

# MAINE STATE LEGISLATURE

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REPORT  
OF  
THE COMMISSIONER  
ON THE  
REVISION AND CONSOLIDATION  
OF THE  
PUBLIC LAWS  
OF THE  
STATE OF MAINE,  
UNDER  
Resolve of March 21, 1901.

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AUGUSTA  
KENNEBEC JOURNAL PRINT  
1902

## TITLE TWO.

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

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### CHAP. II. Education of youth.

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## CHAPTER 11.

### EDUCATION OF YOUTH.

#### LOCATION OF SCHOOLS.

SEC. 1. The school districts in all towns in the state are abolished. *Provided, however,* that school districts organized with special powers by act of the legislature, may retain such organization and special powers; but said districts shall annually, on or before the first day of June, by their agents, trustees or directors, submit to the school committees of their several towns estimates of the amounts required for the maintenance of the schools therein, other than free high schools, for the ensuing school year, and shall be entitled to such portion of the common school funds of the town as said committees shall determine, which sum shall not be less than is necessary for the maintenance of their schools for a period equal to that of the other schools of the town; and *provided further,* that the corporate powers of every school district shall continue so far as the same may be necessary for meeting its liabilities and enforcing its rights; and any property held in trust by any school district by virtue of a gift,

All school districts abolished except districts organized by act of legislature. 1893, c. 216, § 1. 90 Me., 321. 91 Me., 618.

—how schools in such districts shall be supported.

—corporate powers of districts continued for purpose of meeting liabilities.

devise or bequest for the benefit of said district shall continue to be held and used according to the terms thereof.

SEC. 2. The location of any school legally established prior to March seventeen, eighteen hundred and ninety-three continues unchanged, notwithstanding the district is abolished; but any town at its annual meeting, or at a meeting called for the purpose, may determine the number and location of its schools, and may discontinue them or change their location; but such discontinuance or change of location shall be made only on the written recommendation of the superintending school committee, and on conditions proper to preserve the just rights and privileges of the inhabitants for whose benefit such schools were established; *provided, however*, that in case any school shall hereafter have too few scholars for its profitable maintenance, the superintending school committee may suspend the operation of such school for not more than one year unless otherwise instructed by the town, but any public school failing to maintain an average attendance for any school year, of at least eight pupils, shall be and hereby is suspended, unless the town in which said school is located shall by vote instruct its superintending school committee to maintain said school. The superintendent of schools in each town shall procure the conveyance of all public school pupils residing in his town, a part or the whole of the distance, to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said school as in the judgment of the superintending school committee shall render such conveyance necessary. *Provided, however*, that the superintending school committee may authorize the superintendent of schools, to pay the board of any pupil or pupils at a suitable place near any established school instead of providing conveyance for said pupil or pupils, when in their judgment it may be done at an equal or less expense than by conveyance.

SEC. 3. When a location for the erection or removal of a school house and requisite buildings has been legally designated, (by vote of the town at any town meeting called for that purpose,) and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for it, or resides without the state and has no authorized agent or attorney therein, they may lay out a school house lot, not exceeding three acres, and appraise the damages therefor; and on payment or tender of such damages, or if such owner does not reside in the state, upon depositing such damages in the treasury of such town or district for his use, the town or district designating it may take such lot to be held and used for the purposes aforesaid; and when such school house has ceased to be thereon for two years, said lot reverts to the owner, his heirs or assigns. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a school house and requisite buildings and play grounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling house. (a)

SEC. 4. If the owner is aggrieved at the location of the lot, or the damages awarded, he may apply to the county commissioners within six months, who may change the location and assess the damages, *and the proceedings shall be conducted as in section eight of chapter eighteen*. If the damages are increased, or the location changed, such town or district shall pay the damages and costs; otherwise the costs shall be paid by the applicant.

SEC. 5. (If) Any town or school district *which*, by its officers or by a committee, has designated, located and described a lot upon which to erect, move or repair a schoolhouse, and from mistake or omission has failed to

1893, c. 216, § 4.  
90 Me., 322.  
91 Me., 519.  
No change in location of any school legally established.  
1893, c. 216, § 3.  
1901, c. 203.

—towns may determine number and location on recommendation of school committee.

—operation of schools with few scholars may be suspended.

—superintendent shall procure conveyance for scholars.

—committee may furnish board instead of providing conveyance.

Towns may lay out school house lots in certain cases.  
R. S., c. 11, § 57.  
1901, c. 211, § 1.

—damages, how appraised.

—how paid.

—lot to revert to owner if not occupied for two years.

—land may be taken for school house lot, play grounds, etc., but not within 50 feet of a dwelling.

If owner is aggrieved, issue may be tried by jury.  
R. S., c. 11, § 58.  
1901, c. 211, § 2.  
60 Me., 335, 542, 543.  
63 Me., 192.

School-house lots, erroneous location of, how re-established and

(a) 52 Me., 146; 60 Me., 405, 542, 545; 63 Me., 192; 67 Me., 283; 77 Me., 120.



made valid.  
R. S., c. 11, § 59.

comply with the law, whereby such location has been rendered invalid, *may, on petition of* three legal voters and tax-payers thereof (may) apply in writing to the selectmen of said town, and have the lot, so designated or described, re-appraised by them.

Notice of ap-  
praisement  
and hearing,  
how given.  
R. S., c. 11, § 60.

SEC. 6. The selectmen of any town to whom such application has been made, shall forthwith give not less than seven nor more than twenty days' notice, to the clerk of said (town or) district and to the owner of such real estate, or to the persons having the same in charge, of the time and place by them fixed for such hearing, and shall, after examination and hearing of all interested, appraise the lot as set out and affix a fair value thereon, exclusive of improvements made by said district or town, either by buildings or otherwise; and shall, as soon as practicable, notify the (town or) district clerk, and the persons interested in said estate who had been notified as hereinbefore provided, of the sum at which said lot has been appraised.

Sum, how as-  
sessed and  
collected.  
R. S., c. 11, § 61.  
Tender to be  
allowed in  
payment.  
R. S., c. 11, § 62.

SEC. 7. The sum fixed as the value of said lot shall be assessed, collected and paid over as other school money.

Either party  
may appeal.  
R. S., c. 11, § 63.

SEC. 8. Any sum which has been tendered and is in the hands or under the control of the persons owning or having charge of such land, shall be allowed in payment of said appraisal.

SEC. 9. If the (town or) district, or persons owning or having charge of the land on which such location is made, are dissatisfied with such appraisal, either party may within ten days appeal to the county commissioners of the county in which the land lies, by filing a copy of the proceedings and a claim of appeal with said commissioners, and the determination of a majority of said commissioners not residents of said *district* (town), shall be final.

Improvements  
inure to town  
or district.  
R. S., c. 11, § 64.

SEC. 10. When any school district or town has erected or moved a building upon such lot or in any way improved the same, such improvement shall inure to the benefit of such town or district, and the same may be as completely occupied and controlled by such town or district as it would have been if such location had been in strict conformity to law.

Tax not af-  
fected by er-  
ror in loca-  
tion.  
R. S., c. 11, § 65.  
Plan to be  
approved by  
committee.  
R. S., c. 11, § 66.

SEC. 11. The legality of a tax assessed to build, repair or remove a school-house and to pay for a lot, shall not be affected by any mistake or error in the designation or location thereof.

SEC. 12. A plan for the erection or reconstruction of a school-house voted by a town *or a district*, shall first be approved by the superintending school committee; (and in case no special building committee has been chosen by the town, said superintending school committee shall have charge of said erection or reconstruction; *provided, however*, that they may, if they see fit, delegate said power and duty to the superintendent of schools.)

#### DUTIES OF TOWNS.

Towns to  
raise money  
for schools.  
R. S., c. 11, § 6.  
68 Me., 584.  
72 Me., 166.  
76 Me., 416.  
92 Me., 327.  
See §§ 120, 121;  
c. 5, §§ 18, 19;  
c. 12, § 55.

SEC. 13. Every town shall raise and expend, annually, for support of (common) schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue or funds from the State, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than eighty cents for each inhabitant, according to the census by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency.

School money,  
how paid by  
towns.  
R. S., c. 11, § 17.  
—how  
avouched.

SEC. 14. No money appropriated by law for public schools shall be paid from the treasury of any town, except upon the written order of its municipal officers; and no such order shall be drawn by said officers, except upon presentation of a properly avouched bill of items.

School fund  
and milltax,  
to be with-

SEC. 15. When the governor and council have reason to believe that a town has neglected to raise and expend the school money required by

law, or to examine teachers as prescribed by law, or to have instruction given in the subjects prescribed by law or to provide suitable text books in the subjects prescribed by law, or faithfully to expend the school money received from the state, they shall direct the treasurer of state to withhold further payment to such town from the state school fund and mill tax until such town satisfies them that it has expended the full amount of school money required by law.

SEC. 16. The school moneys of every town shall be so expended as to give as nearly as practicable the same aggregate annual length of terms in all its schools, and every town shall make provision for the maintenance of all its schools for not less than twenty weeks annually. Any town failing to maintain its schools as provided in this section, shall be debarred from drawing its state school moneys, till it shall have made suitable provision for so maintaining them thereafter.

SEC. 17. Adjoining towns, upon the written recommendation of the school committee of said towns, may by concurrent action maintain union schools for the benefit of parts of said towns constituting on March one, eighteen hundred and ninety-four, union school districts, or may establish such schools, and shall contribute to their support each in proportion to the number of scholars in each of said towns attending such schools. Said schools shall be under the management of the school committee of the town in which their school houses are located.

SEC. 18. Towns shall provide school books, apparatus and appliances for the use of pupils in the public schools, including all free high schools, at the expense of said town; and shall also pay for the necessary repairs of school buildings and insurance on same, if any, improvement and maintenance of school yards and play grounds out of a sum or sums of money raised and appropriated for that purpose which shall be assessed like other moneys (and shall be in addition to and independent of the amount which towns are required by law to raise, assess and expend for the support of common schools); *provided, however*, that any parent or guardian of any pupil in the public schools may, at his own expense, procure for the separate and exclusive use of such pupil, the text books required to be used in such schools.

SEC. 19. School committees shall make such rules and regulations not repugnant to law, as they deem proper, for the distribution and preservation of school books and appliances furnished at the expense of the town.

SEC. 20. When a pupil in the public schools loses, destroys, or unnecessarily injures any such school book or appliance, furnished such pupil at the expense of said town, his parent or guardian shall be notified, and if the loss or damage is not made good to the satisfaction of such committee within a reasonable time, they shall report the case to the assessors, who shall include in the next town tax of the delinquent parent or guardian the value of the book or appliance so lost, destroyed or injured, to be assessed and collected as other town taxes.

SEC. 21. Any city or town may, in addition to the sum raised for the support of the common schools, raise and appropriate money for the support of evening schools, which shall admit persons of any age, shall teach only the elementary branches, and shall be under the direction and supervision of the superintending school committee.

SEC. 22. Any city or town may annually make provision for free instruction in industrial or mechanical drawing, to persons over fifteen years of age, either in day or evening schools, under direction of the superintending school committee.

SEC. 23. Any city or town may, in addition to the sum raised for the support of the common schools, raise and appropriate money for the support of manual training schools and may receive gifts and bequests for the use, maintenance and support of such schools.

held from delinquent towns.  
R. S., c. 11, § 7.  
1899, c. 64.

Equal school privileges shall be provided for all pupils.  
1893, c. 216, § 5.  
—towns failing to comply, debarred from drawing money from the state.  
Union schools may be maintained by adjoining towns.  
1892, c. 216, § 6.

—management of such schools.

Towns shall provide school books and apparatus, etc.  
R. S., c. 11, § 8.  
1894, c. 250.

Distribution of books, etc.  
1889, c. 268, § 2.

School books, damages for injuring or destroying, how recovered of parent, or guardian.  
R. S., c. 11, § 10.

Cities and towns may raise money for support of evening schools.  
1889, c. 246.

Instruction in industrial or mechanical drawing.  
R. S., c. 11, § 11.

Manual training schools. —gifts for support of.  
1901, c. 234,  
§§ 1, 5.

Such schools under direction of committee.  
—rules and regulations.  
1901, c. 234, §§ 2, 3, 4.

Scholars at light stations.  
1893, c. 199.  
—privileges.

School age.  
1893, c. 162.

Annual school returns to state superintendent.  
R.S., c. 11, § 13.

Election of superintending school committee.  
1897, c. 327, § 1.  
R. S., c. 11, §§ 18, 85.  
See Const. of Me., Art. ix, § 1.

Superintending school committees, when first chosen, shall arrange terms of office.  
R. S., c. 11, § 86.  
1897, c. 327, § 2.

—vacancies.  
—no member shall be employed to teach in his own town.

Sections 28 and 29 shall not apply to certain cities.  
1897, c. 327, § 3.

Penalty for neglect to choose committee.  
R. S., c. 11, § 20.  
Committee shall serve without pay.  
—compensation of superintendent.  
R. S., c. 11, § 92.  
1897, c. 327, § 2.

SEC. 24. Such schools shall be under the control, direction and supervision of the superintending school committee, and shall admit such persons between the ages of six and twenty-one years, and shall give such courses of instruction as said committee may determine. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools.

SEC. 25. Persons between the ages of five and twenty-one years living at any light station, shall be admitted to any public school in the state without paying tuition; such scholars shall be entitled to all privileges and benefits, and be subject to the same conditions, rules and regulations as scholars residing in the town in which they attend school.

SEC. 26. The age of pupils allowed to attend the public schools of the state is hereby fixed between the ages of five and twenty-one years of age.

SEC. 27. The assessors or municipal officers of each town, shall, on or before the first day of each May, make to the state superintendent of public schools, a certificate, under oath, embracing the following items:

I. The amount voted by the town for common schools at the preceding annual meeting.

II. The amount of school moneys payable to the town from the state treasury during the year ending with the first day of the preceding April.

III. The amount of money actually expended for common schools during the last school year.

IV. The amount of school moneys unexpended.

V. Answers to such other inquiries as are presented to secure a full and complete statement of school revenues and expenditures.

SEC. 28. Every town shall choose by ballot at its annual meeting, a superintending school committee of three, to hold office as provided in the following section and shall fill vacancies arising therein at each subsequent annual meeting. No person is ineligible to the office of superintending school committee, on account of sex. *Members of superintending school committees shall be sworn.*

SEC. 29. School committees *at their first meeting* (first chosen) shall designate by lot a member or members to hold office for one, two and three years respectively, in manner as follows: one for one year, one for two years and one for three years; and they shall certify such designation to the town clerk to be by him recorded; (and thereafterwards one member shall be chosen by ballot at the annual meeting of the town, to hold office for three years.) Said committee may fill vacancies occurring between annual members, and the term of office of any member of the committee so chosen shall expire at the next annual meeting. No member of the superintending school committee of any town shall be employed as a teacher in any public school in said town.

SEC. 30. The provisions of the two preceding sections shall not apply to cities whose charters specify the methods of election and term of office of a superintending school committee or board of education; nor to towns, cities and incorporated districts authorized by private and special laws to choose school committees other than those herein provided for.

SEC. 31. A town failing to elect members of the superintending school committee as required by law, forfeits not less than thirty, nor more than two hundred dollars.

SEC. 32. Superintending school committees shall serve without pay, unless otherwise voted by the town, but the superintendent shall receive for his services such sum as the town shall annually vote therefor, which sum shall in no case be less than two dollars a day for every day of actual service (and necessary traveling expenses).

## POWERS AND DUTIES OF SUPERINTENDING SCHOOL COMMITTEES AND SUPERINTENDENTS.

SEC. 33. The management of the schools and the custody and care, including repairs and insurance on school buildings, of all school property in every town, shall devolve upon a (the) superintending school committee which shall annually elect a superintendent of schools who shall not be a member of the committee; but any town may elect a superintendent of schools by ballot at the regular town meeting. This section shall not apply to cities, nor to towns authorized by special laws to employ or choose superintendents in manner otherwise than as herein provided.

Management of schools devolves upon superintending school committee. 1897, c. 332. —elect superintendent of schools annually. —exception.

SEC. 34. Superintending school committees shall perform the following duties:

Duties. R. S., c. 11 § 87.

I. They shall appoint suitable times and places for the examination of candidates proposing to teach in town, and shall give notice thereof by posting the same in two or more public places within the town at least three weeks before the time of said examination, or by the publication of said notice for a like time in one or more newspapers having the largest circulation in the county. They shall employ teachers for the several schools in the town. Five days constitute the school week, and four weeks a school month.

—appoint time and place for examination of teachers. 4 Me., 45. 74 Me., 463. —employ teachers.

II. On satisfactory evidence that a candidate possesses a good moral character and a temper and disposition suitable to be (for) an instructor of youth, they shall examine him in reading, spelling, English grammar, geography, history, arithmetic, civil government, bookkeeping and physiology with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system; and the elements of the natural sciences, especially as applied to agriculture, and such other branches as they desire to introduce into public schools, and particularly into the school for which he is examined; also as to his capacity for the government thereof.

—examine candidates. 1835, c. 155.

III. They shall give to each candidate found competent, a certificate that he is qualified to govern said school and instruct in the branches above named, and such other branches as may be necessary to be taught therein; or they may render valid by indorsement, any graded certificates issued to teachers by normal school principals or the state superintendent. No certificate shall be granted any person to teach in the public schools of the state, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

—grant certificates to teachers. 20 Me., 40, 155. 26 Me., 59. 27 Me., 277. See §§ 85, 105, 107-109. —knowledge of physiology and hygiene requisite. 1885, c. 267, § 2.

IV. Direct the general course of instruction, and select a uniform system of text-books, due notice of which shall be given; no text-book thus introduced, shall be changed for five years unless by vote of the town; any person violating this provision shall forfeit not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved. And when said committee have made such selection of school books, they may contract, under section eighteen, with the publishers for the purchase and delivery thereof; make such rules as they deem effectual for their preservation and return; or, if they are kept for sale, may regulate the sale and appoint an agent to keep and sell them, and fix the retail price, which shall be marked on the title page of each book.

—direct the course of instruction and select text-books. 33 Me., 394.

V. They shall make provision for *instructing* (the instruction of) all pupils in *all* schools, supported by public money or under state control, in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

—purchase and sale of books, how regulated.

VI. Examine the schools, and inquire into the regulations and discipline thereof, and the proficiency of the scholars, for which purpose one or more of the committee shall visit each school at least twice in summer

—provide instruction in physiology and hygiene. 1885, c. 267, § 1.

—examine schools.

and twice in winter; and use their influence to secure the regular attendance at school of the youth in their town.

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

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

—expel scholars.  
38 Me., 391.

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

—exclude scholars not vaccinated.  
—prescribe sums to be paid in certain cases.  
See c. 2, §§ 1, 3, 4.

IX. Exclude, if they deem it expedient, any person not vaccinated, although otherwise entitled to admission.

X. Prescribe the sum, on payment of which persons of the required age, resident on territory, the jurisdiction of which has been ceded to the United States, included in or surrounded by a *school district* (the town) may attend school in (the town) *such district*.

—classify scholars.

XI. Determine what description of scholars shall attend each school, classify them, and transfer them from school to school where more than one school is kept at the same time.

Supt. of schools secretary of school committee.

SEC. 35. The superintendent of schools in every town shall be, ex-officio, secretary of the superintending school committee, and shall perform such duties not herein enumerated as said committee shall direct. He shall return under oath to the *assessors and school committee*, in April annually, a certified list of the names and ages of all persons in his town from four to twenty-one years, corrected to the first day of said month, leaving out of said enumeration all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

—shall make annual enumeration of scholars.  
1893, c. 216, § 8.  
1895, c. 120.  
R. S., c. 11, § 94.

SEC. 36. He shall *give in his returns* (annually make returns to the state superintendent of public schools, of) the number of persons between the ages of four and twenty-one years, corrected to the first day of April preceding the time of making said returns, and (give) full and complete answers to the inquiries contained in the blank forms furnished him by law; certify that such statement is true and correct, according to his best knowledge and belief; and transmit it to the office of the state superintendent on or before the first day of each May. He shall also furnish such other information relating to the public schools as the said superintendent shall at any time require of him.

Return to state superintendent of schools.  
1897, c. 289.

SEC. 37. He shall annually make a statement containing the following particulars:

Annual statement of supt. of schools.  
R. S., c. 11, § 88.  
1895, c. 120.

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

II. The number of children between four and twenty-one years of age, belonging to his town, on the first day of April preceding.

III. The whole number and the average number of scholars attending the summer schools; the whole number and the average, attending the winter schools, also the total number of different scholars attending school two weeks or more of the preceding year, as shall appear from the teachers' registers returnable as provided in section eighty-three.

IV. The average length of the summer schools in weeks; the average length of the winter schools in weeks; and the average length of the schools for the year.

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

VI. The wages of male teachers a month, and the wages of female teachers a week, *exclusive of board* (the cost of board to be added to the wages, in case the town pays the board.)

SEC. 38. He shall examine the schools and inquire into the regulations and discipline thereof, and the proficiency of the scholars, for which purpose he shall visit each school at least twice each term. At the annual town meeting, he shall make a written report of the condition of the schools for the past year, the proficiency made by the pupils, and the success attending the modes of instruction and government thereof, and transmit a copy to the state superintendent of public schools.

Shall examine schools.  
1893, c. 216, § 8.  
1895, c. 120.

—make report at annual meeting.  
R. S., c. 11, § 87.  
1893, c. 216, § 8.

SEC. 39. The school committees of two or more towns, having under their care and custody an aggregate of not less than twenty-five, nor more than fifty schools, may unite in the employment of a superintendent of schools, *provided* they have been so authorized by a vote of their towns at the regular town meetings, or special town meetings called for that purpose.

Two or more towns may unite in the employment of a superintendent of schools.  
1897, c. 296, § 1.

SEC. 40. The school committees of the towns comprising a union shall form a joint committee, and for the purposes of this section and the four following sections, said joint committee shall be held to be the agents of each town comprising the union. Said joint committee shall meet annually at a day and place agreed upon by the chairmen of the committees of the several towns comprising the union, and shall organize by the choice of a chairman and a secretary. They shall determine the relative amount of service to be performed by the superintendent in each town, fix his salary, apportion the amounts thereof to be paid by the several towns, which amount shall be certified to the treasurers of said towns respectively; *provided* that the amounts so certified shall be in proportion to the amount of service performed in the several towns. They shall choose by ballot a superintendent of schools, in which choice the committee of each town shall have a vote proportional to the town's share of the expenditure for the superintendent's salary.

School committees of such towns, shall form a joint committee.

—shall meet annually.  
1897, c. 296, § 2.

—choose chairman and secretary.

—shall choose superintendent of schools.

