hundred and fifty dollars; of Franklin, three hundred dollars, and of Aroostook, one hundred and twenty-five dollars.

JAILS AND JAILERS.

Sheriff to have custody of jail and prisoners, and answerable for jailer.
1873, c. 133, § 3.
—may appoint assistants.

When vacancy in office of sheriff, jailer to continue.
When governor may appoint a jailer.
R.S., c. 80, § 23.

When office of jailer and sheriff vacant; county commissioners may appoint jailer.
R.S., c. 80, § 24.

Jail to be kept clean and healthy.
R.S., c. 80, § 25.

Jailer to live at jail if suitable; forfeiture for neglect.
R.S., c. 80, § 26.

Sheriff or jailer may make contracts for work with consent of

SEC. 24. The sheriff shall have the custody and charge of the jail in his county, and of all prisoners therein, and shall keep it himself, or by his deputy, as jailer, master or keeper, for whom he shall be responsible. The jailer, master or keeper shall appoint all subordinate assistants and employes for whom he shall be responsible and the pay of whom, including the jailer, shall be fixed by the county commissioners, and paid by their several counties.

SEC. 25. When a vacancy occurs in the office of sheriff, the jailer then lawfully acting, shall continue in office, and retain the charge of the jail, and of all prisoners therein, or committed thereto, and his official neglects and misdoings shall be a breach of his principal's official bond, until a new sheriff is qualified, or the governor and council remove such jailer and appoint another, which they are authorized to do; and the jailer so appointed shall give bond, in the manner required of a sheriff for the faithful discharge of his duties.

SEC. 26. If the office of jailer becomes vacant, while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do, and continue in office, if his appointment is confirmed at their next meeting, during the vacancy in the office of sheriff, or until he is removed, and a new jailer appointed.

SEC. 27. The sheriff shall see that the jail in his county is kept as clean and healthy as may be; cause the walls to be whitewashed in April or May annually, and as often as the county commissioners order, at the expense of the county; and pay strict attention to the personal cleanliness of the prisoners.

SEC. 28. Every keeper of a jail shall reside constantly, with his family, if he has any, in the house provided for him, if it is good and sufficient in the opinion of the county commissioners; and if he neglects so to do, he shall forfeit, not exceeding three hundred dollars, to be recovered by indictment to the use of the county.

SEC. 29. The sheriff, by himself or his deputy, *he being keeper of* [keeping] the jail, with the consent of the commissioners, may make contracts in behalf of *the several counties* [his county] necessary and proper to be made, for the carrying on manufactur-

ing or other industry, with like effect as when made by the commissioners themselves. The business shall at all times be open to the inspection of said commissioners, whose duty it shall be to examine the workings of their several jails at least once in every three months, audit all receipts and expenses thereof, and order all payments necessary from their several county treasurers.

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commissioners, who shall audit all receipts and expenses.
1873, c. 133, § 4.

SEC. 30. The jailer, at the expense of the county, shall furnish to each prisoner in his custody who is able to read, a copy of the bible, and such religious instruction on each successive *Sabbath* [Sunday] to all as he may be able to obtain without expense, and to such as may be benefited thereby, instruction in reading, writing and arithmetic, one hour each evening, except Sundays. It shall be his further duty to receive, from whatever source, by loan or contribution, any books or literature of a moral or religious tone, for their use, but to exclude those of opposite tendencies.

Jailer shall furnish books and instruction to prisoners.
1873, c. 133, § 5.

—shall receive books by loan, &c.

SEC. 31. Any person charged with crime, or awaiting sentence, while confined in any jail where provision for labor has been made, who may choose to labor, as provided for persons under sentence, shall receive therefor such sum of money as in the judgment of the county commissioners of said county he *had* [has] earned.

Compensation for labor of prisoners before sentence.
1873, c. 133, § 11.

SEC. 32. The keeper of each jail shall keep a record of the conduct of each convict, and for every month during which it appears by such record that such convict has faithfully observed all the rules and requirements of the prison, such convict shall be entitled to a deduction from his sentence according to and not exceeding the following rate and proportion: for a convict under sentence for six months and less than one year, two days for each month of good conduct; for one year and over, three days per month; and for every day any convict shall be punished for disobedience of the rules of said jail, a record thereof shall be made and two days deducted therefor from any commutations to which he may be entitled.

Deduction from sentence for good conduct.
1878, c. 11.

—rate and proportion.

SEC. 33. Every sheriff shall keep, in a bound book provided for that purpose, a true and exact calendar, containing, distinctly and fairly registered, the names of all prisoners who are committed to the jail under his charge, their places of abode, additions, time of their commitment, for what cause, and by what authority; and a particular description of the persons of those committed for criminal offences; and he shall register in said book the name and description, the time when, and the authority by which any prisoner was discharged; and the time and manner of any prisoner's escape.