—duties of joint committee.

SEC. 41. Whenever the chairman and secretary of said joint committee shall certify under oath to the state superintendent of public schools, the form of certificate to be determined by said state superintendent, in accordance with the provisions hereof, that a union has been effected as herein provided, that the towns unitedly have raised by taxation a sum not less than five hundred dollars for the support of a superintendent of schools, and that under the provisions of the two preceding sections a superintendent of schools has been employed for one year, then, upon the approval of said certificate by the state superintendent of public schools, and the presentation thereof to the governor and council, a warrant shall be drawn upon the treasurer of state for the payment to the treasurers of the several towns of a sum equal to one-half the amount expended for superintendence by each of the several towns comprising the union, *provided* that not more than two hundred and fifty dollars shall be paid to any one town nor more than seven hundred and fifty dollars to all the towns comprising any union.

Towns may provide for compensation of superintendent.  
1897, c. 296, § 3.

—one half shall be paid by the state.

SEC. 42. The towns uniting for the purpose of employing a superintendent of schools shall appropriate for his salary their proportion of the sum paid said superintendent; and the amount to be paid by each town shall be determined by dividing the entire sum expended for superintendence among the towns comprising the union in the proportion of the service performed in each town.

Appropriation by each town for salary of superintendent.  
1896, c. 296, § 4.

SEC. 43. Persons employed to serve as superintendents of schools under section forty shall hold state certificates under section one hundred and three and shall devote their entire time to superintendence. The powers and duties of such superintendents shall be the same as those prescribed for town superintendents in this chapter.

Qualification of superintendents.  
1897, c. 296, § 5.  
—powers and duties.  
1897, c. 296, § 6.

State aid withheld, if expenditure is not exclusive of amount raised for common school purposes. 1897, c. 296, § 7. —penalty for misappropriating money. —how enforced.

SEC. 44. No town shall receive state aid under section forty-one unless its appropriation and expenditure for superintendence have been exclusive of the amount required by law for common school purposes. If any part of the money raised by the towns or union of towns, or paid to them by the state for superintendence, is expended for any other purposes than those provided for in said section, then each person so misappropriating said money shall forfeit double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town or union of towns shall receive further aid under said section until the amount so misapplied has been raised and expended for superintendence by such town or union of towns.

## COMPULSORY EDUCATION.

Towns may make by-laws concerning truants; to be approved by S. J. court. R. S., c. 11, § 21. —penalty. —approval. See c. 3, § 92, ¶ 1.

Violation of by-laws. R. S., c. 11, § 22. 65 Me., 130.

Truant children may be placed in suitable institutions. R. S., c. 11, § 23.

Children between ages of seven and fourteen required to attend school unless excused by committee. 1899, c. 80, § 1. 1901, c. 185, § 1.

—children physically or mentally weak may be excluded.

Children may be allowed to attend school in adjoining town, on terms agreed upon. 1899, c. 80, § 2.

SEC. 45. Towns may make such by-laws, not repugnant to law, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but such by-laws must be first approved by a judge of the supreme judicial court.

SEC. 46. *Such towns shall, at their annual meeting, appoint one or more persons, who* (Truant officers elected as provided in section fifty shall) *alone shall make complaints for violations of said by-laws, and shall execute the judgments of the magistrate.*

SEC. 47. Said magistrate, in place of fine, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose under section forty-five.

SEC. 48. Every child between the ages of seven and fourteen inclusive shall attend some public day school during the time such school is in session; *provided* that necessary absence may be excused by the superintending school committee or superintendent of schools or teacher acting by direction of either; *provided also*, that such attendance shall not be required if the child obtain equivalent instruction, for a like period of time, in an approved private school or in any other manner approved by the superintending school committee; *provided, further*, that children shall not be credited with attendance at a private school until a certificate showing their names, residences and attendance at such school signed by the person or persons having such school in charge, shall be filed with the school officials of the town in which said children reside; and *provided further*, that the superintending school committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend. All persons having children under their control shall cause them to attend school as provided in this section, and for every neglect of such duty shall forfeit a sum not exceeding twenty-five dollars, to the treasurer of the city or town or shall be imprisoned not exceeding thirty days.

[The following phraseology is suggested: "Every child, who has reached his seventh birthday, shall until he arrives at his fifteenth birthday, attend," etc.]

SEC. 49. Children living remote from any public school in the town in which they reside may be allowed to attend the public schools in an adjoining town, under such regulations and on such terms as the school committees of said towns agree upon and prescribe, and the school committee of the town in which such children reside shall pay the sum agreed upon, out of the appropriations of money raised in said town for school

purposes. Except as above provided, a child attending a public school in a town in which his parent or legal guardian does not reside, after having obtained the consent of the school committee of such town, shall pay, as tuition, a sum equal to the average expense *per* (of each) scholar in such school.

—tuition.

SEC. 50. Cities and towns shall annually elect one or more persons, to be designated truant officers, who shall inquire into all causes of neglect of the duties prescribed in section forty-eight and ascertain the reasons therefor, and shall promptly report the same to the superintending school committee, and such truant officers or any of them shall, when so directed by the school committee or superintendent in writing, prosecute in the name of the city or town, any person liable to the penalty provided in said section; and said officers shall, when notified by any teacher that any pupil is irregular in attendance, arrest and take such pupil to school when found truant; and further such officers shall enforce the provisions of sections one hundred and sixteen to one hundred and eighteen, inclusive, of this chapter. Every city or town neglecting to elect truant officers, and truant officers neglecting to prosecute when directed, as required by law, shall forfeit not less than ten, nor more than fifty dollars, to the use of the public schools in the city or town neglecting as aforesaid, or to the use of the public schools in the city or town where such truant officer resides. The municipal officers shall fix the compensation of the truant officers, elected as prescribed in this section. Superintending school committees may fill vacancies occurring during the year.

Cities and towns shall elect truant officers.  
1899, c. 80, § 3.

—duties.

—penalty for neglect to elect truant officers.

—compensation.

—vacancies, how filled.

SEC. 51. If a child without sufficient excuse, shall be absent from school at six or more consecutive sessions during any term, he shall be deemed an habitual truant, and the superintending school committee shall notify him and any person under whose control he may be that unless he conforms to section forty-eight, the provisions of the two following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the truant officers or any of them shall, when so directed by the school committee or superintendent in writing, enforce said provisions by complaint.

Habitual truant shall be admonished and punished.  
1899, c. 80, § 4.  
1901, c. 185, § 2.  
89 Me., 528.

SEC. 52. Any person having control of a child who is an habitual truant, as defined in the foregoing section, and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent shall forfeit not exceeding twenty dollars, for the use of the public schools of the city or town in which such child resides, to be recovered by the truant officer on complaint, or shall be imprisoned not exceeding thirty days.

Penalty for abetting habitual truancy.  
1899, c. 80, § 5.

SEC. 53. On complaint of the truant officer, an habitual truant, if a boy, may be committed to the state reform school, or, if a girl, to the state industrial school for girls, or to any truant school that may hereafter be established. Police or municipal courts and trial justices shall have jurisdiction of such complaint and of the offenses described in sections forty-eight, fifty, and fifty-two.

Habitual truants may be placed in suitable institutions.  
1899, c. 80, §§ 6, 7.  
—jurisdiction of courts.

#### FREE HIGH SCHOOLS, ACADEMIES AND SEMINARIES.

SEC. 54. Any town which establishes and maintains a free high school as provided by this section and the eight following sections, for at least ten weeks in any one year, shall on complying with the conditions hereinafter set forth, receive from the state one-half the amount actually expended for instruction in said school, not exceeding two hundred and fifty dollars; *provided*, that no town shall receive such state aid unless its appropriation and expenditure for such school has been exclusive of the amounts required by law for common school purposes. Such aid shall be paid from the state treasury on, and after the first day of each January,

State aid to free high schools.  
R. S., c. 11, § 28.  
1901, c. 197, § 1.

—amount.

—proviso.

—how paid.



upon certification by the governor and council as provided by section sixty-two. But whenever a town or precinct desires to draw its state aid semi-annually, it shall be paid on and after the first days of July and January; *provided*, that the superintendent of such town makes, semi-annually, before said days, the report required in section sixty-two.

Free high schools, town may establish two.  
R. S., c. 11, § 29.

—adjoining towns may maintain school.

—towns shall receive and expend gifts and bequests.

—when funds surrendered by academies entitle to state aid.

—penalty for misapplying money appropriated by state.

Inhabitants of any section of a town may maintain free high school.  
1893, c. 216, § 7.

—officers of town may call meeting of voters to organize such school precinct.

—officers, how chosen, powers and duties.

—such precinct may be continued from year to year.

—sections of adjoining towns may organize precincts.

Location.  
R. S., c. 11, § 30.

—school rooms, etc., how supplied and furnished.

Course of study, and

SEC. 55. Any town may establish and maintain not exceeding two free high schools; and in such case shall receive the same state aid as if the expenditures of both schools had been made for one. Two or more adjoining towns may unite in establishing and maintaining a free high school, and both shall receive the same state aid as if such school had been maintained by one town. Towns shall receive in trust and faithfully expend gifts and bequests made to aid in the maintenance of free high schools, and shall receive aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; and any town shall receive such state aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such town for educational purposes; but if any part of the money so paid by the State, is expended for any other purpose than the support of such free high schools, as provided by this section, then each person so misapplying said money forfeits double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town shall receive further support from the State for any free high school, until the amount so received, but misapplied, has been raised and expended for such free high schools by such town.

SEC. 56. The inhabitants of any section of a town which fails or neglects to provide for the maintenance of free high schools, may organize a free high school precinct in the manner hereinafter provided, and may establish and maintain a free high school therein, and receive state aid the same as the town might have done; *provided*, that no more than two such free high schools shall be established in any town, and that the amount of aid extended to the precincts in any town shall not exceed the sum that the town might have received. On petition of any five voters resident in said section, reciting the limits of the precinct proposed, the municipal officers of the town shall call a meeting of the voters within said limits by causing notices, specifying the time, place and purposes of said meeting, to be posted in two or more conspicuous places within said limits seven days before the time appointed. Said meeting shall choose a moderator and a clerk who shall be sworn, and shall, by a majority vote of those present and voting, determine whether said precinct shall be organized. It shall choose an agent who shall be duly sworn. Such precinct may continue its organization from year to year by the holding of meetings called in the manner aforesaid, so long as the town shall neglect or refuse to support free high schools. Sections of adjoining towns may organize as herein provided, and unite in the support of such schools. But no more than two such precincts shall exist at the same time in any town.

SEC. 57. Any town, (precinct), or union of towns or (precincts), voting to establish a free high school as herein provided, may locate the same permanently, or vote that the terms thereof be held alternately in such places within the town or towns, (precinct or precincts), as may be selected, and as may accept said school. The town, (or precinct), in which said school is thus held, shall supply appropriate equipments, and furnish and warm a suitable building for the same; *provided* that any schoolhouse within such town or precinct may be used for such free high school, when not required for ordinary school purposes.

SEC. 58. The course of study in the free high schools, shall embrace the ordinary English academic studies which are taught in secondary

schools, especially the natural sciences in their application to mechanics, manufactures and agriculture; but the ancient or modern languages and music shall not be taught therein except by direction of the superintending school committees having supervision thereof. Such schools, when established by any town or union of towns, shall be free to all the youth in such town or towns who have such scholastic attainments as will fit them to attend such schools with profit, and the superintending, or superintending school committee, having supervision thereof shall make such examination of candidates for admission to said schools as they consider necessary.

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

SEC. 59. Free high schools, established and maintained under the foregoing provisions, are subject to the laws relating to common schools, so far as applicable, except as otherwise provided. When established and maintained by a town, they shall be under the supervision and entire management of the superintending school committee of such town. When established and maintained by a union of towns, such school shall be under the supervision and entire management of the school committees of such towns, who constitute a joint board for that purpose. When established and maintained by any precinct, such school shall be under the supervision of the superintending committee of such town, or of the state superintendent, when the precinct so elects, and under the financial management of the agent of the precinct, who, in connection with said committee or superintendent, shall employ teachers for the same. When established and maintained by precincts composed of sections of adjoining towns, such school shall be under the supervision of the superintending school committees of such towns, who constitute a joint board for that purpose, and under the financial management of the agents of both precincts, who, in connection with said committees, shall employ the teachers.

SEC. 60. Towns (and precincts) may raise money for establishing and maintaining free high schools, and erecting buildings and providing equipments for the same, in the same manner as for supporting common schools and erecting school-houses.

SEC. 61. Any town may from year to year authorize its superintending school committee to contract with and pay the trustees of any academy in said town for the tuition of scholars within such town, in the studies contemplated by the seven preceding sections, under a standard of scholarship to be established by such committee; and when such contract has been made, the school committee with an equal number from the board of trustees of such academy shall form a joint committee for the selection of all teachers, and the arranging of the course of study in such academy, when such academy has less than ten thousand dollars endowment; and the expenditure of any town for tuition in such academy shall be subject to the

what it shall embrace.  
R. S., c. 11, § 31.  
1897, c. 299.

—exceptions.  
—schools to be free to the youth in any town or union of towns.

—precincts or union of precincts.

—school committee may admit pupils from without town, on payment of tuition, after passing examination.

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

—established by towns, how managed.  
R. S., c. 11, § 32.

—established by union of towns.

—established by precincts.

—established by precincts in different towns.

Towns may raise money to maintain free high schools.  
R. S., c. 11, § 33.

Towns may contract with academies for tuition of pupils.  
R. S., c. 11, § 34.  
1899, c. 6.

—appointment of committee for the selection of teachers.

—entitled to state aid.

Superintendents of schools shall make annual return to state superintendent.  
R. S., c. 11, § 35.  
1901, c. 197, § 2.

—state superintendent to certify amounts to which towns are entitled.

—appeal.

—governor and council to certify amount to treasurer.

—penalty for defrauding state.

High school precinct taxes, how assessed and collected.  
R. S., c. 11, § 75.  
1893, c. 216, § 7.  
12 Me., 258.  
15 Me., 260.  
28 Me., 203.  
31 Me., 284.  
35 Me., 397.  
39 Me., 187.  
41 Me., 505.  
61 Me., 102.  
60 Me., 280.  
74 Me., 411.

Assessors authorized to assess 5 per cent overlay.  
R. S., c. 11, § 76.

Expense of assessment, how paid.  
R. S., c. 11, § 77.  
73 Me., 181.  
Precinct taxes assessed without authority.  
R. S., c. 11, § 78.  
77 Me., 415.

Powers and duties of collectors; their compensation.  
R. S., c. 11, § 79.  
31 Me., 281.  
41 Me., 247.  
67 Me., 240.

Money at disposal of agent.  
R. S., c. 11, § 80.

same conditions, and shall entitle such town to the same state aid as if it had made such expenditure for a free high school.

[Public Laws of 1899, c. 6, amending R. S., c. 11, § 34, makes no mention of a prior amendment (P. L. 1889, c. 167) and supersedes it. The commissioner adopts the section in its final form.]

SEC. 62. Superintendents shall, annually, before the first day of July, make returns under oath to the state superintendent, on blanks prepared and sent out by him, of the amount appropriated and the amount expended by each town or precinct for instruction in such free high schools during the current year; also of the amount appropriated and the amount expended for common school purposes by each town maintaining the same; the number of weeks during which such schools have been taught; the wages paid each teacher; the number of pupils registered; the average attendance; the number of pupils in each branch of study pursued, and the amount received for tuition. If the state superintendent is satisfied that the provisions of the eight preceding sections have been complied with, he shall certify to the governor and council the sum which each town or precinct is entitled to receive from the state. Any town or precinct, dissatisfied with his decision, may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town or agent of the precinct, for such amount as they adjudge such town or precinct entitled to receive from the state treasury. Any person connected with the management of such free high schools, either as teacher, agent or superintendent, who in any way aids or abets in defrauding the state into the payment in support of said schools of more than is contemplated by this chapter, shall forfeit not less than five hundred dollars, or be imprisoned in the county jail not less than one year.

SEC. 63. When a free high school precinct votes to raise money for establishing and maintaining a free high school, its clerk shall forthwith, or within the time prescribed by the precinct, certify the amount thereof to the assessors of the town, and the time when it must be raised; and within sixty days after receiving such certificate they shall assess it as they do town taxes, on the polls and estates of the residents and owners in the precinct at the time of raising said money, whether wholly in their town or not, and on the non-resident real estate in the precinct. They shall then make their warrant in due form of law, directed to any collector of their town if any, if not to a constable, requiring him to levy and collect such tax and pay it to the town treasurer within the time limited in the warrant; and they shall give a certificate of the assessment to such treasurer, and may abate such taxes as in the case of town taxes.

SEC. 64. The assessors may include in their assessment such sum over and above the sum committed to them to assess, not exceeding five per cent, thereof, as a fractional division renders necessary, and certify that fact to the town treasurer.

SEC. 65. The town treasurer shall pay the expense of assessing and collecting any free high school precinct tax out of the money of the precinct, upon the order of the selectmen.

SEC. 66. Section two hundred and twenty-six of chapter six, and all other sections relating to the same subject apply to taxes assessed by or for free high school precincts, so far as applicable; but the precinct and not the town is liable.

SEC. 67. The collector or constable, and the town treasurer, or treasurer and collector, if one person is both, each have the same powers and are subject to the same duties and obligations in relation to free high school precinct taxes, as to town taxes; and they and the assessors shall be allowed by the precinct for their services, a compensation proportionate to what they receive from the town for similar services.

SEC. 68. The money so raised and paid shall be at the disposal of the precinct agent, (to be by him expended as provided in section fifty-nine.)

SEC. 69. The trustees of any academy or other corporation formed for educational purposes may by a majority vote of such of said trustees as reside in the state, surrender the whole, or any part of the property belonging thereto, to the municipal officers of any town, or the trustees of any school fund in any town in which said academy or corporation is situated, for turning the same into a free high school as hereinafter provided, and said municipal officers or trustees, for the time being, shall be a board of trustees to take and hold said property for maintaining a free high school; and upon receiving said property, they shall use proper diligence to make the same produce income for the support of said free high school.

SEC. 70. When such vote is so passed, the treasurer of said trustees shall convey, assign and deliver to the municipal officers of said town, or the trustees of such fund, all property belonging to said academy or corporation for the purposes indicated by the preceding section.

SEC. 71. The municipality accepting the property in trust, as named in section sixty-nine, shall apply the income thereof towards the support of a free high school, to be kept within said municipality, at least twenty-two weeks in each year, and provide suitable accommodations for the same, and the superintending school committee in said municipality shall determine the qualifications necessary to entitle any applicant to enter or attend said free high school, and no one shall attend it without certificate of said officers to that effect.

SEC. 72. All scholars residing within the municipality aforesaid, having such certificate, may attend said school without tuition fee, and all scholars not residents of said municipality, may attend said school, upon such terms and conditions as said superintending school committee may impose.

SEC. 73. Whenever it shall be made to appear to the governor and council, from returns made as herein provided, that any incorporated academy in the state is prepared to give instruction equivalent to that required by law to be given in free high schools, that the pupils attending the said academy, are qualified to receive such instruction, and that the teachers in the said academy have the qualifications fitting them to give instruction in secondary school studies, such academy shall be entitled to receive annually from the state a sum not exceeding five hundred dollars in case it maintains an English secondary school course of study as prescribed by the educational department of the state, and has an average attendance from towns and cities other than the municipality or jurisdiction in which said academy is located of at least ten students, or a sum not exceeding seven hundred and fifty dollars in case it maintains in addition to an English course, a college preparatory course, and has an average attendance from towns and cities other than the municipality or jurisdiction in which said academy is located of at least twenty students, or a sum not exceeding one thousand dollars in case it maintains an English course, a college preparatory course and a training course for teachers, and has an average attendance from towns and cities other than the municipality or jurisdiction in which said academy is located of at least forty students; *provided*, the courses of study herein named shall be subject to the approval of the educational department of the state; and *provided*, that the amount paid by the state to any academy under this section shall be expended by the said academy for instruction during the year for which payment is made, and shall not exceed the total income of the said academy from all other sources; and *provided further*, that in addition to the amount received from the state, a sum equal thereto shall be expended for instruction and maintenance of the academy during said year; and *provided further*, that every academy receiving money from the state under this section shall provide instruction as contemplated by this section for not less than thirty weeks in each year; and *provided further*, that no academy shall be credited with maintaining a course of study under

Trustees of academies, etc., may surrender property to establish free high schools.  
R. S., c. 11, § 36.

—trustees of free high schools, duties of.

Property, how conveyed.  
R. S., c. 11, § 37.

Income of property, how applied.  
R. S., c. 11, § 38.

—qualification of pupils, how determined.

Tuition to be paid by non-residents.  
R. S., c. 11, § 39.

Academies giving instruction equivalent to that given by high schools, entitled to annual stipend of \$500 from the state.  
1901, c. 148, § 1.

—shall receive \$750 when maintaining a college preparatory course.

—when maintaining in addition, a training course, shall receive \$1,000.

—course must be approved by educational department.

—amount paid shall not exceed the total income of institution.

—every institution shall provide instruction not less than 30

weeks in  
each year.

How payments  
shall be made.  
1901, c. 148, § 2.

—proviso.

Towns provid-  
ing free tui-  
tion shall re-  
ceive aid from  
the state.  
1901, c. 148, § 3.

—proviso.

Condition as  
to incorpora-  
tion, upon  
which state  
aid may be re-  
ceived.  
1901, c. 148, § 4.  
Conditions as  
to attendance.  
1901, c. 148, § 5.

Conditions as  
to income.  
1901, c. 148, § 6.

Officers shall  
render an-  
nually account  
of expendi-  
tures.  
1901, c. 148, § 7.

Word "acad-  
emy" includes  
"seminary or  
institute."

Institutions  
receiving state  
aid shall make  
report to  
superintendent  
of public  
schools.  
1897, c. 246.

—penalty for  
failing to  
comply

this section unless the said academy shall have an average of not less than twelve students in said course.

SEC. 74. The *treasurer of state* is hereby authorized and directed to pay (governor and council may draw warrants on the treasurer of state for the payment) annually to the legal representatives of such academies, as shall be entitled to receive money from the state under the preceding section, at the times and in the manner provided by law for the payment of money in aid of free high schools, the amounts to which they shall be severally entitled thereunder; *provided*, that no payment shall be made to any academy until the state educational department shall have certified to the *treasurer of state* (governor and council) all the facts which by law are made necessary to entitle an academy to receive money from the state under the preceding section.

SEC. 75. Any town or *precinct* providing free tuition for its high school scholars in any academy, shall receive state aid to the amount of one-half the sum expended for such instruction, *provided*, no town shall receive to *exceed* (more than) two hundred and fifty dollars in any given year; and *provided further*, that no town shall receive state aid under this section if a free high school of standard grade is maintained in said town.

[The authority to provide free tuition in an academy is apparently limited to towns. See § 61].

SEC. 76. No academy shall receive state aid under section seventy-three unless incorporated prior to February twenty-six, nineteen hundred and one.

SEC. 77. No academy shall receive state aid under section seventy-three unless the average attendance in said academy for the year preceding shall exceed thirty students, and no academy shall receive to exceed five hundred dollars unless the average attendance in said academy for the year preceding shall exceed sixty students.

SEC. 78. No academy shall receive state aid under section seventy-three if said academy has an annual income from invested funds exceeding sixteen hundred dollars; and no academy shall receive state aid to exceed five hundred dollars in any given year provided the said academy has an annual income from invested funds exceeding one thousand dollars.

SEC. 79. The officers and teachers of every academy receiving money from the state under the six preceding sections shall annually on or before the first day of January in each year render to the state educational department an itemized account of all the moneys received and expended during the preceding year and shall make such further report to the state educational department as may from time to time be required. Wherever in sections seventy-three to seventy-nine inclusive, the word "academy" occurs, it shall be construed to include "seminary or institute."

SEC. 80. Every educational institution receiving state aid, shall report to the state superintendent of public schools, the total and average attendance, receipts and expenditures, number of instructors, number and length of terms, with attendance for each, and answer such other questions as he shall determine, and the same shall be published in his annual report. Every such educational institution failing to comply with the above requirements shall forfeit whatever aid or assistance it would otherwise receive from the state.

#### DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

SEC. 81. Presidents of colleges are removable at the pleasure of the trustees and overseers, whose concurrence is necessary for their election.

SEC. 82. No officer of a college shall receive as perquisites any fees for a diploma or medical degree conferred by such college, but such fees shall be paid into the college treasury.

SEC. 83. Every teacher of a public school shall keep a register thereof, containing the names of all the scholars who enter the school, their ages,

Presidents of  
colleges, ten-  
ure of office.  
R. S., c. 11, § 123.  
Fees for de-  
grees con-  
ferred.  
R. S., c. 11, § 124.

Teachers to  
keep school  
register.

the dates of each scholar's entering and leaving, the number of days during which each attended, the length of the school, the teacher's wages, a list of text-books used, and all other facts required by the blank form furnished him; such register shall at all times be open to the inspection of the school committee, and be returned to them at the close of the school. No teacher shall be paid for his services, until such register, properly filled, completed, and signed, is deposited with the school committee, or with a person designated by them to receive it.

SEC. 84. The presidents, professors, and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity, and a universal benevolence; sobriety, industry, and frugality; chastity, moderation, and temperance; and all other virtues which ornament human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, secure the blessings of liberty, and promote their future happiness; and the tendency of the opposite vices, to slavery, degradation and ruin; all teachers in the public schools of the state shall devote not less than ten minutes of each week of the school term, to teaching to the children under their charge, the principles of kindness to birds and animals.

SEC. 85. Whoever teaches a *town* (public) school without first obtaining a certificate from the school committee of the town, forfeits not exceeding the sum contracted for his daily wages, for each day he so teaches, and is barred from receiving pay therefor; and no certificate shall be valid for more than one year, without the approval of the superintending school committee annually indorsed thereon.

SEC. 86. The following days shall be observed as school holidays, namely: New Year's day, January one; Washington's birthday, February twenty-two; Memorial day, May thirty; Independence day, July four; Labor holiday, first Monday in September; Christmas day, December twenty-five; Thanksgiving, Fast and Arbor days, as appointed by the governor and council. *Provided, however*, that Arbor day shall not be recognized as a school holiday, unless observed by teacher and pupils for the purpose for which it is designated by the governor and council. All teachers of public schools in the state may close their schools on the days above mentioned and draw pay the same as if their schools had been in session upon those days.

#### TEACHERS' ASSOCIATIONS.

SEC. 87. Whenever not less than thirty of the teachers and school officers of any county shall have formed an association under rules of government approved by the state superintendent of public schools, for the purpose of mutual improvement in the science and art of teaching, and of creating popular interest in, and diffusing a knowledge of the best methods of improving our public school system, by the holding of conventions at least once every year under the supervision of the state superintendent, the state shall defray the necessary expenses attending the holding of such conventions, for which purpose the sum of one thousand dollars is hereby annually appropriated to be deducted and set aside therefor by the treasurer of state from the annual school fund of the state; *provided, however*, that no more than two such associations shall be formed in any county, and that the expenses as aforesaid of no more than two conventions of any such association in any year shall be defrayed by the state.

SEC. 88. Teachers of public schools may suspend their schools for not more than two days in any year during the sessions of such conventions within their counties, unless otherwise directed in writing by the school

R. S., c. 11, § 96.  
63 Me., 244.

—not to be paid until register is completed.

Instructors of colleges, etc., to inculcate morality, justice, truth, industry and patriotism.  
R. S., c. 11, § 97.  
78 Me., 511.

—kindness to birds and animals shall be taught in public schools.  
1891, c. 29.

Forfeitures for teaching without certificate.  
R. S., c. 11, § 98.  
1889, c. 225.

School holidays.  
1901, c. 202.

—proviso regarding Arbor day.  
See c. 32, § 14.

—public schools may be closed.

Teachers and school officers may form associations for improvement in art of teaching.  
1885, c. 273, § 1.  
1893, c. 283.

—may hold conventions.

—expenses, how paid.

—proviso.

Teachers may suspend schools during conventions.  
1885, c. 273, § 2.

—certificates showing attendance must be presented.

Governor to draw warrants to pay expenses.  
1885, c. 273, § 3.

—proviso.

officers, and attend said conventions without forfeiture of pay for the time of such attendance, *provided* they shall present to the officers employing them, certificates signed by the secretaries of such conventions and countersigned by the state superintendent of public schools, showing such attendance.

SEC. 89. The governor and council may draw warrants on the treasurer of state for the payment of bills for the expenses provided for in section eighty-seven, when such bills shall have been approved by the state superintendent of public schools, *provided, however*, that no bills shall be so paid except those for advertising such conventions, and for actual traveling expenses of speakers and lecturers not residing in the counties in which such conventions are held.

#### SCHOOLS IN PLANTATIONS AND UNORGANIZED TOWNSHIPS.

Powers of plantations to maintain schools.  
R. S., c. 11, § 99.  
1889, c. 211.  
61 Me., 449.  
See c. 3, § 113.

SEC. 90. Plantations have the same powers and liabilities as towns for electing superintending school committees, superintendents of schools, treasurers and collectors, and for raising, assessing and collecting school money, to be apportioned and expended as in towns. The assessors of plantations may take a census of the inhabitants thereof, at the expense of the plantation, and when so taken, the money raised therein for schools shall be upon the basis of such census and not upon the census of the state.

School moneys of plantations, how expended.  
1885, c. 281.

SEC. 91. All moneys due plantations from the state treasury for school purposes, shall be paid to the treasurers of such plantations, under the same conditions as in case of towns, and the same shall be expended by such plantations, under the same restrictions and limitations as are required of towns.

Schooling of children in unorganized townships, provided for.  
1899, c. 89, § 1.

SEC. 92. Whenever in any unorganized township in the state there shall be two or more children between the ages of four and twenty-one years, the state superintendent of public schools shall cause an enumeration of said children to be made, and returned to him, and shall provide for the schooling of said children, either by establishing a school in the township, or by sending the children to schools in adjoining towns or plantations, or both, as shall by him be deemed expedient. In case any of said children are, by the state superintendent, sent to schools in adjoining towns or plantations, said children so sent shall have the same rights in such school as children resident in said town or plantation. *Provided, however*, that in case the interest on the reserve fund in any unorganized township together with the amount arising from the per capita tax called for in this section, is not sufficient to provide schooling for the children of said township for at least twenty weeks in a year, the remainder of the expense shall be paid from the fund appropriated by section ninety-five. *Provided further*, that no money shall be expended under this section for the benefit of any township until the inhabitants of said township shall pay to the treasurer of state a sum equal to twenty-five cents for each inhabitant thereof.

—expenses, how paid.  
—sum to be raised by inhabitants.

How cost of schooling shall be paid.  
1899, c. 89, § 2.  
1901, c. 206, § 1.

SEC. 93. The state superintendent of public schools shall certify to the governor and council the number and residence of the children enumerated and schooled, as provided in the preceding section, together with the cost of schooling said children, and the governor and council shall direct the treasurer of state to pay the state superintendent of public schools so much of the interest on the reserve land fund of the township in which said children reside as, added to the amount received from the inhabitants of the township from the per capita tax, shall pay the expense of said school. The state superintendent of public schools shall pay to the treasurer of any town or plantation in which he may school any of said children, such amount *per* (for each) scholar as shall be his proportional part of the cost of the school to which he is sent.

Agents, appointment and duties of.  
1899, c. 89, § 3.  
1901, c. 206, § 2.

SEC. 94. The state superintendent of public schools may appoint agents for the several townships in which schools shall be established under sec-

tion ninety-two, who shall, under the direction of the state superintendent, enumerate the pupils, assess and collect the per capita tax, employ the teacher and attend to all necessary details in connection with said schools for which work they shall be paid a sum not exceeding two dollars a day, when actually employed in this duty, and actual necessary traveling expenses. The state superintendent may supply school books for the schools established under said section, under such conditions and regulations as to the purchase and care thereof as he may deem proper.

SEC. 95. For the purpose of carrying out the provisions of the three preceding sections, there is hereby appropriated the sum of twenty-five hundred dollars annually.

—compensation.

—superintendent may supply school books.

Appropriation.  
1901, c. 206, § 3.

#### STATE SUPERINTENDENT OF PUBLIC SCHOOLS.

SEC. 96. The governor with the advice and consent of council shall appoint a state superintendent of public schools, who shall *be sworn and* continue in office three years, or during the pleasure of the executive; vacancies shall be filled by a new appointment for a like term.

Appointment and term of office.  
R.S., c. 11, § 102.  
1897, c. 237.

SEC. 97. An office shall be provided for him at the seat of government, where he shall preserve all school reports of this state and of other states which he may receive, the returns *of the school committees of* (from) the various towns, (and institutions of learning) and such books, apparatus, maps, charts, works on education, plans for school buildings, models, and other articles of interest to school officers and teachers as may be procured without expense to the state.

To have an office at the capital.  
R.S., c. 11, § 103.

SEC. 98. (In addition to the duties elsewhere specifically imposed on him) his duties are as follows:

Duties.  
R.S., c. 11, § 104.

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

To exercise general supervision of schools.

II. To obtain information as to the school systems of other states and countries, and the condition and progress of *common* (public) school education throughout the world; to disseminate this information, with such practical hints upon the conduct of schools, (improved systems of instruction,) and the true theory of education as observation and investigation convince him to be important, by public addresses, circulars, and articles prepared for the press, (and by outlines, suggestions and directions concerning the management, discipline and methods employed in teaching, prepared for and distributed among the teachers of the schools and school officers of the state;) and to do all in his power to awaken and sustain an interest in education among the people, and to stimulate teachers to well directed efforts in their work.

Obtain and disseminate information relating to school systems and methods of instruction.

Resolves of  
March 26, 1897.  
March 11, 1899.  
March 16, 1901.

III. To take such measures as he deems necessary to secure the holding of a state educational convention once each year, with a view of bringing together the teachers, school committees, school superintendents, and friends of education, for consultation with reference to the interest of *common* (public) schools and the most approved method of instruction.

Take necessary measures for holding state educational conventions.

IV. *If sufficient encouragement is afforded by the citizens, to hold in each county once during each year a public meeting or institute for teachers and educators.* (To encourage the formation of county teachers' associations, approve rules of government therefor, and to supervise the conduct of conventions held by such associations. He shall also conduct summer training schools for teachers, whenever provision is made by the legislature for holding such schools.)

Hold county institutes.

Summer training schools.  
Resolves of  
March 26, 1895.  
March 26, 1897.  
March 11, 1899.  
March 16, 1901.

V. To prepare and cause to be printed and distributed such portions of the proceedings of state institutes or teachers' conventions as he deems important in the furtherance of education.

Publish abstracts of proceedings of such conventions.



Issue copies of school laws and circulars of information.  
1889, c. 307.

Prescribe studies to be taught.  
Furnish record books to school officers.  
1897, c. 273.

Assume control of schools maintained by gifts so conditioned.  
1901, c. 135.

Perform duties imposed by charters.  
1901, c. 272.  
Make annual report.  
Resolves of  
1895, c. 7.

Superintendent to furnish blanks for fiscal returns, and return list of towns making same.  
R. S., c. 11, § 14.

Superintendent to prepare and forward to town supts. blanks for school returns.  
R. S., c. 11, § 105.

To notify delinquent committees, to return to state treasurer number of school children.  
R. S., c. 11, § 106.  
Cause public examinations of teachers.  
1895, c. 152, § 1.

—notice shall be given.

Certificate of qualification given candidates.  
1895, c. 152, § 2.  
—form.

Lists of approved candidates shall be sent to school committees.  
1895, c. 152, § 3.

VI. Biennially, as soon as practicable after the adjournment of the legislature, to compile and distribute, in pamphlet form, to the municipal and school officers of the several towns, three thousand copies of the amended school laws of the state; and to prepare and issue thus biennially, such circulars of information and advice to school officers, relating to new school enactments, as he shall deem necessary for the intelligent and effectual enforcement of such enactments.

VII. To prescribe the studies to be taught in the common schools, reserving to town committees the right to prescribe additional studies.

VIII. To furnish to the school officers of each town, proper blank books in which shall be kept complete and itemized records of all matters relating to moneys appropriated, received and expended for schools, which said books shall remain the property of the state.

IX. To assume the control and management of all free public schools established and maintained by gifts or bequests, when said gifts or bequests are conditioned upon said state superintendent assuming such control and management; and he shall carry out the provisions upon which such gifts or bequests are conditioned, when said conditions are approved by the governor and council.

X. To perform all duties imposed upon him by any charter or charters granted by the legislature to educational institutions in the state.

XI. Annually, to report to the governor and council the result of his inquiries and investigations, and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment *would* (will) best promote the improvement of public schools.

SEC. 99. The state superintendent shall prepare and furnish to the town officers such blanks as he deems proper to secure the fiscal returns required in section twenty-seven. He shall return to the treasurer of state on the first day of July, annually, a list of such towns as have made such fiscal returns; and no school moneys shall be paid by the treasurer of state to any town, so long as it neglects to make such returns.

SEC. 100. He shall prepare and print blank forms for all (other) returns required by law, or deemed by him necessary, and shall, on the first day of each March, forward to the superintendents of schools of the several towns, blanks for the annual school return, and registers for the school year commencing on the first day of April following.

SEC. 101. He shall, on the first day of each June, notify the school committee of any town whose returns were not received at his office in May, and shall, annually, ascertain on the first day of July the number of children between four and twenty-one years of age, in the towns from which returns are received, and furnish a list thereof to the treasurer of state.

SEC. 102. He shall cause to be held, at such convenient times and places as he may from time to time designate, public examinations of candidates for the position of teacher in the public schools of the state. Such examinations shall test the professional as well as the scholastic abilities of the candidates, and shall be conducted by such persons and in such manner as he may from time to time designate. Due notice of the time, place and other conditions of the examinations shall be given in such public manner as he may determine.

SEC. 103. A certificate of qualification shall be given to all candidates who pass satisfactory examinations in such branches as are required by law to be taught, and who in other respects fulfil the proper requirements. Such certificate shall be either probationary or permanent, and shall indicate the grade of schools *for* which the person named is qualified to teach.

SEC. 104. A list of approved candidates shall be kept in the office of the state superintendent, and copies of the same with such information as may be desired shall be sent to school committees and superintendents upon their request.

SEC. 105. The certificates issued under the provisions of section one hundred and three shall be accepted by school committees and superintendents in lieu of the personal examination required by section thirty-four.

SEC. 106. A sum not exceeding five hundred dollars may be annually expended for the necessary and contingent expenses of carrying out the provisions of the four preceding sections.

Certificates to be accepted in lieu of personal examination.  
1895, c. 152, § 4.  
Appropriation.  
1895, c. 152, § 5.

#### NORMAL SCHOOLS, AND MADAWASKA TRAINING SCHOOL.

SEC. 107. The northern normal school at Farmington, the eastern normal school at Castine, and the western normal school at Gorham, shall be conducted for the purposes and upon the principles herein set forth.

Three normal schools, where located.  
R.S., c. 11, § 107.

I. They shall be thoroughly devoted to the training of teachers for their professional labors.

Their objects.

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

Course of study.

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

Art of school management.

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

Christianity and morality to be taught to teachers, without sectarianism.

V. The principals of the normal schools and of all other schools in which normal departments are supported, wholly or in part, by the State, shall keep a register containing the names of all students entering such schools or departments, the date of entering and leaving, their ages, number of days' attendance, the length of the term, a list of text-books used, and all other information required in the blanks furnished by the state superintendent. Such register and blanks shall be returned to said superintendent by the first day of each December, and the information so furnished shall appear in his annual report, for the use of the legislature.

Principals of normal schools or normal departments in other schools, to forward to superintendent statistics of students therein; such information to be laid before legislature.

SEC. 108. The course of study shall occupy two years with suitable vacations; and with the terms of admission shall be arranged by said superintendent, subject to the approval of the governor and council. The trustees may arrange for a course of study, occupying three or four years, for such students as elect to pursue the same.

Course of study.  
R.S., c. 11, § 108.  
1895, c. 75.

SEC. 109. Any student who completes the course of study prescribed, and otherwise complies with the regulations of the school, shall receive a diploma certifying the same.

Diplomas to be issued.  
R.S., c. 11, § 109.

SEC. 110. Applicants for admission shall be sixteen years of age if females, and seventeen if males, and shall signify their intention to become teachers and come under obligation to teach in this state for at least one year, and if they receive a diploma, two years after they have graduated; on these conditions they shall be received without charge for tuition; but each pupil must pay one dollar and fifty cents for incidental expenses of the school.

Applicants for admission, qualification of.  
R.S., c. 11, § 110.

—tuition, to be free.

SEC. 111. Said schools are under the direction of a board of seven trustees, five of whom shall be appointed by the governor, with the advice and consent of council, for not more than three years under one appointment; and the governor and state superintendent of public schools are, by virtue of their office, members of the board. Said board has charge of the general interests of said schools; shall see that the affairs thereof are conducted as required by law and by such by-laws as the board adopt; employ teachers and lecturers for the same; and, annually, on the first day of December lay before the governor and council, for the information

Trustees of normal schools, appointment of, etc.  
R.S., c. 11, § 111.

—term.  
—powers and duties of.  
—annual financial statement to governor and council.

Madawaska  
Training  
School.  
1887, c. 82.

Appropriation for normal and training schools.  
R.S., c. 11, § 112.  
1897, c. 308.

Blind children may be educated at Perkins Institute.  
1899, c. 2.

—discrimination shall not be made on account of wealth or poverty of parents.

—expenses shall be paid by State.

—proviso.

Forfeitures, how recovered and appropriated.  
R.S., c. 11, § 113.

—penalty, if town neglects to expend money.

Penalty for disturbing schools.  
R.S., c. 11, § 114.  
27 Me., 278.  
35 Me., 197.

Parents or guardians liable.  
R.S., c. 11, § 115.

—double damages.

of the legislature, a financial statement, furnishing an accurate detailed account of the receipts and expenditures for the school year preceding.

SEC. 112. The trustees of state normal schools shall maintain for not less than eight months annually, the Madawaska Training School, at Fort Kent, for the purpose of training persons to teach in the common schools of Madawaska territory, so called, which school shall be under their control and direction, in the same manner and to the same extent as the other state normal schools.

SEC. 113. For the support of the three normal schools and the Madawaska Training School, thirty-one thousand dollars is annually appropriated, to be expended under the direction of said trustees, which sum the treasurer of state shall deduct for said purpose from any school money raised for the support of common schools. The governor and council may from time to time, as they think proper, draw warrants therefor on said treasurer in favor of said trustees.

#### INSTRUCTION FOR THE BLIND.

SEC. 114. Upon the request of the parents or guardians, the governor may, with the approval of the council, send such blind children as he may deem fit subjects for education, for a term not exceeding ten years, and thereafter in the discretion of the governor and council, in the case of any pupil, to the Perkins Institute for the Blind at South Boston, Massachusetts. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution shall be paid by the state; *provided, however*, that nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.

#### PENAL PROVISIONS AFFECTING SCHOOLS.

SEC. 115. Forfeitures under this chapter, not otherwise provided for, may be recovered by indictment, and shall be paid into the treasury of the town where they occurred, for the support of schools therein, in addition to the amount required by law to be raised; but the costs of prosecution shall be paid into the county treasury; any town neglecting for one year, so to expend such money, forfeits an equal sum to any person suing therefor in an action of debt.

SEC. 116. Whoever, whether a scholar or not, enters any schoolhouse or other place of instruction, during or out of school hours, while the teacher or any pupil is present, and wilfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures, or wilfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse, or in any way disturbing the school, forfeits not less than two, nor more than twenty dollars, to be recovered as aforesaid, or on complaint.

SEC. 117. If a minor injures or aids in injuring any schoolhouse, out-buildings, utensils or appurtenances belonging thereto; defaces the walls, benches, seats, or other parts of said buildings by marks, cuts or otherwise; or injures or destroys any school property belonging to a town, such town by a truant officer thereof, may recover of his parent or guardian, in an action of debt, double the damage occasioned thereby.

SEC. 118. Whoever defaces the walls, benches, seats, blackboards, or other parts of any schoolhouse or out-buildings belonging thereto, by obscene pictures, language, marks or descriptions, shall be fined not exceeding ten dollars, on complaint made within one year.

Penalty for defacing school-houses, out-buildings. R.S., c. 11, § 116. See c. 123, § 13. Innholders, stable-keepers, and certain others, not to give credit to students. R.S., c. 11, § 125.

SEC. 119. If an innholder, confectioner, or keeper of a shop, boarding-house, or livery stable, gives credit for food, drink, or horse or carriage hire to any pupil of a college or literary institution in violation of its rules, *or without the consent of its president or other officer authorized thereto by its government*, he forfeits a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the treasurer of such institution; half to its use, and half to the town where it is located; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

—penalty.

[May not the clause in italics be considered obsolete?]

#### STATE SCHOOL FUNDS.

SEC. 120. The treasurer of state shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor, and of any other moneys appropriated for the same purpose; and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent of the amount of such fund, and all money received by the state from the tax on banks, and one-half the sum received by the state from the tax on the franchises of savings banks, shall be annually appropriated to the support of common schools, and distributed among the several towns according to the number of children therein between four and twenty-one years of age.