Sheriff to keep record of persons committed, with a description of each, and other particulars.
R.S., c. 80, § 27.

SEC. 34. Every jailer, at the opening of [every criminal term of] the supreme judicial [or superior] court for his county, shall

Jailer to return list of prisoners at

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each criminal session of supreme or superior court.

Penalty.

R.S., c. 80, § 28.

71 Me., 407.

Official papers, to be filed and kept with calendar, and delivered to successor.

Penalty.

R.S., c. 80, § 29.

71 Me., 407.

Sheriff answerable for delivery of prisoners to successor.

R.S., c. 80, § 30.

Any judge of the supreme court may order the transfer of prisoner when he deems the jail insecure. 1871, c. 203.

Liability of sheriff for escape of prisoners.

R.S., c. 80, § 31.

71 Me., 578.

If through insufficiency of jail, sum paid by sheriff to be repaid by county; proceedings.

R.S., c. 80, § 32.

Agent to defend, sheriff may be ap-

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

SEC. 35. All warrants, mittimus, processes, and other official papers, by which any prisoner is committed or liberated, or attested copies of them, shall be regularly filed in order of time; and with the calendar aforesaid safely kept in a suitable box; and when he vacates his office, [they] shall be, by the sheriff, or his personal representative, delivered over to his successor, on penalty of *forfeiting* two hundred dollars, to the use of the county.

SEC. 36. Every sheriff shall be answerable for the delivery over to his successor of all prisoners in his custody at the time of his removal; and for that purpose, shall retain the keeping of the jail in his county, and the prisoners therein, until his successor enters on the duties of his office.

SEC. 37. Whenever complaint on oath is made to any justice of the supreme judicial court that the jail in any county is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than three days' notice of such complaint to be given to the jailer or sheriff, to appear at the time and place fixed in said notice, and if on examination the matter complained of shall be found true, he may issue his warrant for the transfer of such prisoner to any jail wherein he may be more securely kept; and the same shall be at the expense of the county from which the prisoner is removed.

SEC. 38. When any prisoner escapes through the insufficiency of the jail, or the negligence of the sheriff or jailer, the sheriff shall be chargeable to the creditor, or other person, at whose suit he was committed, or to whose use any forfeiture was adjudged against such prisoner.

SEC. 39. When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay the sheriff the amount paid by him to such party; and if they do not make such order within six months after the demand is laid before them, the sheriff may bring his action on the case against the inhabitants of such county, to be tried therein, or in an adjoining county; and an attested copy of the writ left with the county treasurer, thirty days before the sitting of the court to which it is returnable, is a sufficient service.

SEC. 40. The commissioners may appoint an agent, to appear and defend the suit; and if they have no meeting between the

time of service and the return day thereof, it shall be continued to the next term, saving all advantages to the defendants; and if judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who shall have his remedy against the county to recover the amount so levied.

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pointed by
comm'rs.
Execution,
how levied.
R.S., c. 80, § 33.

SEC. 41. Every prison keeper shall keep prisoners committed for debt, separate from prisoners charged with felony or infamous crimes; and all minors so committed, and all prisoners upon a first charge, before or after conviction, separate from notorious offenders, and those convicted more than once of felony or infamous crimes, [so far] as the construction or state of the prison will admit.

Prisoners
for debt to
be kept sepa-
rate from
felons, and
minors apart
from old
offenders.
R.S., c. 80, § 34.

SEC. 42. If any prison keeper violates the provisions of the preceding section, or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any crime, to have any *spirituous* [intoxicating] liquors, or in part *spirituous*, [intoxicating] unless the physician authorized to attend the sick in such prison, in writing, certifies that such prisoner's health requires it and prescribes the quantity, he shall, in each case, for the first offence, forfeit twenty-five dollars, and for the second offence, fifty dollars, to be recovered by indictment for the use of the county, or by any person suing therefor, to his own use; and shall be removed from office, and incapable of holding the office of sheriff, deputy sheriff, or jailer, for the term of five years; and if he, or any other person, gives, sells or delivers to any person committed to jail on mesne process or execution, or to any other person for his use, any *spirituous* [intoxicating] liquors, without the consent in writing of the overseers of the poor of the town where the jail is situated, he shall forfeit not less than five, nor more than ten dollars, *to be recovered on complaint before a trial justice, municipal or police court*, one half to the use of said town, and the other to the prosecutor.