Permanent school fund. R.S., c. 11, § 117. 73 Me., 126.

See c. 47, § 37. c. 6, § 98.

SEC. 121. The treasurer shall, immediately after the first day of July, apportion to the towns all the state school funds for the year, according to the list of children furnished by the state superintendent of public schools, as provided in section one hundred and one. The number of scholars belonging to a town from which either the school committee or the municipal authorities have failed to make the returns required by law, shall be reckoned by taking the number used as the basis of the last apportionment, and deducting all scholars set off to other towns, or incorporated into a new town within a year, and one-tenth of the remainder, and the residue shall be the basis of the new apportionment. Immediately after making the apportionment, the treasurer shall notify each town of its proportion; which shall not be paid to any town until its *return is* (returns, both common school and fiscal, are) made to the state superintendent of public schools, nor so long as any state tax assessed upon such town remains unpaid.

Treasurer to apportion school funds. R.S., c. 11, § 118. See § 13, 36.

—basis when returns are not received.

—school funds not to be paid until return is made.

SEC. 122. A tax of one mill on a dollar shall annually be assessed upon all the property in the state according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

Mill tax. R.S., c. 11, § 119. 68 Me., 582, 586. 73 Me., 126.

SEC. 123. This tax shall be assessed and collected in the same manner as other state taxes, and be paid into the state treasury and designated as the school mill fund.

How assessed and collected. R.S., c. 11, § 120. 73 Me., 126.

SEC. 124. This fund shall be distributed by the treasurer of state on the first day of January, annually, to the several cities, towns and plantations according to the number of scholars therein, as the same shall appear from the official return made to the state superintendent of public schools for the preceding year.

To be distributed in January, annually. R.S., c. 11, § 121.

SEC. 125. All of the school mill fund not distributed or expended during the financial year, shall at its close be added to the permanent school fund.

Unexpended balance to be added to school fund. R.S., c. 11, § 122. 73 Me., 126.

Note. Funds arising from sales of timber and grass on reserved lots, how and when applied to support of schools, c. 5, § 19.

Instruction in forestry in public schools, academies and colleges, c. 5, § 66.

One-half of penalty for unlawful employment of children, to be added to school money, c. 48, § 39.

## CHAPTER 12.

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

## PARISHES AND RELIGIOUS SOCIETIES.

Mode of calling a meeting to form a parish.  
R. S., c. 12, § 1.  
66 Me., 107.

Seven days' notice to be given.

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

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

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

Powers of moderator.  
R. S., c. 12, § 5.  
66 Me., 107.  
When meetings may be called.  
R. S., c. 12, § 6.

How meetings called, if assessors refuse.  
R. S., c. 12, § 7.  
When no meeting for three years.  
R. S., c. 12, § 8.  
For what purposes may raise money.  
R. S., c. 12, § 9.  
6 Me., 173.

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

Payment enforced by sale of pews.  
R. S., c. 12, § 11.

—overplus to be paid to pew owner.

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

SEC. 2. Such persons so assembled may choose a clerk and other needful parish officers, and shall thereupon be a corporation, bear the name which they assume, and have all the powers of parishes and religious societies.

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

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

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

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

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

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

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

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

SEC. 11. When taxes on pews and seats remain unpaid for six months after their assessment, the treasurer shall sell them at auction, first posting notice thereof at the principal outer door of such house of worship, three weeks before the time of sale, stating the numbers, if any, of the pews or seats and the amount of tax on each; and shall execute and deliver a deed thereof to the purchaser, and pay to the owner the overplus, after deducting the amount of tax and incidental charges.

SEC. 12. Whenever a parish or church raises its current expenses by assessment on its pews, any pew owner therein who shall not occupy his pew, either by himself or family, or rent the same, may give a written notice to the clerk of the parish or church, or to the parish committee or assessors, of his intention not to occupy said pew for one year following the next annual meeting of said parish or church, in which case said pew owner shall not be liable for any tax assessed on said pew during said year, neither shall he act and vote at said annual meeting unless he retains a pew for the occupancy of himself and family, and the parish or church may let said pew during said year, and appropriate the rent to the current expenses of the parish or church, and said parish or church shall not sell said pew for taxes assessed during that year.

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

SEC. 14. A person of either sex, of lawful age, may become a member of a parish or religious society by vote thereof at a legal meeting.

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

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

SEC. 17. No such person shall vote in meetings of any territorial parish who is not the owner or occupant of a pew in its house of worship, or a contributor to its support.

SEC. 18. No territorial parish is hereby dissolved; and when one or more parishes are set off from a town, or incorporated therein, as aforesaid, the remainder is the first parish.

SEC. 19. The church wardens of episcopal churches, the stewards or trustees of the methodist episcopal church, and the deacons of all other protestant churches, are so far corporations as to take, in succession, all grants and gifts of real and personal estate made to their churches, or to them and their successors; and if the ministers, elders or vestrymen are joined with them in such grants or gifts, the two classes of officers shall be corporations for that purpose. For the purpose of organizing any such corporation, one or more members of said corporation may call a meeting thereof by a notice posted upon the outer door of the meeting-house or place of public worship of their parish or society at least seven days before the time of holding such meeting; or, if there is no such meeting house or place of public worship, by a notice posted in two public and conspicuous places in the town wherein said parish or society is located. At such meeting the corporation may organize, adopt a corporate name, and elect

When pew owner may give notice of his intention not to occupy for a year.  
R. S., c. 12, § 12.

—rights of pew owner thereafter.

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

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

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

—connection, how dissolved.

No person compelled to belong to a parish.

—withdrawal.  
R. S., c. 12, § 16.  
6 Me., 266, 451.

Who cannot vote at parish meetings.  
R. S., c. 12, § 17.

Territorial parishes, continued.  
R. S., c. 12, § 18

Officers of churches, are corporations for certain purposes.  
R. S., c. 12, § 19.  
1897, c. 298.

—how such corporation may organize.

—make contracts.

—proviso.

Ministers and officers of religious societies, powers of.  
R. S., c. 12, § 20.

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

Parish records open to inspection.  
R. S., c. 12, § 22.  
Parishes may appoint treasurer and collector, and allow discount.  
R. S., c. 12, § 23.

Overseers of monthly Quaker meetings to hold grants as a corporation.  
R. S., c. 12, § 24.

—powers may be enlarged.

such officers as its by-laws shall prescribe. Said corporations shall have the powers granted to parishes by section three of this chapter, and may make such contracts in relation to such estate, its improvement or disposal, as they may be authorized under the rules of their church, or instructed by the church or society for which they hold such estate in trust, to make, which contracts may be enforced by or against them, as in other cases; *provided, however*, that no disposal of such estate shall be made, inconsistent with the terms of the grant by which it is held. (a)

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

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

SEC. 22. The records of a parish shall be open to the inspection of its members and to clerks of other parishes; and each clerk shall furnish attested copies thereof, on request, for a reasonable compensation.

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

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

#### INDEPENDENT LOCAL CHURCHES.

Churches may be incorporated.  
1891, c. 55, § 1.

Notice of the meeting, how given.  
1891, c. 55, § 2.

SEC. 25. Any independent local church now existing, or that may hereafter be organized in the state, may be incorporated according to the provisions of this and the seven following sections.

SEC. 26. When three or more members of such church, who are voters according to section twenty-seven, shall apply in writing to any justice of the peace in the county for the purpose of incorporating said church, said justice shall issue his warrant addressed to one of said applicants, stating the time, place and purposes of the meeting and directing him to notify the members of said church, by posting a certified copy of said warrant in a

(a) 1 Me., 216, 280; 3 Me., 249; 6 Me., 357; 15 Me., 416; 66 Me., 108; 71 Me., 474, 476.

(b) 4 Me., 375; 5 Me., 221; 19 Me., 291; 26 Me., 512; 66 Me., 108.

conspicuous place near the main entrance to the usual place of meeting of such church and in one other public and conspicuous place in the same town, for seven days, at least, prior to said meeting.

SEC. 27. The resident members of such church twenty-one years of age and upward, shall be voters at such meeting and in all meetings of the corporation. Such voters, assembled at the time and place notified, shall elect a moderator to preside over said meeting. They shall then by ballot, proceed to vote upon the question whether the church will become incorporated hereunder. If two-thirds of the ballots cast shall be in favor of the church becoming incorporated, it shall thereupon become a body corporate with all the powers, rights and duties incident to corporations, with the right to take by gift, purchase, devise or bequest such personal and real property as may be useful for carrying on its local work, and may dispose of the same at pleasure, have perpetual succession, a corporate seal, and change the same at pleasure.

SEC. 28. They shall, by ballot, elect a clerk, treasurer, a business committee of not less than three nor more than seven members who are voters, and such other officers as they may deem necessary.

SEC. 29. *The* (Such) church by its by-laws may prescribe the duties of the several officers and the manner of executing the same. When no provision is made by any vote or by-law of the church for calling meetings, they shall be called by the business committee by posting notices of the time, place and purposes of said meeting, in the same manner and for the same time as is prescribed in section twenty-six. And meetings shall also, in the same manner, be called by said committee, upon the written request of at least six members of the church qualified to vote.

SEC. 30. Such church may by its by-laws extend to all persons not members of the church, who are twenty-one years of age and upwards and who regularly contribute toward the expenses of the church, the right to attend and participate in the annual and special meetings of the church, when action is to be taken relative to the use and appropriation of funds toward which they have contributed or toward which they have pledged contributions, and meetings called for the purpose of obtaining or dismissing a pastor.

SEC. 31. The deacons of such church or any other person or persons holding real or personal estate in trust for the use of such church, may convey such property to such incorporated church, and said church shall hold the same subject to the uses and trusts under which it was held by such deacons and other person or persons.

SEC. 32. Any parish or religious society, connected with the church which becomes incorporated under the provisions hereof, may at a meeting duly warned and called for such purpose by a two-thirds vote, authorize one or more persons in its name and behalf to convey to such church any real or personal estate which it may hold for the use of such church, and such church shall thereafter hold such property to the same uses and trusts as when held by such parish or society.

Qualification of voters.  
1891, c. 55, § 3.

—manner of organizing into a body corporate.

Election of officers.  
1891, c. 55, § 4.

Duties of officers may be prescribed by by-laws.  
1891, c. 55, § 5.

—meetings, how called.

Persons contributing to support of church may participate in meetings.  
1901, c. 200.

Persons holding property in trust may convey same to church.  
1891, c. 55, § 7.

Parish authorized to convey property to church.  
1891, c. 55, § 8.

#### PROTECTION OF PROPERTY DEDICATED TO PIOUS USES.

SEC. 33. Where any property in the state, dedicated and ordained for pious uses, has no proper or legal custodian, so that it is becoming wasted and the utility thereof is lost, upon the application of any person, patriotic or religious society interested in having such property preserved and applied to the uses for which it was originally intended, or for some public or patriotic purpose, the attorney general shall file a bill in equity, in the nature of an information, against such property and all persons interested therein, praying for the appointment of trustees to care for such property and for the proper application and disposal thereof, and the court may order such notice as seems proper, and may appoint receivers or trustees

Property dedicated to pious uses, having no legal custodians and becoming wasted, may be sold by order of court.  
1901, c. 264.



—court may convey such property to any religious body in trust.

therefor, and upon final decree, may order the care, custody, sale, application or disposal of such property as will best serve the purposes for which it was originally intended, or some public or patriotic purpose. The court may convey or transfer such property to any religious or patriotic body, to be held and applied for the purposes of such trust as the court may declare; and it shall have full power to treat, care for and dispose of the same in furtherance of such pious, public or patriotic uses as may seem best suited to the case and situation.

#### MEETING-HOUSES.

Parish may become owner of pews.

—proceedings.  
R. S., c. 12, § 25.

SEC. 34. When it is deemed expedient by any organized parish to become the owner of the pews in any meeting-house used by it as a place of regular worship, a meeting of the owners and occupants thereof may be called as provided in section six, and a majority of such pew owners and occupants may vote to convey the pews by them owned or occupied, to such parish.

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

SEC. 35. Any owner or occupant of a pew in such meeting-house, who expresses his dissent from such vote, in writing, to the parish clerk within one month from such meeting, shall have his pew appraised as provided in section thirty-eight, and the appraised value shall be tendered to him, and he shall then deliver a deed of such pew to the parish. If such dissent is not expressed, said pew is forever forfeited to the parish.

Persons may incorporate to hold a meeting-house.  
R. S., c. 12, § 27.  
66 Me., 400.

SEC. 36. Any persons, for the purpose of erecting a meeting-house, or the majority in interest of the owners of a meeting-house, not a parish, may incorporate themselves as parishes may; and choose all officers and do all other acts that a parish may lawfully do.

Owners may repair or dispose of meeting-houses.  
R. S., c. 12, § 28.

SEC. 37. A majority of the pew owners or proprietors of a meeting-house, present at a legal meeting called for that purpose, may repair, remodel, or sell and convey their house or the land used with it, or remove or rebuild it. Any meeting relating thereto may be called as provided in section forty; or by publishing the warrant in a newspaper printed in the county, at least fourteen days before the meeting.

—warrant for calling meeting.

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

SEC. 38. Before such alteration or sale is made, an appraisal of the relative value of the pews shall be made by three discreet persons, under oath, to be elected by ballot at a legal meeting of said owners or proprietors. If a sale of said house and land is made, it may be private or public, as such meeting determines, and the proceeds shall be applied to pay the expenses of said sale and the debts and just claims against the property; and the balance shall be paid to the pew owners or proprietors, in proportion to their interests by the appraisal. If the meeting-house is altered or rebuilt, the appraisers, after the work is completed, shall assign pews to the former pew holders, to conform as nearly as practicable to those previously held by them; and the other pews may be sold to defray the expenses of the repairs and alterations, or be otherwise disposed of as the proprietors or pew owners determine. They may choose officers, raise and assess taxes on the pews, collect them for making such repairs and alterations, do all things that a parish may do, and appoint some suitable agent or agents to make such sale and conveyance, or repairs and alterations, and a treasurer or trustees to receive and distribute the proceeds of sale in manner aforesaid.

Proprietors dissenting, entitled to appraised value of their interest.  
R. S., c. 12, § 30.

SEC. 39. When it is decided to repair, remodel, or rebuild a meeting-house, any owner or proprietor dissenting from the action of the majority and declining to take an interest in the house as altered, may demand and receive of such majority the appraised value of his interest, after deducting his proportion of debts against the property, to be recovered in an action for money had and received; which shall not be commenced until thirty days after such demand, nor after the lapse of a year after notice is posted for three successive weeks on the meeting-house door and some

other conspicuous place in its precinct, stating the persons to whom the money is to be paid, the amount payable to each, and the time limited for payment. If said sums are not demanded within said time, they are forfeited to the majority for parish uses. But this section does not apply to any case where the repairs decided upon are only such as are necessary to keep such meeting-house in a tenantable condition.

SEC. 40. The owners of a meeting-house or building for public worship, and the pew owners, may be incorporated, when any three or more of them apply therefor to a justice of the peace, who shall issue his warrant to one of them, stating the time, place and purpose of the meeting, and directing him to notify said owners by posting a certified copy of it for fourteen days on the principal outer door of such building and in one or more other public places in the same town.

SEC. 41. When so assembled, they may choose a moderator and clerk, who shall perform the usual duties of such officers; and thereupon said owners shall be a corporation, and be known by such name as they adopt, and they may agree on the mode of calling future meetings.

SEC. 42. Such corporation, by a major vote of its members, may use and control the meeting-house or building for public worship partly or wholly owned by them, as they please; but nothing in this and the two preceding sections shall affect the rights of owners of houses of worship, built by different religious denominations.

SEC. 43. When there has been no meeting of the incorporated pew owners, or proprietors or owners of a meeting-house, or building for public worship, for three years, a meeting may be called on application of three or more members thereof to a justice of the peace, who shall issue his warrant to one of them, stating the time, place and purposes of the meeting, directing him to notify such meeting by posting a certified copy of said warrant, three weeks before the time of meeting, on the principal outer door of such building, and in one or more public places in the same town, and publishing it in a newspaper published in the county, if any, otherwise in an adjoining county, or in the state paper.

SEC. 44. When a house of public worship is owned by persons of different denominations, and when an organized society, or its members, own five pews therein, one or more of the minority owning not less than five pews may apply to a justice of the peace and quorum to obtain a division of the time of occupying the house; and he shall call a meeting of the owners by posting a notice in a public place in or about the house, thirty days at least before the meeting, stating the time, place and object thereof.

SEC. 45. At such meeting, the owners, who are not applicants, or if they refuse or neglect, the justice who called the meeting, may designate another justice, and the two may appoint a third disinterested person, not an inhabitant of the town in which the house is located, or belonging to the denomination of either party interested; and the three shall be a board, before which the owners may exhibit the amount that they own in the house; the minority, owning at least five pews, shall have their part allotted to them, as nearly as may be, in proportion to the amount that they own in the house; and the board shall designate which weeks in each year, the minority, if they please, may occupy the house; if they do not, the majority may occupy it.

SEC. 46. The board shall appraise the value of the minority's proportion of the house, make a record of their proceedings, and within ten days cause it to be transcribed into the records of such town.

SEC. 47. All their reasonable expenses shall be paid by the persons who requested the division; but the above provisions shall not affect any agreement now in force as to the mode of occupying such house.

Note. Pews and rights in houses of public worship are real estate: deeds of same, where recorded, c. 73, § 32.

—limitation  
and forfeiture.

Owners of  
meeting-  
houses and  
pews therein  
may incor-  
porate them-  
selves.  
R. S., c. 12, § 31.  
—mode of call-  
ing a meeting.  
80 Me., 31.

Manner of or-  
ganizing and  
becoming in-  
corporated.  
R. S., c. 12, § 32.  
80 Me., 31.

Corporate  
rights and  
powers.  
R. S., c. 12, § 33.  
59 Me., 252.  
80 Me., 31.

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

How minority  
of different  
denominations  
may obtain  
division of  
time.  
R. S., c. 12, § 35.  
59 Me., 252.

Mode of pro-  
ceeding.  
R. S., c. 12, § 36.  
59 Me., 252.

Proportion of  
minority to be  
appraised.  
R. S., c. 12, § 37.  
59 Me., 252.  
Expenses, how  
paid.  
R. S., c. 12, § 38.

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

SEC. 48. The minority may occupy the house for their allotted time, unless the majority purchase their interest, by paying the minority the sum at which it was appraised by the board; but if the minority decline so to sell, they shall not avail themselves of the four preceding sections.

#### MINISTERIAL, AND SCHOOL LANDS, AND FUNDS ARISING THEREFROM.

Fee in ministerial lands, how vested.  
R. S., c. 12, § 40.  
See c. 5, § 12-27.  
15 Me., 420.

SEC. 49. Where lands have been granted or reserved for the use of the ministry, or first settled minister, or for the use of schools, in any town, and the fee in these lands has not vested in some particular parish therein, or in some individual, it shall vest in the inhabitants of such town and not in any particular parish therein, for such uses.

Selectmen, town clerk and treasurer, to be trustees.  
R. S., c. 12, § 41.  
75 Me., 88.  
Trustees shall choose officers, annually.  
R. S., c. 12, § 42.  
75 Me., 88.

SEC. 50. The municipal officers, town clerk and treasurer of each town where no other trustees are lawfully appointed for that purpose, shall be a corporation and trustees of such ministerial and school funds, with the usual powers granted to similar corporations.

SEC. 51. They shall annually elect a president, clerk and treasurer; the treasurer shall give bond with securities sufficient in the opinion of the trustees, for the faithful discharge of his duty; and the clerk shall be sworn.

Powers of such trustees.  
R. S., c. 12, § 43.  
29 Me., 46.  
75 Me., 88.  
Funds to be placed on interest.  
R. S., c. 12, § 44.

SEC. 52. They may sell and convey all such ministerial and school lands belonging to and lying in their town; and the treasurer's deed thereof, executed by order of the trustees, shall pass the estate.

SEC. 53. As soon as may be, they shall place the proceeds of sale at interest secured by mortgage of real estate of twice the value of the principal, or by bond or note with sufficient sureties, or invest them in bank stock or public securities.

Trustees may hold estate for use of the ministry and schools.  
R. S., c. 12, § 45.

SEC. 54. They may, by gift, grant, or otherwise, take and hold for the use of the ministry in their towns, real and personal estate, the annual income of which does not exceed one thousand dollars; and for the use of schools may take and hold estate, the annual income of which does not exceed the sum which their town is bound to raise for the same use.

Income of funded property, how applied.  
R. S., c. 12, § 46.

SEC. 55. The income of the fund, arising from the sale of lands under section fifty-two, and from the rents and profits of real and personal estate held under section fifty-four, shall be annually applied to the support of public schools in the town, and expended like other school moneys.

Incorporated trustees may transfer funds, by consent of the town.  
R. S., c. 12, § 47.

SEC. 56. The trustees of any ministerial or school fund in this state, incorporated by the legislature of Massachusetts, may by consent of the town for whose use the fund was established, transfer it to the municipal officers, clerk, and treasurer thereof, who are hereby made trustees of the same; and the income shall be annually applied and expended as provided in the preceding section.

Trustees to account annually.  
R. S., c. 12, § 48.

SEC. 57. At each annual meeting of their town, the trustees shall exhibit an account of their proceedings, and a statement of the funds, receipts, and expenditures, and of the application thereof to said uses.

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

SEC. 58. When such lands are vested in a parish, the assessors, clerk, and treasurer, where no other trustees are appointed for that purpose, shall be a corporation and trustees of such ministerial fund with like powers and under like liabilities, as the municipal officers, town clerk, and treasurer; pay the annual income of such lands and of the proceeds of their sale according to the terms of the grants and reservations by which they were so vested; and at each annual meeting for choice of parish officers, exhibit an account of their proceedings, and a statement of funds, receipts, and expenditures.

First meeting of trustees, how called.  
R. S., c. 12, § 50.

SEC. 59. The first meeting in any year of the trustees constituted by sections fifty and fifty-eight, may be called by seven days' personal notice of the time and place thereof, given by one of them to all the others.

Lots reserved for public uses, location

SEC. 60. When in the grant of any townships or parts of townships certain portions are reserved for public uses, and such portions have not

been located in severalty prior to the incorporation of the same into a town, the supreme judicial court in the county where the land lies, on application of the assessors of the town, may appoint three disinterested persons of the county, and issue to them its warrant under seal of the court, requiring them, as soon as may be, to locate such reserved portion according to the terms of the grant, and if the use or purpose of the reservation is prescribed in the grant, they shall set off and locate the lots accordingly, designating the use or purpose for which each lot is so reserved and located.

SEC. 61. Said committee before acting under such warrant, shall be sworn to the faithful discharge of the duty assigned them, and a certificate thereof shall be indorsed on the warrant.

SEC. 62. They shall also give notice of their appointment, and of the time and place of their meeting to execute the same, by publishing the same in some newspaper in the state to be designated by the court, and by posting written notifications in two or more public places in the same town, at least thirty days before making such location.

SEC. 63. They shall make return of said warrant and their doings thereon, to the next supreme judicial court in the county, after having completed the service; which, being accepted by the court and recorded in the registry of deeds of the same county, within six months, shall be a legal assignment and location of such reserved proportions, for the uses designated; and thereafter the lands so set off and located, shall be under the care and oversight of the trustees of the ministerial and school funds of the town, with all the powers and subject to the duties prescribed in this chapter, including the power to sell and convey the same.

of, by committee appointed by S. J. Court.  
R. S., c. 12, § 51.

Committee, to be sworn.  
R. S., c. 12, § 52.

Notice of appointment and meeting.  
R. S., c. 12, § 53.

Return of the doings of the committee.  
R. S., c. 12, § 54.

## CHAPTER 13.

### PRACTICE OF MEDICINE, SURGERY, AND DENTISTRY.

#### PROMOTION OF MEDICAL EDUCATION.

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

SEC. 2. The professors of anatomy, the professors of surgery, and the demonstrators of anatomy in the medical schools of the state, which are now or may hereafter become incorporated by act of the legislature, shall be and are hereby constituted a board for the collection, distribution, and delivery of dead human bodies hereinafter described, to and among such persons as under the provisions of this chapter are entitled thereto. The said board shall have full power to establish rules and regulations for its government, and to appoint and remove officers, and shall keep full and complete minutes of its transactions, and records shall also be kept under its direction of all bodies received and distributed by said board, and of the persons to whom the same are distributed, which minutes and records shall be open at all times to the inspection of each member of said board, the attorney general and the county attorney of any county within the state.

SEC. 3. All public officers, agents and servants of any and every county, city, town and other municipality, and of any and every almshouse, prison, morgue, hospital or any other public institution having charge or control over dead human bodies required to be buried at the public expense, are hereby required to notify immediately the said board of distribution,

A body may be delivered to physician, if person has consented.  
R. S., c. 13, § 1.

Board constituted for collection, distribution and delivery of dead human bodies.  
1897, c. 315, § 1.

—may establish rules, appoint and remove officers, keep record of bodies received and distributed.

—shall be open to inspection.

Board of distribution shall be notified of deaths occurring in almshouses, prisons, etc.  
1901, c. 276.

or such person or persons as may from time to time be designated by said board, or its duly authorized officer or agent, whenever any such body or bodies come into his or their possession, charge, or control, and shall, without fee or reward, deliver such body or bodies to said board, or its duly authorized officer or agent, and permit and suffer the said board or its agents, or the physicians and surgeons from time to time designated by it or them, who comply with the provisions of this chapter, to take and remove any and all such bodies to be used within the state for the advancement of medical education; but no such notice need be given and no such body shall be delivered, if any person, satisfying the authorities in charge of said body that he or she is a member of the family of or next of kin to the deceased, shall claim the body for burial, but it shall be surrendered to him or her for interment, and no notice shall be given and no body delivered to said board or its agents, if such deceased person was a traveler and not a vagabond, who died suddenly, in which case the said body shall be buried.

—notice need not be given if body is claimed by family.

Board shall distribute bodies upon receiving them.  
1897, c. 315, § 3.

—to schools needing them.

—physicians and surgeons.

Bodies shall be enclosed from public view and conveyed by carriers.  
1897, c. 315, § 4.  
—carriers shall obtain receipts.

School or persons receiving such bodies, shall give bond for proper disposal of same.  
1897, c. 315, § 5.

—remains shall be decently buried when no longer needed.

—state treasurer shall approve bond.

—penalty for trafficking in dead bodies outside of the state.

Expenses, how paid.  
1897, c. 315, § 6.

SEC. 4. Said board or its duly authorized agent may take and receive such bodies, so delivered as aforesaid, and shall upon receiving them after seven days from the date of decease distribute and deliver them to or among the schools, physicians and surgeons aforesaid in the following manner. Those schools needing bodies for lectures and demonstrations shall first be supplied as fast as practicable, the number assigned to each to be based upon the number of students in actual attendance, which number shall be returned to the board at such times as it shall direct. The board of distribution may from time to time designate physicians or surgeons who shall receive said bodies, applications to be considered in the order of their receipt by said board.

SEC. 5. The said board may employ a carrier or carriers for the conveyance of said bodies, and the said bodies shall be well enclosed within a suitable encasement, and carefully deposited free from public observation. Said carrier shall obtain receipts by name, or, if the deceased is unknown, by a description, for each body delivered by him, which receipt shall state the source from which said body was received, and shall deposit said receipts with the secretary of said board.

SEC. 6. No school, physician or surgeon shall be allowed or permitted to receive any such body or bodies until a bond shall be given to the treasurer of state by such physician or surgeon, or by and in behalf of such school, to be approved by a justice of a court of record in and for the county in which such physician or surgeon resides, or in which such school is situated; such bond shall be in the penal sum of one thousand dollars, conditioned that all such bodies which the said physician or surgeon, or the said school shall receive thereafter shall be used only for the promotion of medical education within the state, and, when no longer needed for such educational purposes, shall be decently buried; said bond shall be examined annually in the month of December, by the treasurer of state, and he shall certify in writing upon each bond in his possession, his approval of the same; in case any bond is not approved by him, he shall immediately notify the party giving the same, who shall forthwith file a new bond as hereinbefore provided; whosoever shall sell or buy such body or bodies, or in any way traffic in the same, or shall transmit or convey such body or bodies to any place outside of the state, or cause the same to be done, shall be liable to a fine not exceeding two hundred dollars, or to imprisonment for not more than one year.

SEC. 7. Neither the state nor any county or municipality, nor any officer, agent or servant thereof, shall be at any expense by reason of the delivery or distribution of any such body, but all the expenses thereof, and of said board of distribution, shall be paid by those receiving the bodies, in such manner as shall be specified by said board of distribution.

SEC. 8. Any person having duties enjoined upon him by the provisions of the six preceding sections, who shall neglect, refuse, or omit to perform the same as required by the provisions of said sections, shall, on conviction thereof, be liable to a fine of not less than one hundred, nor more than five hundred dollars for each offense.

Fine for neglect to discharge duties. 1897, c. 315, § 7.

#### REGISTRATION OF PHYSICIANS AND SURGEONS.

SEC. 9. The governor with the advice and consent of the council, shall appoint a board of registration of medicine consisting of six persons, residents in the state, who shall be graduates of a legally chartered medical college or university having the power to confer degrees in medicine, and who shall have been actively employed in the practice of their profession for a period of five years. Two persons qualified as aforesaid, shall be appointed members of said board on or before the first day of July of every alternate year after July one, eighteen hundred and ninety-five, to hold office for six years from the first day of July following said appointment. No member of said board shall belong to the faculty of any medical college or university. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office for cause by the governor, with the advice and consent of the council, and not more than two members of said board shall at one time be members of any one chartered state medical society.

Appointment of board of registration of medicine. 1895 c. 170, § 1.

—vacancies, how filled.

—removal of members.

SEC. 10. The members of said board shall meet on the second Tuesday of July of each alternate year after the year eighteen hundred and ninety-five, at such time and place as they may determine, and shall elect a chairman and secretary who shall hold their respective offices for the term of two years. The secretary shall give to the treasurer of state a bond in the penal sum of one thousand dollars, with sufficient sureties to be approved by the governor and council, for the faithful discharge of the duties of his office. The said board shall hold regular meetings, one in March, one in July and one in November of each year, and such additional meetings at such times and places as it may determine. Said board shall cause a seal to be engraved and shall keep correct records of all its proceedings, and may make such minor rules and regulations as it shall deem necessary for the successful enforcement of its authority and the performance of its duties.

Meetings for choice of officers. 1895, c. 170, § 2.

—chairman and secretary shall be elected.

—secretary shall give bond.

—regular meetings.

—seal.

SEC. 11. *Every person practicing medicine or surgery for gain or hire as a livelihood in the state on March twenty-seven eighteen hundred and ninety-five, who is a graduate of a legally chartered medical college or university having power to confer degrees in medicine, and every person who had been a practitioner of medicine or surgery in the state for a period of three years next prior to said date, shall upon exhibition of satisfactory proof thereof to said board and upon the payment of a fee of two dollars be entitled to registration and said board shall issue to him a certificate under the seal of the board, and signed by the chairman and secretary, which shall state the facts and the cause of said registration, and must be publicly displayed at the person's principal place of business as long as said person continues such practice for gain or hire. Any person not entitled to registration as aforesaid shall, upon the payment of a fee of ten dollars, be entitled to examination, and if found qualified by a majority of the members of the board present shall be registered as a physician or surgeon, and shall receive a certificate thereof (under the seal of the board, and signed by the chairman and secretary, which shall state the facts and must be publicly displayed at the person's principal place of business as long as said person continues such practice for gain or hire.) Any person refused registration may be re-examined at any regular meet-*

Persons who have been practicing three years, prior to March 27, 1895, entitled to registration. 1895, c. 170, § 3.

—fee.

Persons not so entitled to registration may, upon passing examination, be registered. 1895, c. 170, § 4.

ing of said board, within two years of the time of such refusal, without additional fee and thereafter may be examined as often as he may desire upon payment of the fee of ten dollars for each examination.

All applicants shall be examined for registration. 1901, c. 275, § 1.

—qualifications of applicants.

—how examinations shall be made, and what they shall embrace.

—board may make rules for reciprocity of licensure, with boards of other states.

Shall keep record which shall be open to inspection. 1895, c. 170, § 6. See § 21.

—shall report annually to governor.

Shall investigate complaints of violation. 1895, c. 170, § 7.

—certificates may be revoked, and registration canceled. 1895, c. 170, § 4.

—fees shall be paid into the state treasury.

No person shall practice medicine who has not been registered. 1895, c. 170, § 9. 77 Me., 334.

—penalty if person holds himself out as a physician, or appends "M. D." to his name.

Certain officers, physicians, exempt. 1901, c. 275, § 2.

SEC. 12. The board shall examine all applicants for registration as licensed physicians or surgeons. Each applicant shall, at least seven days before the date of his examination, present to the secretary of the board an application under oath or affirmation, giving satisfactory proof of being twenty-one years of age, of having good moral character and of being a graduate of some reputable medical school or college having power to confer degrees in medicine, and in good standing, and maintaining a standard of preliminary education and of medical instruction approved by the board. He shall also present such other facts as the board in its blank application may require, and must pay the fees provided in the preceding section. Examinations shall be in whole or in part in writing and shall be of an elementary and practical character. They shall embrace the general subjects of anatomy, physiology, pathology, materia medica and therapeutics, surgery, the principles and practice of medicine, and obstetrics, or such branches thereof as the board may deem necessary for the applicant to possess. The board may make such rules and regulations as may be necessary for reciprocity of licensure with the boards of other states which maintain a standard of education at least equal to their own; but no such rules shall become operative until they have been approved by a justice of the supreme judicial court.

SEC. 13. The board shall keep a record of the names and residences of all persons registered hereunder and a record of all moneys received and disbursed by said board, and said records or duplicates thereof shall always be open to inspection in the office of the secretary of state during regular office hours. Said board shall annually on or before the first day of January in each year, make a report to the governor containing a full and complete account of all its official acts during the preceding year, also a statement of its receipts and disbursements and such comments or suggestions as it may deem essential.

SEC. 14. The board, its members or agents shall investigate all complaints regarding non-compliance with or violation of the provisions of this chapter relating to the registration of physicians and surgeons, and shall bring all such cases to the notice of the proper prosecuting officers. Said board, after a conviction before a proper court, for crime in the course of professional business, of any person to whom a certificate has been issued by them, and after hearing, may by unanimous vote revoke the certificate and cancel the registration of the person to whom the same was issued. Said board may also suspend or revoke any certificate by unanimous vote, in any case where such certificate has been wrongfully obtained or any fraud connected with the said registration. All fees received by the board hereunder shall be paid by the secretary thereof into the treasury of the state once in each month.

SEC. 15. No person shall practice medicine or surgery, or any branch thereof for gain or hire within the state unless duly registered by said board. Whoever not being registered as aforesaid shall so practice or shall advertise or hold himself out to the public as a physician or surgeon in the state, who appends to his name the letters "M. D.," or who uses the title of a doctor or physician, meaning thereby a doctor of medicine, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars for each offense or by imprisonment for three months or both.

SEC. 16. The seven preceding sections shall not apply to commissioned officers of the United States army, navy or marine hospital service, or to a physician or surgeon who is called from another state to treat a particular case and who does not otherwise practice in this state, nor to prohibit gratuitous service or the rendering of assistance in emergency cases, nor

to midwives who lay no claim to the title of physician or doctor; nor to clairvoyants or persons practicing hypnotism, magnetic healing, mind cure, massage, Christian science, so called, or any other method of healing if no poisonous or dangerous drugs are employed nor surgical operations performed; *provided*, such clairvoyants and other persons do not violate any of the provisions of the preceding section in relation to the use of "M. D." or the title of doctor or physician.

SEC. 17. The compensation, incidental and traveling expenses of the board shall be paid from the treasury of the state. The compensation of members of the board shall be five dollars each for every day actually spent in the discharge of their duties and five cents a mile each way for necessary traveling expenses in attending the meetings of the board, but in no case shall any more be paid than has actually been expended. The secretary shall be allowed extra compensation for books, stationery, postage and other necessary expenses actually incurred. Such compensation and the incidentals and traveling expenses shall be approved by the board and audited by the governor and council, and paid from the state treasury, *provided*, that the amounts so paid shall not exceed the amount received by the treasurer of state from the board in fees as herein specified, and so much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of the board as aforesaid.

SEC. 18. *No person who has not received a medical degree at a public medical institution in the United States, or a license from the Maine Medical Association, shall recover compensation for medical or surgical services, unless previous to such service, he had obtained a certificate of good moral character from the municipal officers of the town where he then resided.*

[This section is considered inconsistent with section fifteen, and in the opinion of the commissioner should be omitted.]

#### REGISTRATION OF DENTISTS.

SEC. 19. No person shall practice, attempt to practice, or hold himself out to be a practitioner of dentistry or dental surgery until he or she shall have first received a certificate as hereinafter provided; whoever violates the provisions of this section, shall be fined not less than twenty-five, nor more than one hundred dollars for each offense.

SEC. 20. A board of examiners, to consist of five dentists of good standing, who have been in the practice of dentistry in the state not less than five years, shall be appointed by the governor, with advice and consent of the council, to hold office for the term of three years and until their successors are qualified, and the terms of office of said members shall be so arranged that two members shall be appointed annually except in every third year after eighteen hundred and ninety-one, when one member only shall be appointed. Vacancies in said board at any time occurring shall be filled by the governor in accordance with the provisions of this section.

SEC. 21. *Before entering upon their duties the members of said board shall take and subscribe the oaths prescribed by law to be taken by other officers appointed in like manner.* The members of said board shall meet annually at a time and place to be determined by said board at its previous annual meeting, and shall choose from their number a president and a secretary who shall hold their respective offices for the ensuing year and until their successors are chosen; and may meet at such other times and places as said board may deem necessary. A majority of the members of said board shall constitute a quorum; a true record of their proceedings shall be kept by the secretary and shall be open at all reasonable times to public inspection. The secretary under direction of the board, shall further keep a register in which shall be entered the name, residence and

—and certain other persons exempt from provisions. 1895, c. 170, § 11.

—proviso.

Compensation and traveling expenses. 1895, c. 170, § 5.

—expenses of the secretary.

—compensation shall not exceed amount of fees.

Irregular practitioners cannot collect bills without certificate of character. R. S., c. 13, § 9. 3 Me., 25. 18 Me., 271. 25 Me., 107. 28 Me., 100. 45 Me., 409. 51 Me., 598. 59 Me., 182. 74 Me., 38. 77 Me., 337.

Practice of dentistry by incompetent persons, prohibited. 1891, c. 43, § 1. —penalty.

Board of examiners created. 1891, c. 43, § 2.

—appointment and tenure.

—vacancies, how filled.

Members shall be sworn. 1891, c. 43, § 3. See Const. of Me., Art. ix, § 1. —annual meeting. —choose president and secretary. —quorum.

—duties of secretary. Sec § 13.



place of business of every person authorized under this chapter to practice dentistry, and shall certify a copy of the same to the secretary of state, who shall enter the same in a book to be kept for the purpose.

Persons passing satisfactory examination, shall be entitled to register.  
1891, c. 43, § 5.

—shall receive certificate.

Secretary may grant temporary permit to practice.  
1891, c. 43, § 6.

—fees.  
1891, c. 43, § 7.

Physicians and surgeons shall not be restricted.  
1891, c. 43, § 8.

SEC. 22. Any person desiring to practice dentistry or dental surgery in the state, upon first passing a satisfactory examination before said board, in anatomy, physiology, pathology, therapeutics, chemistry and the theory and practice of dentistry, and on payment of the fee provided in the following section, shall be entitled to registration and shall receive a certificate in due form, signed by the president and attested by the secretary authorizing such person to practice dentistry in the state.

SEC. 23. The secretary of said board may grant a temporary permit to practice dentistry to any suitable person who shall file with said secretary his application therefor, and shall deposit with him the sum of ten dollars, to be applied towards the payment of said applicant's examination fee. Such permit shall be valid only until the next meeting of said board. The board shall receive from the applicant for examination under the provisions of the preceding section, twenty dollars, which shall in no case be returned, but shall entitle the applicant to another examination without payment of additional fees, and shall be in full for all services and expenses.

SEC. 24. Nothing in the five preceding sections shall be so construed as to restrict or interfere with the physicians and surgeons in the discharge of their professional duties, or with any citizen in the extraction of teeth in cases of emergency.

## CHAPTER 14.

### THE PUBLIC HEALTH AND THE PREVENTION OF CONTAGIOUS DISEASES.

#### THE STATE BOARD OF HEALTH.

State board of health.  
1885, c. 286, § 1.

—members of, how appointed.

—secretary, how chosen.

Duties of board.  
1885, c. 286, § 2.

—study vital statistics.

—make sanitary investigations.

—investigate disease among animals.

SEC. 1. The state board of health as heretofore established shall consist of six members, appointed by the governor, with the advice and consent of the council, and a secretary elected as hereinafter provided. The governor shall annually appoint a member of said board to hold office for six years from the thirty-first day of January of each year; any vacancy occurring during a term among the members so appointed shall be filled for the remainder of the term. The members appointed by the governor shall elect a secretary, who shall, by virtue of such election, become a member of the board, and its executive officer. The board may elect one of their own number secretary, in which case his term of office as a member by appointment of the governor shall expire, and the governor, with the advice and consent of the council, shall appoint another member to complete the full number of the board.

SEC. 2. The state board of health shall have the general supervision of the interests of health and life of the citizens of the state. They shall study the vital statistics of the state, and endeavor to make intelligent and profitable use of the collected records of deaths and of sickness among the people; they shall make sanitary investigations and inquiries respecting the causes of disease and especially of communicable diseases and epidemics, the causes of mortality, and the effects of localities, employments, conditions, ingesta, habits, and circumstances on the health of the people; they shall investigate the causes of disease occurring among the stock and domestic animals in the state, and the methods of remedying the same; they shall gather such information in respect to all these matters as they may deem proper for diffusion among the people; they shall, when required or when they shall deem it best, advise officers of the government, or other

boards within the state, in regard to the location, drainage, water supply, disposal of excreta, heating and ventilation of any public institution or building; they shall from time to time examine and report upon works on the subject of hygiene for the use of the schools of the state; they shall have general oversight and direction of the enforcement of the statutes respecting the preservation of health; and they shall, in the month of January, make report to the governor and council of their doings, investigations and discoveries, during the year ending on the thirty-first day of December, with such suggestions as to legislative action as they may deem necessary.

—advise as to drainage, water supply, etc.

—report.  
1887, c. 114, § 2.

SEC. 3. The board shall meet quarterly at Augusta, and at such other places and times as they may deem expedient. Suitable accommodations for the meetings of the board, and office room for its secretary shall be provided at the state capitol. A majority shall be a quorum for the transaction of business. They shall choose annually one of their number to be their president, and may adopt rules and by-laws subject to the provisions of this chapter. They may send the secretary, or a committee of the board, to any part of the state, when deemed necessary to conduct an investigation within the scope of their prescribed work.

Meetings.  
1885, c. 286,  
§§ 3, 10.

—quorum.

—president,  
how chosen.

SEC. 4. The secretary shall hold his office as long as he shall faithfully discharge the duties thereof; he may be removed for just cause at a regular meeting of the board, by vote of a majority of the members. He shall keep his office at the state capitol, and shall perform the duties prescribed by law, or required by the board. He shall keep a record of the transactions of the board; shall have the custody of all books, papers, documents, and other property belonging to the board, which may be deposited in his office; shall, as far as practicable, communicate with other state boards of health, and with the local boards of health within this state; shall keep and file all reports received from such local boards of health and all correspondence of the office appertaining to the business of the board. He shall, as far as possible, aid in obtaining contributions to the library and museum of the board. He shall prepare blank forms of returns, and such instructions as may be necessary, and forward them to the local boards of health throughout the state. He shall collect information concerning vital statistics, knowledge respecting diseases, and all useful information on the subject of hygiene, and, through an annual report, and otherwise, as the board may direct, shall disseminate such information among the people.

Tenure of  
secretary.  
1885, c. 286, § 4.

—duties of

See c. 59, § 18.

SEC. 5. The secretary shall receive an annual salary which shall be fixed by the state board of health. The board shall quarterly certify the amount due him, and on presentation of said certificate the governor shall draw his warrant on the treasurer of state for the amount. The members of the board shall receive no compensation for their services, but their traveling and other necessary expenses while employed on the business of the board shall be allowed and paid.

Salary.  
1885, c. 286, § 5.

—expenses of  
members al-  
lowed.

SEC. 6. The sum of five thousand dollars or as much thereof as may be deemed necessary by the state board of health, is hereby (shall be annually) appropriated to pay the salary of the secretary, meet the contingent expenses of the office of the secretary, and the expenses of the board, which shall not exceed the sum hereby appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary.

Annual appro-  
priation.  
1885, c. 286, § 6.  
1887, c. 114, § 1.