Penalty for
violation of
preceding
section, or
for furnish-
ing intoxi-
cating
liquors to
prisoners.
R.S., c. 80, § 35.

SEC. 43. If any prison keeper, through negligence, suffers any prisoner charged with crime to escape, he shall pay such fine as the court before which he is convicted inflicts, according to the nature of the offence charged against the escaped prisoner; if any person committed for debt escapes from prison, and the sheriff or jail keeper, within three months thereafter, *recovers and* returns him thereto, the sheriff shall be liable for no more than the costs of any action commenced against him therefor.

Liability of
keeper and
sheriff if
prisoner
escapes.
R.S., c. 80, § 36.

SEC. 44. The keepers of the several jails *in this state* shall receive and safely keep all prisoners committed under the authority of the United States, until discharged by law, under the penalties provided by law for the safe keeping of prisoners under the laws of *this* [the] state.

Jailers to re-
ceive U. S.
prisoners.
R.S., c. 80, § 37.

SEC. 45. When a person dies in jail *in any county*, the jailer

When person

CHAP. 80.

or sheriff shall deliver his body to his friends, if requested ; otherwise, he shall dispose of it for anatomical purposes as provided in chapter thirteen, unless the deceased at any time requested to be buried, in which case he shall bury it in the common burying ground, and the expenses thereof shall be paid by the town in which he had a legal settlement, if any in the state, and if not, by the state.

Fines to be applied to building and repair of jails.
R.S., c. 80, § 39.

SEC. 46. All fines arising from breaches of any of the provisions of this chapter, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offence is committed.

CORONERS.

Appointment and bond of coroners.
R.S., c. 80, § 40.
72 Me., 556.

SEC. 47. Every coroner shall be appointed and hold his office according to the provisions of the constitution, be sworn, and give bond to the treasurer of state, with sufficient sureties, to the satisfaction of the county commissioners of his county, for the faithful discharge of his duties ; such bond shall be transmitted to such treasurer, as a sheriff's bond is ; but when it is approved, by the certificate of two county commissioners, and filed with the clerk of his county, he may discharge his duties till the first day of their next stated session, and not afterwards, unless his bond is then approved by them.

Certain sections applicable to coroners.
R.S., c. 80, § 41.

SEC. 48. All the provisions of sections three, four, seven, fourteen, fifteen, sixteen, seventeen and eighteen, apply to coroners as well as to sheriffs ; and any coroner neglecting to give the new bond required by section four, thereby vacates his office.

Of coroner's powers to serve precepts.
R.S., c. 80, § 42.
1879, c. 82.
1 Me., 363.
21 Me., 482.
51 Me., 548.
54 Me., 205.
63 Me., 404.

SEC. 49. Every coroner shall serve and execute, within his county, all writs and precepts in which the sheriff thereof is a party, unless served by a constable, or while the office of sheriff therein is vacant, including those in which a town, plantation, parish, religious society, or school district, of which he is at the time a member, is a party or interested ; and may lawfully serve, execute and return any process in his hands when his term of office expires, or he is notified of the qualification of the sheriff of his county, after a vacancy.

CONSTABLES, AND POLICE OFFICERS.

Constables may serve precepts.
R.S., c. 80, § 43.
5 Me., 79.
11 Me., 334.
39 Me., 532.
48 Me., 255.
68 Me., 202.

SEC. 50. A constable may serve, execute and return, upon any person in his town, or in an adjoining plantation, any process of forcible entry and detainer, or any writ or precept in a personal action, when the damage claimed does not exceed a hundred dollars, including those in which a town, plantation, parish, religious society, or school district, of which he is a member, is a party or interested ; but before he serves any process, he shall give bond

—to give

to the inhabitants of his town in the sum of five hundred dollars, with two sureties, approved by the municipal officers thereof, who shall indorse their approval on said bond in their own hands, for the faithful performance of the duties of his office, as to all processes by him served or executed; and for every process he serves before giving such bond, he shall forfeit not less than twenty, nor more than fifty dollars, to the use of any person suing therefor.

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bond.

Forfeiture
for neglect.

SEC. 51. Persons injured by the neglect or misdoings of a constable may have the same remedy by preliminary action, and action on his bond, as is provided in case of a sheriff's bond.

Remedy for
misconduct
of constable.
R.S., c. 80, § 44.

SEC. 52. The constables of the town of Bristol may serve all precepts on the island[s] called Muscongus and Harbor islands, in the county of Lincoln, as in their own town, until said islands can legally elect constables.

Constables
of Bristol
may serve on
islands.
R.S., c. 80, § 45.

SEC. 53. Police officers, duly appointed in any city, shall have all the powers of constables in all criminal matters, or relating to the by-laws of their city.