SEC. 7. In order to afford to this board, better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, all officers of the state, the physicians of all incorporated companies, and the president or agent of any company chartered, organized, or transacting business under the laws of this state, as far as is practicable, shall furnish to the state board of health any information bearing upon public health which may be requested by said board for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.

Certain offi-  
cers and  
others re-  
quired to fur-  
nish informa-  
tion.  
1885, c. 286, § 8.

State board of health may establish system of inspection, to ascertain presence of infectious diseases.  
1893, c. 305, § 1.

—inspector of, may enter any building, etc.

—to stop vessels, etc.

—may detain train and side track car if infected.

—may make rules and regulations for guarding against introduction of diseases.

Rules must be approved by governor and council.  
1893, c. 305, § 3.

—publication of rules and regulations.

—shall supersede all local rules.

All officers shall enforce regulations.  
1893, c. 305, § 2.

—penalty, for refusing to obey rules.

SEC. 8. The more effectually to protect the public health the state board of health may establish such systems of inspection as in its judgment may be necessary to ascertain the actual or threatened presence of the infection of Asiatic cholera, smallpox, diphtheria, scarlet fever or typhus fever; and any duly authorized agent or inspector of said board may enter any building, vessel, railway car or other public vehicle, to inspect the same and to remove therefrom any person affected by said diseases; and for this purpose he may require the person in charge of any vessel or public vehicle other than a railway car to stop such vessel or vehicle at any place, and he may require the conductor of any railway train to stop his train at any station or upon any side track and there detain it for a reasonable time; *provided*, that no conductor shall be required to stop his train when telegraphic communication with the despatcher's office cannot be obtained or at such times or under such circumstances as may endanger the safety of the train and passengers; and *provided further*, that any such agent or inspector may cause any car which he may think may be infected with said diseases to be side tracked at any suitable place and there be cleansed, fumigated and disinfected. And the said board of health may from time to time make, alter, modify or revoke rules and regulations for guarding against the introduction of said diseases into the state; for the control and suppression thereof if within the state; for the quarantine and disinfection of persons, localities, and things infected or suspected of being infected by such diseases; for the transportation of dead bodies when death resulted from said diseases; for the speedy and private interment of the bodies of persons who have died from said diseases; and, in emergency, for providing those sick with said diseases with necessary medical aid and with temporary hospitals for their accommodation and for the accommodation of their nurses and attendants. And the said board may declare any and all of its rules and regulations made in accordance with the provisions of this section to be in force within the whole state, or within any specified part thereof, and to apply to any vessel, railway car, or public vehicle of any kind.

SEC. 9. Any rules and regulations adopted by the state board of health in the premises shall be immediately submitted by it to the governor and council and unless approved in writing by the governor and council within thirty days after such submission, such rules and regulations shall thereafter become ineffective. Should the governor and council disapprove any rules and regulations so submitted to them within the thirty days and so notify the secretary of the state board of health in writing, the rules and regulations so disapproved shall upon such notification immediately become ineffective and void. Such rules and regulations, if of general application, shall be published in the state paper; but whenever in the judgment of the board it shall be necessary to do so, special rules and regulations, or orders relating to said diseases may be made for any town, village or city without such publication, and the service of copies of such rules, regulations, or orders upon such town, village or city through the officers thereof shall be a sufficient notice thereto; and the rules, regulations or orders of the state board of health made in accordance with the provisions of this section shall, for the time being and until the same are revoked, supersede all local rules, regulations, by-laws, or ordinances that may be inconsistent or in conflict therewith.

SEC. 10. All health officers, local boards of health, municipal officers, sheriffs, constables, policemen, and marshals shall enforce the rules and regulations of the state board of health made as provided in the two preceding sections in every particular affecting their respective localities and duties; and any person who shall neglect or refuse to obey the said rules and regulations, or who shall wilfully obstruct or hinder the execution thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six

months, or by both fine and imprisonment, in the discretion of the court. And all authorities of every county, city, town, and village corporation, all local boards of health, and all officers and persons in charge of the institutions, buildings, and vehicles mentioned in section eight shall co-operate with the state board of health in carrying out the provisions of this section and the two preceding sections; and in case such co-operation be refused, withheld, or neglected, the said board may execute its orders and directions by agents of its own appointment; and all expenses incurred under the provisions of this section shall be paid by the state, the bills first being approved by the governor and council.

—authorities required to co-operate with board.

—in case of refusal to co-operate board may appoint agents.

—expenses.

LOCAL BOARDS OF HEALTH.

SEC. 11. There shall be a local board of health in each city and town in the state, to be composed of three members appointed by the municipal officers, anything in the charter of such city to the contrary notwithstanding; the board first appointed in any town shall be appointed to serve, one for three years, one for two years, and one for one year, and thereafterwards the municipal officers in each town shall annually before the fifteenth day of April, appoint a member of such board to serve three years, and to hold office until another is appointed in his stead. Any vacancy arising from any cause, shall be filled (for the unexpired term) at the first meeting thereafter, of the municipal officers. If for any reason, the appointments are not made at said date, the same shall be made as soon as may be thereafter.

Local boards of health, established. 1887, c. 123, § 1.

—appointment.

—tenure.

—vacancies, how filled.

SEC. 12. If the municipal officers of any city or town shall fail to appoint a local board of health, or to fill any vacancy in said board, in accordance with the provisions of the preceding section, the secretary of the state board of health may in writing request such municipal officers to make such appointment, and if the municipal officers shall neglect or refuse to do so for a period of thirty days after receiving such written request, the state board of health may appoint such local board of health, or fill any vacancy therein.

State board of health may appoint local boards, if towns fail to appoint. 1889, c. 227, § 1.

SEC. 13. Before the fifteenth day of May in each year, the board of health shall meet for the transaction of business, and shall choose a chairman and secretary from their number.

Annual meetings. 1887, c. 123, § 3.

SEC. 14. The chairman shall preside at all meetings of the board. The secretary shall, in a book kept for that purpose, make and keep a record of all the proceedings at the meetings and of all transactions, doings, orders and regulations of the board of health. The secretary shall be also the executive officer of the board when a health officer is not appointed.

Duties of officers. 1887, c. 123, § 4.

SEC. 15. The municipal officers may appoint a health officer, who shall be a well educated physician, who shall be the sanitary adviser and executive officer of the board, and who shall hold office during the pleasure of the board. The municipal officers shall establish his salary or other compensation, and shall regulate and audit all fees and charges of persons employed by each board of health, in the execution of the health laws and of their regulations.

Health officer, appointment, qualification and duties. 1887, c. 123, § 5.

—salary.

SEC. 16. The health officer, or where there is no health officer appointed, the secretary of each local board of health, at least once in each year, shall report to the state board of health their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said board. He shall also make special reports whenever required to do so, by the state board of health. He shall, within one week following their meeting and election of officers, report to the secretary of the state board of health, the name and address of each member of the local board, of the chairman and secretary, and of the health officer when one is appointed.

Shall report to state board. 1887, c. 123, § 6.

SEC. 17. Each local board of health constituted under section eleven shall:

Powers. 1887, c. 123, § 7.

—hold regular meetings.

I. Hold regular quarterly meetings, and special meetings whenever considered necessary by its executive officer, also whenever requested by the state board of health, or the president and secretary thereof.

—prescribe duties of health officer.

II. Prescribe the powers and duties of the local health officer, when there is one, and direct him, from time to time in the performance of his duties.

—guard against contagious and infectious diseases.

III. Guard against the introduction of contagious and infectious diseases, by the exercise of proper and vigilant medical inspection and control of all persons and things coming within the limits of its jurisdiction from infected places, or which for any cause, are liable to communicate contagion; give public notice of infected places, by displaying red flags or by posting placards on the entrances of the premises; require the isolation of all persons and things that are infected with, or have been exposed to, contagious or infectious diseases, and provide suitable places for the reception of the same; and furnish medical treatment and care for persons, sick with such diseases who cannot otherwise be provided for; prohibit and prevent all intercourse and communication with, or use of, infected premises, places, and things, and require, and if necessary, provide the means for the thorough cleansing and disinfection of the same before general intercourse therewith, or use thereof, shall be allowed. And it shall report to the state board of health promptly, facts which relate to infectious and epidemic diseases, and every case of smallpox, varioloid, diphtheria, scarlet fever, typhoid fever, cerebro-spinal meningitis, measles, membranous croup, so called, whooping cough and pulmonary tuberculosis or consumption as it is commonly termed, occurring within the limits of its jurisdiction, and such notification shall be in accordance with the requirements of the blanks furnished by the said state board.

—report to state board of health.  
1895, c. 139, § 3.

—receive and investigate complaints concerning nuisances.

IV. Receive and examine into the nature of complaints made by any of the inhabitants, concerning nuisances dangerous to life and health within the limits of its jurisdiction; enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and personally, or by appointed agents, inspect and examine the same; and all owners, agents and occupants, shall permit such sanitary examinations; and every such board of health shall order the suppression and removal of nuisances and conditions detrimental to life and health found to exist within the limits of its jurisdiction.

—make by-laws for preservation of life and health.

—notice of by-laws.

V. Make, alter or amend such orders and by-laws as they shall think necessary and proper for the preservation of life and health and the successful operation of the health laws of the state, subject to the approval of any justice of the supreme judicial court. Notice shall be given by the board of health, of all by-laws made or amended by them, by publishing the same in some newspaper, if there is one published in such town, if there is none, then in the nearest newspaper published in the county, and a record of such publication of said orders and by-laws in the office of the town clerk, shall be deemed a legal notice to all persons.

#### POWERS AND DUTIES OF LOCAL BOARDS OF HEALTH, AND PREVENTION OF INFECTIOUS DISEASES.

Shall give notice to owner of any infected house, etc., requiring same to be disinfected.  
1887, c. 123, § 8.

SEC. 18. When any local board of health is of opinion that the cleansing and disinfecting of any house, building, car, vessel or vehicle, or any part thereof, and of any article therein likely to contain infection, would tend to prevent or check infectious disease, such local board of health shall give notice in writing to the owner, agent, or occupier of such house, building, car, vessel or vehicle, or part thereof, requiring him to cleanse and disinfect to the satisfaction of the health officer, or board of health, such house, building, car, vessel or vehicle, and said articles within a time specified in such notice.

SEC. 19. If the person to whom notice is given, fails to comply therewith, he shall be liable to a penalty of not less than five dollars and not exceeding ten dollars for every day during which he continues to make default; and the local board of health shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent, or occupier in default, by an action of special assumpsit.

Penalty for failure to comply with notice.  
1887, c. 123, § 9.

SEC. 20. Whenever any householder knows or has reason to believe that any person within his family or household has smallpox, diphtheria, scarlet fever, cholera, typhus or typhoid fever, cerebro-spinal meningitis, measles, membranous croup so called, whooping cough, or pulmonary tuberculosis, or consumption as it is commonly termed, he shall within twenty-four hours, give notice thereof to the health officer of the town in which he resides, and such notice shall be given either at the office of the health officer, or by a communication addressed to him and duly mailed within the time above specified, and in case there is no health officer, to the secretary of the local board of health, either at his office or by communication as aforesaid.

Notice shall be given board, of existence of any infectious disease.  
1887, c. 123, § 10.  
1895, c. 139, § 2.

SEC. 21. No householder in whose dwelling there occurs any of the above mentioned diseases, shall permit any person suffering from any such disease, or any clothing or other property to be removed from his house, without the consent of the board, or of the health officer, and the said board, or health officer, shall prescribe the conditions of removal.

Infected person shall not be removed from his house, without permission of board.  
1887, c. 123, § 11.  
1895, c. 139, § 1.  
Children, affected, shall not attend school, etc.  
1887, c. 123, § 12.

SEC. 22. No parent, guardian, or other person, shall carelessly carry about children or others affected with infectious diseases, or knowingly or wilfully introduce infectious persons into other persons' houses, or permit such children under his care, to attend any school, theatre, church or any public place.

SEC. 23. Whenever any physician knows or has reason to believe that any person whom he is called upon to visit, is infected with any of the diseases mentioned in section twenty, such physician shall within twenty-four hours, give notice thereof to the secretary of the local board of health, or the health officer of the town in which such person lives.

Physician shall give notice of existence of contagious disease.  
1887, c. 123, § 13.  
1895, c. 139, § 2.

SEC. 24. The secretary or health officer of each local board of health in the state, who shall have knowledge of any violation of the provisions of the preceding section occurring within the jurisdiction of such local board of health, shall forthwith give notice thereof in writing and of all facts within his knowledge in relation thereto, to the county attorney of the county in which such violation has occurred and said county attorney shall thereupon examine into the case and take such action in the matter as the circumstances of the case require.

Proceedings in cases of violation of sec. 23.  
1889, c. 227, § 2.

SEC. 25. No person affected with smallpox, scarlet fever, diphtheria or cholera, and no person having access to any person affected with any of the said diseases, shall mingle with the general public until such sanitary precautions as may be prescribed by the local board (of health), shall have been complied with.

Persons affected with small pox, etc., shall not mingle with the public.  
1887, c. 123, § 14.  
1895, c. 139, § 1.

SEC. 26. Persons recovering from smallpox, scarlet fever, diphtheria or cholera, and nurses who have been in attendance on any person suffering from any such disease, shall not leave the premises till they have received from the board of health or health officer, a certificate that they have taken such precautions as to their persons, clothing, and all other things which they propose bringing from the premises as are necessary to insure the immunity from infection of other persons with whom they may come in contact, and no such person shall expose himself in any public place, shop, street, inn or public conveyance without having first adopted such precautions.

Convalescents and nurses shall not leave premises without certificate from health officer.  
1887, c. 123, § 15.  
1895, c. 139, § 1.

SEC. 27. Nurses and other attendants upon persons sick with smallpox, scarlet fever, diphtheria or cholera, shall adopt for the disinfection and

Disinfection excreta, bedding, etc.  
1887, c. 123, § 16.

disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be ordered in writing, by the local board of health.

SEC. 28. No person shall give, lend, transmit, sell or expose any bedding, clothing or other article likely to convey any of the above diseases, without having first taken such precautions as the local board of health may direct as necessary for removing all danger of communicating any such disease to others.

SEC. 29. Any local board of health may direct the destruction of any bedding, clothing, or other articles, which have been exposed to infection.

SEC. 30. Whenever small pox, diphtheria, scarlet fever or other contagious disease, shall appear in a town, the local board of health shall immediately notify the teachers of the public schools in the neighborhood, of the fact, and all teachers and school officers when thus notified, or when otherwise they shall know or have good reason to believe that any such disease exists in any house in the neighborhood, shall exclude from the school house, all children and other persons living in such infected houses or who have called or visited at such houses, until such time as the local board of health shall certify that such children or other persons may safely be readmitted.

SEC. 31. When persons from houses or places which are infected with any of the diseases specified in the preceding section, have entered any school-room, or when, from any other cause, the school-room has probably become infected, the teacher shall dismiss the school, and notify the school officers and local board of health, and no school shall be again held in such school-room until the room has been disinfected to the satisfaction of the local board of health, and the school officers and board of health shall cause the room to be disinfected as soon as possible.

SEC. 32. The board, when satisfied upon due examination, that a cellar, room, tenement or building in its town, occupied as a dwelling place, has become, by reason of want of cleanliness, or other cause, unfit for such purpose, and a cause of sickness to the occupants or the public, may issue a notice in writing to such occupants, or the owner or his agent, or any of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling place, until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied, without putting the same in a proper sanitary condition, he shall forfeit not less than ten, nor more than fifty dollars.

SEC. 33. No person having smallpox, diphtheria, scarlet fever, cholera, or other disease dangerous to public health, shall enter, nor shall any person allow any one under his charge who has any such disease, to enter any conveyance without having previously notified the owner or person in charge of such conveyance, of the fact of his having such disease.

SEC. 34. The owner or person in charge of any such conveyance shall not, after the entry of any person so infected into his conveyance, allow any other person to enter it, without having sufficiently disinfected it under the direction of the local board of health, or the supervision of the health officer.

SEC. 35. No person shall let or hire any house or room in a house in which smallpox, diphtheria, scarlet fever, cholera, or typhoid fever has existed, without having caused the house and the premises used in connection therewith, to be disinfected to the satisfaction of the local board of health.

Use of bedding and clothing until disinfected, prohibited.  
1887, c. 123, § 17.

Bedding and clothing may be destroyed.  
1887, c. 123, § 18.

Children who have been exposed to contagion, shall be excluded from public schools.  
1887, c. 123, § 19.  
1895, c. 139, § 1.

School houses, when infected, shall be closed.  
1887, c. 123, § 20.

When any cellar, etc., becomes unfit for occupancy, notice shall be served on the owner, to cleanse the same.  
1887, c. 123, § 21.

—if owner fails, board may cleanse, at owner's expense.

Persons infected, shall not be allowed to enter any conveyance without notice to owner.  
1887, c. 123, § 22.

When such conveyance has been so used, it shall be disinfected.  
1887, c. 123, § 23.

Houses shall be disinfected, where contagion has existed.  
1887, c. 123, § 24.

SEC. 36. Any member of a local board of health, or any health officer or other person employed by the local board of health may, when obstructed in the performance of his duty, call to his assistance, any constable or other person he thinks fit, and every such constable or person so called upon, shall render assistance.

Officers shall not be obstructed in performance of duty.  
1887, c. 123, § 25.

SEC. 37. Whoever wilfully violates any provision of the seventeen preceding sections, or of said regulations and by-laws, the penalty for which is not herein specifically provided, or wilfully interferes with any person or thing, to prevent the execution of the provisions of said sections or of said regulations and by-laws, shall be punished by a fine of not more than fifty dollars; judges of municipal and police courts and trial justices, shall have jurisdiction original and concurrent with the supreme judicial and superior courts, of all offenses under said sections.

Penalty for violations.  
1887, c. 123, § 26.

SEC. 38. When any person is or has recently been infected with any disease or sickness dangerous to the public health, the local board of health of the town where he is, shall provide for the safety of the inhabitants, as they think best, by removing him to a separate house, if it can be done without great danger to his health, and by providing nurses and other assistants and necessities, at his charge or that of his parent or master, if able; otherwise, at that of the town to which he belongs.

Precautions against infected persons.  
R. S., c. 14, § 1.  
1883, c. 123, § 27.  
19 Me., 223.  
28 Me., 257.  
45 Me., 409.  
52 Me., 119.  
66 Me., 60, 72.  
67 Me., 371.

SEC. 39. When an infectious or malignant distemper is known to exist in any place out of the state, the local board of health of any town in the state, may, by giving such public notice therein as they find convenient, require any person coming from such place to inform one of them or the town clerk of his arrival and from what place he came; and if he does not, within two hours after arrival, or after actual notice of such requirement, give such information, he forfeits one hundred dollars to the town.

Precautions against persons arriving from infected places.  
R. S., c. 14, § 2.  
1887, c. 123, § 27.

SEC. 40. The local board of health may prohibit any such person, from going to any part of their town where they think that his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road which they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of one of said local board of health, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the state; and if during the prevalence of such distemper in the place where he resides, he returns to any town in the state, without the license of its local board of health, he forfeits not exceeding four hundred dollars.

Restrictions on such persons; may be removed if refractory.  
R. S., c. 14, § 3.  
1887, c. 123, § 27.

—penalty if they return.

SEC. 41. The local board of health of any town near or adjoining the state line, may, by writing under their hands, appoint suitable persons to attend at any places by which travelers may pass into such town from infected places in other states or provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto *by a justice of the peace in the county*, or by one of said board; and any such passenger who without such license travels in this state, except to return by the most direct way to the state or province whence he came, after he has been cautioned to depart by the persons so appointed, forfeits not exceeding one hundred dollars.

Precautions authorized in border towns.  
R. S., c. 14, § 4.  
1887, c. 123, § 27.

#### REMOVAL OF INFECTED PERSONS AND GOODS.

SEC. 42. Any two justices of the peace may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the local board of health of the town where he is; or to impress and take convenient houses, lodgings, nurses, attendants, and other necessities for the accommodation, safety and relief of the sick.

Process for removal or separate accommodation of infected persons.  
R. S., c. 14, § 5.  
1887, c. 123, § 27.  
66 Me., 72, 314.



Process for securing infected articles.  
R. S., c. 14, § 6.  
1887, c. 123, § 27.

SEC. 43. When on application of the local board of health of a town, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods therein, are infected with any malignant contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as said justice thinks necessary, to secure such infected articles, and to post said men as a guard over the place where the articles are lodged, who shall prevent any persons from removing or approaching such articles, until due inquiry is made into the circumstances.

Justice may by warrant require officers to remove them to suitable places.  
R. S., c. 14, § 7.  
1887, c. 123, § 27.

SEC. 44. He may by the same warrant, if it appears to him necessary, require said officer, under the direction of the local board of health, to impress and take convenient houses or stores for the safe keeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the local board of health think that they are free from infection.

Powers of officers in executing such process.  
R. S., c. 14, § 8.

SEC. 45. Said officer, if need be, may break open any house, shop, or other place mentioned in the warrant, where infected articles are, and require such aid as is necessary to execute it; and all persons at the command of any such officer, under a penalty not exceeding ten dollars, shall assist in such execution.

Expenses, how paid.  
R. S., c. 14, § 9.  
1887, c. 123, § 27.

SEC. 46. The charges for securing such infected articles and of transporting and purifying them, shall be paid by the owners thereof, at the price determined by the local board of health.

Compensation for men or property impressed.  
R. S., c. 14, § 10.  
65 Me., 404.

SEC. 47. When the officer impresses or takes any house, store, lodging, or other necessities, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed.

Adjournment of courts because of danger from infection.  
R. S., c. 14, § 11.  
83 Me., 116.

SEC. 48. When a malignant infectious distemper prevails in any town wherein the supreme judicial court, the superior court, or court of county commissioners is to be held, said courts may be adjourned and held in any town in said county, by proclamation made in such public manner as such courts judge best, as near their usual place of meeting as they think that safety permits.

Removal of infected prisoners from places of confinement.  
R. S., c. 14, § 12.  
1887, c. 123, § 27.

SEC. 49. When any person in a jail, house of correction, or work-house, is attacked with a disease, which the local board of health of his town, by medical advice, consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement.

Order for removal, how returned.—such removal, not an escape.  
R. S., c. 14, § 13.  
1887, c. 123, § 27.

SEC. 50. If he was committed by an order of court or judicial process, the order for his removal, or a copy thereof attested by the local board of health, shall be returned by them with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape.

May order removal of private nuisances; proceedings.  
R. S., c. 14, § 16.  
1887, c. 123, § 27.  
See c. 17, § 21.  
67 Me., 438, 440.  
65 Me., 436.  
87 Me., 475.

SEC. 51. When any source of filth, or other cause of sickness is found on private property, the owner or occupant thereof shall, within twenty-four hours after notice from the local board of health or health officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits not exceeding one hundred dollars; and said local board of health or health officer shall cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it.

Depositing carcass of dead animals

SEC. 52. Whoever personally or through the agency of another leaves or deposits the carcass of a dead horse, cow, sheep, hog, or of any other of the larger domestic animals in any place where it may cause a nuisance shall, upon receiving a notice to that effect from the local board of health,

promptly remove, bury, or otherwise dispose of such carcass, and if he fails to do so within such time as may be prescribed by the local board of health, and in such manner as may be satisfactory to such board of health, he shall be punished by a fine of not less than five, nor more than twenty-five dollars, or by imprisonment not exceeding one month.

where it may cause nuisance, forbidden, 1899, c. 39.  
—penalty.

#### INFECTED VESSELS. QUARANTINE.

SEC. 53. If a master, seaman, or passenger of a vessel, in which there is, has lately been, or is suspected to have been, any infection, or which has come from a port where any infectious distemper prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the local board of health of the town to which such vessel comes, which oath any member of said board may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months.

Masters, seamen, or passengers of vessels may be examined on oath in reference to infectious distempers.  
R. S., c. 14, § 17.  
1887, c. 123, § 27.

SEC. 54. When a vessel arrives at a port, having on board any person infected with a malignant disease, the master, commander, or pilot shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in said port; and no person or thing on board shall be brought on shore, until the local board of health gives its written permit.

Vessels with infected persons shall anchor at a distance from towns.  
R. S., c. 14, § 18.  
1887, c. 123, § 27.  
45 Me., 503.

SEC. 55. For the wilful violation of the preceding section, such master or commander forfeits not exceeding two hundred, and the pilot not exceeding fifty dollars for each offense.

Penalty for violation of this provision.  
R. S., c. 14, § 19.

SEC. 56. The local board of health of a seaport town may cause vessels arriving there to perform quarantine at such place and under such regulations as they judge expedient, when they think that the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months.

Board of health may establish quarantine regulations.  
R. S., c. 14, § 20.  
1887, c. 123, § 27.  
—penalty.

SEC. 57. When such local board of health thinks it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port; who shall make it known to the masters of all vessels which they board. A pilot who neglects to do so, or who contrary thereto pilots any vessels up to said seaport town, forfeits not exceeding one hundred dollars.

Duty of pilots to give notice thereof.  
R. S., c. 14, § 21.  
1887, c. 123, § 27.

SEC. 58. If the master or commander of a vessel takes it up to any seaport town after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed; or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the local board of health, he shall be punished as provided in section fifty-six.

Punishment for violation or evasion of quarantine, after notice.  
R. S., c. 14, § 22.  
1887, c. 123, § 27.

SEC. 59. The local board of health of every seaport town requiring vessels to perform quarantine shall provide, at the expense of such town, a suitable number of red flags at least three yards in length; and the master of every vessel ordered to perform quarantine shall, during the term thereof, cause one of them to be continually kept at the head of the mainmast of his vessel; and no person shall board such vessel during said term unless by permission of said local board of health; if he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel; and shall there be detained by force, if necessary, until discharged by said local board of health.

Board of health to furnish signals.  
R. S., c. 14, § 23.  
1887, c. 123, § 27.

—restrictions on persons visiting vessels at quarantine.

Note. Proceedings as to burial of body of person dying of contagious disease, c. 59, § 24.

Penalty for polluting water supply, c. 127, § 1; for selling milk from cows diseased or fed upon injurious substances, c. 127, § 3; for selling unwholesome provisions or drinks, c. 127, §§ 2-16.

Health officer.  
—quarantine.  
R. S., c. 14, § 24.  
1887, c. 123, § 27.

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

Hospitals may  
be established.

—restrictions  
as to location.  
R. S., c. 14, § 26.  
1887, c. 123, § 27.

Inoculation  
with small-  
pox re-  
stricted.  
R. S., c. 14, § 27.  
Physicians  
and others  
subject to  
hospital regu-  
lations.  
R. S., c. 14, § 28.  
1887, c. 123, § 27.  
Hospital to be  
provided, on  
breaking out  
of infectious  
diseases; regu-  
lations.  
R. S., c. 14, § 29.  
1887, c. 123, § 27.  
66 Me., 72.  
314, 315.

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

Penalty for  
violation of  
hospital regu-  
lations by per-  
sons subject  
thereto.  
R. S., c. 14, § 31.

Forfeitures,  
how appro-  
priated.  
R. S., c. 14, § 32.  
87 Me., 475.  
Free vaccina-  
tion provided,  
annually.  
R. S., c. 14, § 35.  
1893, c. 172.

Supt. of paper  
mills shall not  
employ any  
person not  
successfully  
vaccinated.  
1889, c. 213, § 1.  
Persons not  
successfully  
vaccinated  
shall not work  
in paper mill.  
1889, c. 213, § 2.

SEC. 60. In every seaport town the health officer may perform all the duties and exercise all the authority of the local board of health in requiring vessels to perform quarantine.

SEC. 61. Expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by such person, or the owner of the vessel, or goods, as the case may be.

#### TOWN HOSPITALS.

SEC. 62. A town may establish therein one or more hospitals for the reception of persons having the smallpox or other diseases dangerous to the public health; or its local board of health may license any building therein as a hospital, which shall be under the control of said board; but no such hospital shall be within one hundred rods of an inhabited dwelling-house in an adjoining town without the consent of its local board of health.

SEC. 63. Whoever inoculates himself or any other person, or suffers himself to be inoculated with the smallpox, unless at some lawful hospital, forfeits not exceeding one hundred dollars for each offense.

SEC. 64. When a hospital is so established or licensed, the physicians, the persons inoculated or sick therein, the nurses, attendants, and all who come within its limits, and all furniture or other articles used or brought there, shall be subject to the regulations made by the local board of health.

SEC. 65. When smallpox or other disease dangerous to the public health breaks out in a town, the local board of health shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; such hospitals and places are subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not permit it without imminent danger; in which case, the house or place where the sick are, shall be deemed a hospital for every purpose aforesaid; and all persons residing in, or in any way concerned with it, are subject to hospital regulations.

SEC. 66. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and shall give public notice of infected places to travelers, by displaying red flags at proper distances, and by all other means most effectual, in their judgment, for the common safety.

SEC. 67. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith, violates any lawful regulation in relation thereto, with respect to himself or his or another's property, he forfeits not less than ten, nor more than one hundred dollars, for each offense.

#### GENERAL PROVISIONS.

SEC. 68. All forfeitures mentioned in the last thirty preceding sections, except otherwise provided, inure to the town where the offense is committed.

SEC. 69. The board of health of each city, village, town and plantation shall annually on the first day of March, or oftener if they deem it prudent, provide for the free vaccination with the cow pox, of all the inhabitants over two years of age within their respective localities, to be done under the care of skilled practicing physicians, and under such circumstances and restrictions as said authorities adopt therefor.

SEC. 70. No owner, agent, or superintendent of any paper mill where domestic or foreign rags are used in the manufacturing of paper shall hire or admit any person to work in or about said mill who has not been successfully vaccinated or re-vaccinated within two years, or to the satisfaction of the local board of health.

SEC. 71. No person shall work in or about any paper mill where rags are used, who has not been successfully vaccinated or re-vaccinated within two years, or to the satisfaction of the local board of health.

SEC. 72. The owner, agent and superintendent in every paper mill where rags are used shall every year, in the months of February and September, make out and deliver to the local board of health, a list containing the names, ages, kind of work, and places of residence of all persons employed in or about said mill.

List of employees shall be furnished local board of health, semi-annually.  
1889, c. 213, § 3.

SEC. 73. In the months of March and October, annually, each and every person who is employed in a paper mill, shall be examined by the local board of health as to whether he or she is successfully and sufficiently protected by vaccination, and the local board of health shall in all cases be the judges of the sufficiency of the protection by vaccination.

Employees shall be examined semi-annually.  
1889, c. 213, § 4.

SEC. 74. Whoever violates any provision of the four preceding sections shall be punished by a fine of not more than fifty dollars.

Penalty for violation.  
1889, c. 213, § 5.  
Enforcement of §§ 70-74.  
1889, c. 213, § 6.

SEC. 75. The local boards of health within their respective jurisdictions and the state board of health, shall enforce sections seventy to seventy-four each inclusive as far as comes within their power, and when said state board of health knows or has reason to believe that any penalty or forfeiture has been incurred by reason of neglect to comply with said sections, it shall, *at its discretion*, give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

SEC. 76. Whenever a local board of health or its executive officer has notice of, or suspects the existence of, a case of tuberculosis or glanders in domestic animals, such board or officer shall forthwith investigate or cause to be investigated the truth of such notification or the grounds for such suspicion; and if there appear to be good grounds for believing that such disease is present, the local board of health or its executive officer shall notify the state cattle commissioners, reciting in said notification the grounds for their belief or suspicion. *And it shall be the duty of the owner or other person having charge of any animal which he knows or suspects to be affected with tuberculosis or glanders, to notify the local board of health at once.*

Suspected cases of tuberculosis, or glanders, shall be investigated by local board of health.  
1895, c. 144, § 2.

—cattle commissioners shall be notified.  
See § 98.

#### PREVENTION OF BLINDNESS.

SEC. 77. If one or both eyes of an infant become reddened or inflamed at any time within four weeks after birth, the midwife, nurse or person having charge of said infant shall report the condition of the eyes at once to some legally qualified practitioner of medicine of the city, town or district in which the parents of the infant reside. Any failure to comply with the provisions of this section shall be punishable by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months, or both.

Duty of midwife, etc., in charge, to report to qualified practitioner, if eyes of any infant become inflamed within four weeks after birth.  
1891, c. 115.  
—penalty.

#### STATE OF MAINE CATTLE COMMISSION.

SEC. 78. For the purpose of facilitating and encouraging the live stock interests of Maine, and for extirpating all insidious, infectious and contagious diseases, *now or that may be* among cattle, horses and sheep, and especially tuberculosis, the governor shall appoint a board of cattle commissioners consisting of three persons of known executive ability, who shall be charged with the execution of the provisions of the ten following sections, shall be known and designated as the State of Maine Cattle Commission, and shall hold office during the pleasure of the governor. The compensation of said commissioners shall be at the rate of three dollars a day during the time they are actually engaged in the discharge of their duties as commissioners. The said commissioners *shall respectively take an oath to faithfully perform the duties of their office*, and shall elect one of their number as president.

Purposes.  
1889, c. 177, § 1.  
1893, c. 194, § 1.

—board of cattle commissioners, appointment of.

—title.

—tenure.

—compensation.

—oath.  
See; Const. Me., Art. ix, § 1.

—president.

Powers and duties.  
1889, c. 177, § 2.  
1893, c. 194, § 2.

—may give notice of existence of contagious disease.

—quarantine of animals and places.

—appraisal of diseased animals.

—destruction of, and payment for diseased animals.

—limitation of appraisal.

—when compensation not allowed.

Shall make, record and publish rules and regulations subject to approval by the governor.  
1889, c. 177, § 3.

Penalty for obstructing commissioners.  
1889, c. 177, § 4.

SEC. 79. The said commissioners shall cause investigation to be made as to the existence of tuberculosis, pleuro-pneumonia, foot and mouth disease, and any other infectious or contagious diseases. They or their duly constituted agent may enter any premises or places, including stock-yards, cars and vessels, within any county or part of the state in or at which they have reason to believe there exists any such diseases, and make search, investigation and inquiry, in regard to the existence thereof. Upon the discovery of the existence of any of the said diseases, the said commissioners may give notice, by publication, of the existence of such disease, and the locality thereof, in such newspapers as they may select, and may notify in writing, the officials or agents of any railroad, steamboat, or other transportation company doing business in or through such infected locality, of the existence of such disease; they shall establish and maintain such quarantine of animals, places, premises or localities, as they may deem necessary to prevent the spread of any such disease, shall cause the appraisal of the animal or animals affected with the said disease, in accordance with *such* (the) rules and regulations by them (adopted) as hereinafter authorized and provided, shall cause the same to be destroyed, and shall pay the owner or owners thereof one-half of their value, as determined upon the basis of health before infection, out of any moneys appropriated by the legislature for that purpose; *provided, however*, that no appraised value shall be more than one hundred dollars for an animal with pedigree recorded or recordable in the recognized herd books of the breed in which the animal destroyed may belong, nor more than fifty dollars for an animal which has no recordable pedigree; *provided, further*, that in no case shall compensation be allowed for an animal destroyed under the provisions of this section, which may have contracted or been exposed to such disease in a foreign country, or on the high seas, or that may have been brought into this state within three years previous to such animal's showing evidence of such disease; and the owner or owners shall furnish satisfactory evidence as to the time such animal or animals shall have been owned in the state; nor shall compensation be allowed to any owner who in person, or by agent, knowingly and wilfully conceals the existence of such disease, or the fact of exposure thereto in animals of which the person making such concealment by himself or agent, is in whole or part owner.

SEC. 80. The said commissioners shall make, record, and publish rules and regulations providing for and regulating the agencies, methods and manner of conducting, and the investigations aforesaid, regarding the existence of said contagious diseases; for ascertaining, entering and searching places where such diseased animals are supposed to exist; for ascertaining what animals are so diseased; or have been exposed to contagious diseases; for making, reporting and recording descriptions of the said animals so diseased or exposed and destroyed, and for appraising the same, and for making payment therefor: and to make all other needful rules and regulations which may, in the judgment of the commissioners be deemed requisite to the full and due execution of the provisions of sections seventy-eight to eighty-eight each inclusive. All such rules and regulations, before they shall become operative, shall be approved by the governor, and thereafter published in such manner as may be provided for in such regulations; and after such publication said rules and regulations shall have the force and effect of law, so far as the same are not inconsistent with the laws of the state, or United States.

SEC. 81. Whoever knowingly and wilfully refuses permission to said commissioners, or either of them or their duly constituted agent to make, or knowingly and wilfully obstructs said commissioners, or either of them, or their duly constituted agent in making all necessary examinations of, and as to animals supposed by said commissioners to be diseased as aforesaid, or in destroying the same, or knowingly attempts to prevent said commissioners, or either of them, or their duly constituted agent from

entering upon the premises and other places herein before specified where any of said diseases are by said commissioners supposed to exist, shall be punished by fine not exceeding one hundred dollars, or by imprisonment, not exceeding ninety days, or by both fine and imprisonment, at the discretion of the court.

SEC. 82. Any person who is the owner of, or who is possessed of any interest in any animals affected with any of the diseases named in section seventy-nine, or any person who is agent, common carrier, consignee, or otherwise is charged with any duty in regard to any animal so diseased, or exposed to the contagion of such disease, or any officer or agent charged with any duties under the provisions of sections seventy-eight to eighty-eight each inclusive, who shall knowingly conceal the existence of such contagious disease, or the fact of such exposure to said contagion, and who shall knowingly and wilfully fail, within a reasonable time, to report to the said commissioners their knowledge or their information in regard to the existence and location of said disease, or of such exposure thereto, shall be punishable as provided in section eighty-one.

Penalty for concealing existence of any contagious disease.  
1889, c. 177, § 5.

SEC. 83. When the owner of animals, adjudged under the provisions hereof, by the proper authority, to be diseased, or to have been exposed to contagion, refuses to accept the sum authorized to be paid under the appraisal provided for in section seventy-nine, the commissioners shall declare and maintain a rigid quarantine as to the animals adjudged, as aforesaid, to be diseased or to have been exposed to any contagious or infectious disease, and of the premises or places where said cattle may be found, according to the rules and regulations prescribed by said commissioners, approved by the governor, and published as provided in section eighty.

How animals shall be disposed of, whose owner refuses terms of appraisal.  
1889, c. 177, § 6.

SEC. 84. No person or persons owning or operating any railroad, nor the owner or owners, or masters, of any steam, sailing, or other vessels, within the state, shall receive for transportation, or transport from one part of the state to another part of the state, or bring from any other state or foreign country any animals affected with any of the diseases named in section seventy-nine, or that have been exposed to such diseases, especially the disease known as tuberculosis, knowing such animals to be affected, or to have been so exposed; nor shall any person or persons, company or corporation, deliver for such transportation to any railroad company, or to the master or owner of any vessel, any animals, knowing them to be affected with, or to have been exposed to, any of said diseases; nor shall any person or persons, company or corporation, drive on foot, or transport in private conveyance, from one part of the state to another part of the state, any animal, knowing the same to be affected with, or to have been exposed to, any of said diseases. Whoever violates the provisions of this section shall be punished by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, or by both fine and imprisonment.

Transportation of diseased or suspected cattle forbidden.  
1889, c. 177, § 7.

—penalty.

SEC. 85. The several county attorneys shall prosecute all violations of the four preceding sections which shall be brought to their notice or knowledge by any person making the complaint under oath; and the same shall be heard in the supreme judicial court in the county in which such violation has been committed.

Enforcement of §§ 81-84.  
1889, c. 177, § 8.

SEC. 86. The said commissioners may appoint or elect one of their number as secretary of said board, who shall receive a reasonable compensation for his services during the time in which, under the provisions hereof, the services of the said commissioners shall be required. They shall make and preserve a full record of all rules and regulations promulgated under the provisions of section eighty, of all payments and expenses hereunder incurred, and all other transactions performed by them in the discharge of their duties as herein provided; and they shall, on or before

Secretary, election, compensation and duties.  
1889, c. 177, § 9.

—report.  
See c. 58, § 7.

the first Wednesday in January of each year, during their continuance in service, and at other times as they may deem conducive to the public interests, or as they may be required by the governor, report to the governor full and accurate accounts of their expenditures, and other proceedings under the provisions of this chapter, and of the condition of said diseases, if any, in the state, to be communicated by him to the legislature. Whenever the functions of said commission shall be suspended or terminated, it shall turn over to the secretary of state all its books, papers, and other effects, taking his receipt therefor, and he shall remain the custodian of the same until such time as the functions of said commission may be restored.

May employ  
skilled  
veterinarians.  
1889, c. 177, § 10.

SEC. 87. The commissioners may employ skilled veterinarians, and such other agents and employes as they may deem necessary to carry into effect the provisions of the nine preceding sections, and may fix the compensation of the person or persons so employed, and may terminate such employment at their discretion; and they may out of the moneys appropriated for carrying into effect said sections make such expenditures as may be needed for the actual and necessary traveling expenses of themselves and their said employes, stationery, expenses of disinfecting premises, cars and other places, destroying diseased and exposed animals, and paying for the same, and such other expenses and expenditures as they may find to be actually necessary to properly carry into effect the provisions of said sections.

—expenditures.

How money  
shall be  
drawn from  
treasury and  
disbursed.  
1889, c. 177, § 11.

SEC. 88. The moneys so appropriated shall be paid over to the secretary of said commission, from time to time, as the same may be found to be needed, upon requisition made by the said commissioners and shall be disbursed by the said secretary of said commission only upon vouchers approved by said commissioners or a majority of them. The said secretary shall before entering upon the duties of his office, take an oath to faithfully discharge the duties thereof, and shall enter into a bond to the state of *Maine*, with sureties to be approved by the treasurer of state, in such sum as he may designate, for the faithful accounting of all moneys received by the said secretary of the commission under the provisions hereof.

—secretary  
shall be sworn  
and give bond.

Carcasses of  
diseased,  
domestic ani-  
mals to be  
treated by in-  
jection with  
kerosene oil.  
1897, c. 311, § 1.

SEC. 89. The state cattle commissioners and all other persons having in charge the killing of any diseased cattle, sheep or any other diseased domestic animals, as soon as such animal is killed, shall inject, or cause to be injected into the carotid artery of each animal so killed, kerosene oil in sufficient quantity to thoroughly penetrate and permeate the entire fleshy part of the carcass of each such animal killed as aforesaid.

Such carcasses  
shall be buried  
or made into  
fertilizers.  
1897, c. 311, § 2.

SEC. 90. Every carcass treated as provided in the preceding section, shall, within twenty-four hours thereafter be buried to a depth of at least four feet, or within forty-eight hours thereafter be reduced by the process of manufacturing the same for fertilizers.

Punishment of  
violation.  
1897, c. 311, § 3.

SEC. 91. Whoever violates any provision of the two preceding sections shall be fined not exceeding one hundred dollars for each offense or imprisoned for a period not exceeding ninety days, or both.

#### DUTIES OF MUNICIPAL OFFICERS.

Cattle infected  
by contagious  
diseases to be  
isolated by  
town officers.  
R. S., c. 14, § 37.  
1885, c. 302.

SEC. 92. The municipal officers of towns, shall cause all cattle, swine and sheep therein infected with lung-murrain or pleuro-pneumonia, or any other contagious disease, or which have been exposed to infection, to be secured or collected in some suitable place or places therein, and kept isolated; and when taken from the possession of their owners, one-fifth of the expense thereof shall be paid by the town, and four-fifths by the

—their main-  
tenance.

state, such isolation to continue so long as the existence of such disease or other circumstances render it necessary: or they may direct the owners thereof to isolate such cattle, swine and sheep, upon their own premises, and any damage or loss sustained thereby shall be paid as aforesaid.

SEC. 93. They may prohibit the departure of cattle from any enclosure, and exclude cattle therefrom.

SEC. 94. They may in writing regulate or prohibit the passage from, to, or through their towns, or from place to place therein, of any neat cattle, and may arrest and detain, at the cost of the owners, all cattle found passing in violation of such regulations, and may take all other necessary measures for the enforcement of such prohibition, and for preventing the spread of such disease in their towns, and the immediate vicinity thereof.

SEC. 95. Such regulations shall be recorded in the records of their towns, and shall be published in said towns in such manner as said regulations provide.

SEC. 96. Whoever sells or disposes of any animal infected or known to have been exposed to infection, within one year after such exposure, without the knowledge and consent of the municipal officers, shall be fined not exceeding five hundred dollars or be imprisoned not exceeding one year.

SEC. 97. Whoever disobeys the orders of said municipal officers, made in conformity with sections ninety-three and ninety-four, or drives or transports any neat cattle contrary to the regulations so made, recorded and published, shall be punished as provided in section ninety-six.

SEC. 98. Whoever knows or has reason to suspect the existence of any fatal contagious disease among the cattle in his possession or under his care, shall forthwith give notice thereof to the *municipal officers* (local board of health,) and for failure to do so, shall be punished as provided in section ninety-six.

SEC. 99. Any town whose officers neglect or refuse to carry into effect the provisions of sections ninety-two to ninety-six inclusive, forfeits not exceeding five hundred dollars for each day's neglect.