Police have
powers of
constables.
R.S., c. 80, § 46.

PROVISIONS RELATING TO SHERIFFS, CORONERS, AND CONSTABLES.

SEC. 54. A warrant duly issued by a municipal or police court, or a trial justice, for an offence committed in his county, or under the law for the maintenance of bastard children, may be directed to and executed by a constable of any town therein; and if the accused has gone into another county before or after the warrant was issued, a sheriff or his deputy, coroner, or constable, having the warrant, may pursue and arrest him in any county, and carry him to the county where the act complained of was committed; and when any such officer arrests a person to commit him to the jail of his county, he may convey him by the most convenient and suitable route, though it passes through other counties.

Constables
may serve
certain war-
rants in any
town in the
county.
Officers may
serve certain
precepts in
any county.
R.S., c. 80, § 47.

Commit-
ment of
prisoners.

SEC. 55. Any officer of any county qualified to serve precepts in criminal cases in the county where he resides, may serve any precept required by the laws providing for work-jails, whether such service is performed in whole or in part in one or more counties, and the processes shall be issued and directed accordingly.

Officers may
serve pre-
cepts for
work-jails in
one or more
counties.
1873, c. 133,
§ 10.

SEC. 56. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses so to do, shall forfeit to the use of the county not less than three, nor more than fifty dollars;

Aid may be
required by
officer.
Penalty for
refusing.
R.S., c. 80, § 48.

CHAP. 80. and if he does not forthwith pay such fine, the court may punish him by imprisonment not exceeding thirty days.

Execution of precepts commenced, when officer becomes disqualified. 1874, c. 209. 41 Me., 342.

Returns, how made.

—may be amended.

Copy of writ on which attachment has been made, to be delivered to defendant on request. Penalty. R.S., c. 80, § 50.

Officer to pay money collected. Penalty. R.S., c. 80, § 51. 8 Me., 133. 18 Me., 63. No officer to act as att'y or draw papers. Penalty; such acts void. No employe of jailer to act as magistrate or att'y; such acts void. R.S., c. 80, § 52. 67 Me., 374-6. Actions against officers, where

SEC. 57. If any officer aforesaid, who has commenced the service or execution of a precept, by death or otherwise becomes disqualified to complete it, it may be completed, with the same legal effect, by any other qualified officer; and if any officer aforesaid has made, in fact, any service, attachment or levy, by virtue of any process placed in his hands for service, and *who* by reason of death, disqualification or other cause, has not made his return upon said process, a return upon said process shall be made by a sheriff, any deputy *of his*, or other proper officer, under the direction of a judge of the supreme judicial court, held in *and for* the county where said writ is returnable, the facts to be set forth by said officer in said return, to be proved to the satisfaction of said judge; or if a deputy sheriff dies after he has served and returned a precept, the sheriff, if alive, and if not, any deputy in commission at the time of such service, may be allowed by the court to amend such return the same as the officer who made it might, but the rights of third parties shall not be affected thereby.

SEC. 58. Every officer, plaintiff or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof. And if he unreasonably refuses or neglects so to do for twenty-four hours, he shall forfeit five dollars, and five dollars additional for every subsequent twenty-four hours he so refuses or neglects; to be recovered by the debtor to his own use, in an action of debt, in any competent court.

SEC. 59. Any officer aforesaid who unreasonably neglects or refuses, on demand, to pay money received by him on execution to the person entitled to it, shall pay five times the lawful interest thereon so long as he so retains it.

SEC. 60. No officer aforesaid shall appear before any court or justice of the peace as attorney or advising any party in a suit, or draw any writ, plaint, declaration, citation, process, or plea for any other person; and all such acts done by either of them shall be void; and no person employed by the keeper of a jail as turnkey or in any other capacity, shall exercise any power or duty of a magistrate, or act as attorney for any person confined in the jail; and all such acts shall be void.

SEC. 61. In all actions against sheriffs, deputy sheriffs, coroners and constables, for breach of official duty, where the principal defendant is out of the state, the writ may be served on such defendant by leaving a copy of the same with each of the sureties

on his official bond fourteen days before the return day thereof, and the court in the county where the writ is returnable, either before or after entry, may order further notice to the defendant by publication of an abstract of the writ and order thereon, in some newspaper published in the county where the writ is returnable, or in the state paper, or in such other manner as the court shall direct ; and if the order is complied with and proved, the defendant shall be held to answer to the suit, and judgment in such case shall have the same effect as if personal service was had upon the principal defendant.

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principal
defendant is
out of state,
writs, how
served.
1880, c. 226.