SEC. 100. The municipal officers of towns may, when they deem it necessary to carry into effect the purposes of *this chapter* (sections ninety-two to ninety-five inclusive), take and hold possession for a term not exceeding one year, of any land within their towns without buildings other than barns thereon, for enclosing and isolating any cattle, and they shall cause the damages sustained by the owners in consequence thereof, to be appraised by the assessors thereof, and they shall further cause a description of such land, setting forth the boundaries thereof, and the area as nearly as may be estimated, together with said appraisal, to be entered in the records of the town. The amount of said appraisal shall be paid as provided in section ninety-two in such sums and at such times as they may order. If such owner is dissatisfied with the appraisal, he may, in an action on the case, recover from the town a fair compensation for the damages sustained by him; but no costs shall be taxed, unless the damages recovered in such action, exclusive of interest, exceed the appraisal of the assessors. The state shall re-imburse the town four-fifths of any sum so recovered.

SEC. 101. Whenever such disease exists in a town, the municipal officers shall forthwith give notice to the State of Maine Cattle Commission.

SEC. 102. Sections ninety-two to one hundred and one, inclusive, apply to horses infected with glanders, or any other contagious disease.

—when owners must isolate their cattle.

Further powers of town officers.  
R. S., c. 14, § 40.  
Passage of animals, how regulated.  
R. S., c. 14, § 41.  
See c. 3, § 92, ¶ 3.

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

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

Disobedience of town officers' orders, punished.  
R. S., c. 14, § 44.

Knowledge or suspicion of disease, to be reported.  
R. S., c. 14, §§ 45, 1895, c. 144, § 2.  
See § 76.

Neglect of town officers, punished.  
R. S., c. 14, § 46.

Further powers of municipal officers.  
R. S., c. 14, § 48.

—damage to owners to be appraised.

—description of land and appraisal to be recorded.

—amount of appraisal, how paid.

—owners dissatisfied may maintain action.

—amount to be re-im-bursed.

Notice of contagious disease.  
R. S., c. 14, § 49.

Sec's 92 to 101 apply to diseased horses.  
R. S., c. 14, § 55.



## CHAPTER 15.

## BURYING-GROUNDS.

SEC. 1. *Towns may raise and assess money necessary for purchasing and suitably fencing land for a burying-ground.*

[A repetition of a part of sec. 72, c. 3.]

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

SEC. 2. Persons of lawful age may incorporate themselves for the purpose of purchasing land for a burying-ground, as provided in sections one and two of chapter fifty-five; and may proceed in the manner and with the powers provided in section three of said chapter.

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

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

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

SEC. 4. Each town, parish, or religious society, to which any ancient or public burying-yard belongs, shall keep a substantial fence around it in good repair; and for neglect, shall forfeit not exceeding one hundred dollars, to be applied as prescribed in the preceding section by said officers of such town or the treasurer or committee of such parish or society.

Penalty for  
neglect of  
town or par-  
ish officers.  
R. S., c. 15, § 5.  
Grounds to be  
fenced, and  
inalienable  
and indivisi-  
ble, except by  
unanimous  
consent.  
R. S., c. 15, § 6.  
--description  
to be recorded  
by town clerk.

SEC. 5. If such officers, treasurer or committee, neglect so to apply such fines, they each forfeit the amount thereof, in an action of debt to any person suing therefor.

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

Burying-  
grounds,  
exempt from  
attachment,  
and inalien-  
able.  
R. S., c. 15, § 7.  
See c. 115,  
§§ 21, 23.

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

Lots in ceme-  
teries exempt  
from attach-  
ment, levy  
and sale for  
debts.  
R. S., c. 15, § 8.  
When town  
officers may  
enlarge public  
cemetery.  
R. S., c. 15, § 9.  
1893, c. 197.

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

SEC. 9. The municipal officers of any town, may on petition of ten voters, enlarge any public cemetery or burying-yard or incorporated cemetery or burying-yard within their town, by taking land of adjacent owners, to be paid for by the town or otherwise as the municipal officers may direct, when in their judgment public necessity requires it, *provided*, that the limits thereof shall not be extended nearer any dwelling house than twenty-five rods, against the written protest of the owner, made to said officers at the time of the hearing on said petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying-ground by selling or otherwise disposing of lots so that the limits thereof shall be extended nearer any dwelling house than twenty-five rods against the written protest of the owner, *provided*, that nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying-ground, nor the extension thereof away from any dwelling house.

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

Notice to be given.  
R. S., c. 15, § 10.

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

Land taken, damages how determined.  
R. S., c. 15, § 11.

—town to vote thereon at annual meeting.

SEC. 12. Any person aggrieved by the amount of damages awarded, may, *on petition to the county commissioners, have them assessed in the manner provided respecting highways* (have them determined by written complaint to the supreme judicial court in the manner provided respecting damages for the establishment of town ways.)

Person aggrieved, remedy for.  
R. S., c. 15, § 12.  
See c. 18, § 20.

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

How private cemetery may become public.  
R. S., c. 15, § 13.

—proviso.

SEC. 14. Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding half an acre, to be forever held, kept and used for a private or family burying-ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying-ground, are forever inalienable and indivisible, and exempt from liability for debt. Such city, town, corporation, company or trustee may also accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same, or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefor may be appointed by the probate court, testamentary trustee for the purpose of holding forever in accordance with the provisions of this section and the terms of the devise any fund devised for the purposes aforesaid, in any will probated *since* (after) January first, eighteen hundred ninety-two.

Towns and cemetery corporations may accept title to private burying-grounds.  
R. S., c. 15, § 14.  
1885, c. 311.

—lot and fixtures exempt from liability for debt.

—towns may hold funds in trust for repair of grounds.  
77 Me., 192.

—city or town may be appointed trustee for purpose of holding fund.  
1893, c. 251.

SEC. 15. Every trust fund authorized by the preceding section shall be safely invested in United States, state, county, city or town securities; and the annual income only, shall be expended in performance of the requirements of the trust.

Investment of funds.  
R. S., c. 15, § 15.  
See c. 3, § 83.

SEC. 16. A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee, and recorded in the registry of deeds with the conveyance.

Town's acceptance, where recorded.  
R. S., c. 15, § 16.

SEC. 17. Any person owning or interested in a lot in a public burial place of a city or town, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lots, or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or by-laws of such city or town, in relation to burials.

Cities and towns may hold money in trust for cemetery purposes.  
1887, c. 145, § 1.  
See c. 3, § 82.

SEC. 18. A city or town may pass such ordinances or by-laws, as may be necessary for the purposes of the preceding section and not repugnant

May pass by-laws.  
1887, c. 145, § 2.

See c. 3, §§ 83, 92, ¶ 1.

Cities and towns may accept trusts, relating to burial lots. 1897, c. 216, § 1. See c. 3, § 81.

Incorporation of public cemeteries; exemption from attachment and taxation. R. S., c. 55, § 11.

Deeds of burial lots, where recorded. 1897, c. 216, § 2.

to law, and may receive such money for said purposes, and may allow interest thereon, at a rate not exceeding six per cent a year.

SEC. 19. When any person owning or interested in a lot in a public burial place in a city or town deposits with the treasurer of such city or town, a sum of money for the preservation or care of such lot as provided by the preceding section, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts contained in the deed of conveyance of such lot.

#### PUBLIC CEMETERIES.

SEC. 20. Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter fifty-five, for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries; and the property of such corporations and the shares of stock therein, are exempt from attachment and taxation.

SEC. 21. Deeds of burial lots in any public cemetery may be recorded in the registry of deeds for the county or district where such cemetery is situated.

Note. Provisions for protection of dead bodies, graves and monuments in cemeteries, c. 123, §§ 31-33.

## CHAPTER 16.

#### DRAINS AND COMMON SEWERS.

Highways not to be opened without consent. R. S., c. 16, § 1. 92 Me., 493. Towns may lay drains. R. S., c. 16, § 2. 1901, c. 268.

—but not unless authorized by vote of the town. —expense and control thereof.

Notice, damages. R. S., c. 16, § 3. See c. 18, §§ 8, 16, 19, 20. Expense of construction of drains, etc., how estimated and assessed. 1839, c. 285, § 1. 84 Me., 212. 86 Me., 379.

SEC. 1. Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers, forfeits for each offense four dollars to the town.

SEC. 2. The municipal officers of a town, or a committee duly chosen by the town, may, at the expense of the town, construct public drains or sewers along or across any public way therein; and through any lands of persons or corporations, when they deem it necessary for public convenience or health; but neither the municipal officers of the town, nor such committee, shall construct any public sewer therein until the same shall be authorized by vote of said town, and an appropriation made for the purpose; and when constructed such sewers shall be under the control of the municipal officers. (a)

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

SEC. 4. When any town has constructed and completed a public drain or common sewer, the municipal officers shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, or against whom the taxes thereon shall be assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, the whole of such assessments not to exceed one-half of the cost of such drain or sewer, and such drain or sewer shall forever thereafter

(a) 56 Me., 410; 67 Me., 53; 74 Me., 272; 82 Me., 355; 83 Me., 582; 86 Me., 538; 95 Me., 310, 315.

(b) 51 Me., 524; 67 Me., 53; 86 Me., 538; 95 Me., 310.

be maintained and kept in repair by such town. *Such* (The) municipal officers shall file with the clerk of *such* (the) town the location of such drain or sewer, with a profile description of the same, *with* (and a statement of) the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of such lots or parcels of land or person against whom said assessment shall be made, and the clerk of such town shall record the same in a book kept for that purpose, and within ten days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk of said town, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode in said town; if he has no place of abode in said town, then such notice shall be given or left at the abode of his tenant or lessee if he has one in said town; if he has no such tenant or lessee in said town, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least thirty days before said hearing, or such notice may be given by publishing the same three weeks successively in any newspaper published in said town, the first publication to be at least thirty days before said hearing; a return made upon a copy of such notice by any constable in said town, or the production of the paper containing such notice, shall be conclusive evidence that said notice has been given, and upon such hearing the municipal officers shall have power to revise, increase or diminish any of such assessments, and all such revisions, increase or diminution shall be in writing and recorded by such clerk.

—location of drain, etc., to be recorded.

—notice of assessment and hearing thereon, how given.

—assessment may be revised.

SEC. 5. Any person not satisfied with the amount for which he is assessed, may, within ten days after such hearing, by request in writing given to such clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate six persons who are residents of said town, two of whom selected by the applicant, with a third resident person selected by said two persons, shall fix the sum to be paid by him, and the report of such referees made to the clerk of said town, and recorded by him, shall be final and binding upon all parties. Said reference shall be had and their report made to said clerk, within thirty days from the time of hearing before the municipal officers as provided in section four.

After hearing, assessment may be determined by arbitration, if any person is dissatisfied. 1889, c. 285, § 2.

SEC. 6. Any person may enter his private drain into any such public drain or common sewer, while the same is under construction and before the same is completed, and before the assessments are made, on obtaining a permit in writing from the municipal officers, or the sewer board having the construction of the same in charge; but after the same is completed and the assessments made, no person shall enter his private drain into the same, until he has paid his assessment and obtained a permit in writing from the town treasurer, by authority of the municipal officers. All permits given to enter any such drain or sewer, shall be recorded by the clerk of said town before the same are issued.

Conditions upon which private drains may be entered into public drains. 1889, c. 285, § 3.

—permits shall be recorded.

SEC. 7. All assessments made under the provisions of section four, shall create a lien upon each and every lot or parcel of land so assessed, and the buildings upon the same, which lien shall continue one year after said assessments are made, and within ten days after they are made, the clerk of said town shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said town; if said assessments are not paid within three months from the date thereof, the treasurer shall sell, at public auction, such of said lots or parcels of land upon which such assessments remain unpaid, or so much thereof, as is necessary to pay such assessments and all costs and incidental charges; he shall advertise and sell the same within one year from the time said assessments are made, as real estate is advertised and sold for taxes under

Lien on lots for payment of assessments. 1889, c. 285, § 4.

—lots may be sold for non-payment.

See c. 6, §§ 273-281.

chapter six, and upon such sale, shall make, execute and deliver his deed to the purchaser, which shall be good and effectual to pass the title of such real estate; the sum for which such sale shall be made, shall be the amount of the assessment and all costs and incidental expenses.

Lots may be redeemed.  
1889, c. 285, § 5.

SEC. 8. Any person to whom the right by law belongs, may at any time within one year from the date of said sale, redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per cent a year, and the costs of re-conveyance.

Actions may be maintained.  
1889, c. 285, § 6.  
84 Me., 215.

SEC. 9. If said assessments are not paid, and said town does not proceed to collect said assessments, by a sale of the lots or parcels of land upon which such assessments are made, or do not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said town, in the name of said town, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such suit may recover the amount of such assessment, with twelve per cent interest on the same from the date of said assessments and costs.

Persons paying assessment shall have lien on lot and buildings.  
1889, c. 285, § 7.

—lien, how enforced.

SEC. 10. When any such assessment shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same, shall have a lien upon such lot or parcel of land with the buildings thereon, for the amount of said assessment so paid by said person, and incidental charges, which lien may be enforced in an action of assumpsit as for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots, under chapter ninety-one, which lien shall continue one year after said assessment is paid.

Application of §§ 4-10.  
1889, c. 285, § 8.

SEC. 11. The seven preceding sections shall not apply to any city or town, until they shall have been accepted by the inhabitants of such town or the city council of such city at a meeting legally called therefor.

Private drains, application for permits.  
R. S., c. 16, § 4.  
95 Me., 310.

SEC. 12. Abutters upon the line of a public drain (existing in any town or city which has not accepted the provisions of the eight preceding sections, and abutters upon the line of a public drain constructed prior to such acceptance), and the owners of contiguous private drains, may enter and connect with *it* (such public drain), on written application to the municipal officers, distinctly describing the land to which it applies, and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains, as they deem expedient.

—regulations.

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

SEC. 13. If any person is dissatisfied with the sum which he is required to pay to enter a public drain, and within ten days after notice thereof, requests in writing to have it determined by arbitration, said officers shall nominate six persons, any two of whom, selected by the applicant, with a third person, selected by himself, may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

Drains heretofore laid.  
R. S., c. 16, § 6.  
74 Me., 272.

SEC. 14. All drains, heretofore made at the expense of a town, shall be maintained, managed, controlled and entered the same as if made under this chapter, subject to the rights of private persons therein.

Penalty for connecting private drains with public, without permit.  
R. S., c. 16, § 7.

SEC. 15. If any person connects a private drain with a public drain, or enters it by a side drain, without a permit, the municipal officers may forthwith destroy such connection; and such person forfeits to the town where the offense is committed, not exceeding two hundred dollars, to be recovered by indictment, or action of debt.

SEC. 16. If any person wilfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited; and such person, his heirs and assigns, shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits a nuisance, is liable therefor notwithstanding anything herein contained.

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

SEC. 17. After a public drain has been constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town, so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but its course may be altered, or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the town for his damages thereby sustained.

Drains to be kept in repair; penalty for neglect. R. S., c. 16, § 9. 56 Me., 410. 66 Me., 155. 82 Me., 359. 95 Me., 310.

SEC. 18. All proceedings of municipal officers as aforesaid shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands to which they apply. Said officers have exclusive direction, on behalf of their town, of all prosecutions under this chapter.

Proceedings to be recorded.—prosecutions. R. S., c. 16, § 10. 95 Me., 310.

SEC. 19. If any person, after the sum to be paid by him for a permit has been determined by arbitration, neglects to pay it within sixty days after notice thereof, with the fees of the arbitrators, he shall have no benefit of such determination, or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required; and their award shall be returned by them to the town clerk, and recorded with the proceedings of said officers in establishing such drains.

Sum for permit to be paid in sixty days. R. S., c. 16, § 11.

—fees of arbitrators, how determined.

SEC. 20. If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the street commissioner or highway surveyor, unreasonably neglect to repair such injury, it shall be repaired by the town, and the expense thereof may be recovered to the town in an action on the case against any one or more of the persons using such drain.

Private drain, how repaired, in case of owner's neglect. R. S., c. 16, § 12. 51 Me., 524.

SEC. 21. Whoever wilfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading into it, is liable to the town where it is located, in an action on the case for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.

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

SEC. 22. When a person, at his own expense, lays a common drain or sewer, all who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers, subject to appeal to the county commissioners.

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

SEC. 23. The municipal officers shall notify each person of the amount which he is to pay, and to whom; and if not paid in ten days, he shall pay double the amount with cost.

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

SEC. 24. Before such drain is opened for repairs, all persons interested shall have seven days' notice thereof, given as the municipal officers direct; and if any one objects and said officers think his objection reasonable, he shall not be liable to any expense therefor; if not thought reasonable, or if no objection is made within three days, they may give written permission to proceed.

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

#### HIGHWAY DITCHES AND DRAINS.

SEC. 25. The municipal officers of a town may at the expense of the town construct ditches and drains to carry water away from any highway or road therein, and over or through any lands of persons or corporations when they deem it necessary for public convenience or for the proper care of such highway or road, *provided* that no such ditch or drain shall pass

Towns may construct ditches and drains through lands of persons and corporations. 1893, c. 153, § 1. See c. 18, § 67.

—shall be under control of municipal officers.  
See c. 126, § 21.  
—liability for damages if not kept in repair.

Procedure.  
1893, c. 153, § 2.  
See c. 18, §§ 16, 20.

under or within twenty feet of any dwelling house without the consent of the owner thereof. Such ditches or drains shall be under the control of said municipal officers and wilful interference therewith shall be punished as is provided by statute for obstruction in a traveled road. If such town does not maintain and keep in repair such ditches and drains, the owner or occupant of the lands through or over which they pass, may have his action against the town for damages thereby sustained.

SEC. 26. Before land is so taken, notice shall be given and damages assessed and paid therefor as is provided for the location of town ways.

#### DRAINAGE OF SWAMPS AND MEADOWS.

Drains across adjacent lands or highways, how authorized.  
R. S., c. 16, § 17.

SEC. 27. Persons or corporations possessing land, swamp, meadow, quarries or mines, which by reason of adjacent lands or highways, cannot be approached, drained or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

Petition to co. com'rs.  
—contents.  
—bond.  
R. S., c. 16, § 18.

SEC. 28. The party desiring to make such drains and ditches shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, the situation of the adjoining lands, and the names of the parties interested, if known, accompanied by a bond approved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

Commissioners to order notice.

SEC. 29. Said commissioners thereupon, shall order notice to all parties named therein, by serving on them an attested copy thereof with the order thereon, fourteen days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three nor more than five disinterested persons, and fix their daily compensation; they shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same, in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands is likely to sustain, and report the same with all their proceedings to said commissioners; but before said committee proceeds to said examination they shall give ten days' notice of the time and place of their meeting, by posting notifications thereof in two public places, in the town in which said lands lie.

—how to be served and published.  
R. S., c. 16, § 19.

—may appoint committee of review; proceedings of committee.

—report.

—notice to be given before examination.

Report, when considered.  
R. S., c. 16, § 20.

SEC. 30. At the next meeting of said commissioners after the report of the committee is received, they may, if deemed reasonable, accept such report.

Final report to be recorded and damages tendered.  
R. S., c. 16, § 21.

SEC. 31. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated.

Repairs, how to be made.  
R. S., c. 16, § 22.

SEC. 32. The owners of a drain or ditch constructed for the purposes above named, or any one of them benefited thereby, may, from time to time, improve, deepen, and repair the same in such manner as is necessary to make it effective, and may remove and use any rock, earth or other material necessary for such improvements, and may enter upon the lands through which such drain or ditch passes, for that purpose.

Damages, how to be settled.  
R. S., c. 16, § 23.

SEC. 33. All damages sustained by any person by reason of such improvement, including the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the persons or corporations taking said material, in an action on the case; or upon application to the county commissioners, at the election of the party injured, who shall assess the damages, and the proceedings shall (upon appeal may) be conducted as provided in section eight of chapter eighteen.

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

SEC. 34. Whoever damages such works shall be punished as provided in chapter one hundred and twenty-six, for offenses of like nature.

# CHAPTER 17.

## NUISANCES.

SEC. 1. All places used as houses of ill-fame, or for the illegal sale or keeping of intoxicating liquors, or resorted to for lewdness or gambling; all houses, shops or places where intoxicating liquors are sold for tippling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drank, or dispensed in any manner not provided for by law, are common nuisances. The supreme court shall have jurisdiction in equity, upon information filed by the county attorney or upon petition of not less than twenty legal voters of such town or city, setting forth any of the facts contained herein, to restrain, enjoin or abate the same, and an injunction for such purpose may be issued by said court or any justice thereof. (a)

Common nuisances.  
R. S., c. 17, § 1.  
See c. 27, § 70.

—power of S. J. Court to abate.  
1891, c. 98.

SEC. 2. Whoever keeps or maintains such nuisance, shall be fined not exceeding one thousand dollars, or imprisoned in jail not more than one year. (b)

Punishment.  
R. S., c. 17, § 2.

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

Lease void.  
R. S., c. 17, § 3.  
—remedy of owner.  
56 Me., 323.  
68 Me., 546.

SEC. 4. Whoever knowingly lets any building or tenement owned by him, or under his control, for any purpose named in section one, or knowingly permits the same or part thereof to be so used, is guilty of aiding in the maintenance of a nuisance, and shall be fined not less than one hundred, nor more than one thousand dollars, or imprisoned not less than thirty days nor more than six months.

Liability of owner.  
R. S., c. 17, § 4.  
67 Me., 125.  
79 Me., 98.

—punishment.

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

Certain nuisances described.  
R. S., c. 17, § 5.

SEC. 6. Any fence or other structure in the nature of a fence, unnecessarily exceeding eight feet in height, maliciously kept and maintained (in any town or city of five thousand inhabitants or more,) for the purpose of annoying the owners or occupants of adjoining property, shall be

Fence maliciously kept, when deemed a nuisance.  
1893, c. 188.  
91 Me., 221.

(a) 63 Me., 219; 64 Me., 529; 65 Me., 295, 430; 66 Me., 419; 67 Me., 125; 69 Me., 136; 74 Me., 153; 75 Me., 124, 590; 78 Me., 439; 81 Me., 108, 411; 82 Me., 158, 558; 84 Me., 437, 560; 85 Me., 289.

(b) 64 Me., 529; 65 Me., 295; 68 Me., 545; 78 Me., 441; 81 Me., 108; 82 Me., 158; 84 Me., 560; 85 Me., 289.

(c) 7 Me., 156; 12 Me., 361; 17 Me., 294; 26 Me., 132; 30 Me., 74; 32 Me., 85; 37 Me., 362; 42 Me., 156, 527; 43 Me., 201; 47 Me., 163; 49 Me., 30; 51 Me., 504; 57 Me., 403; 58 Me., 48; 59 Me., 367; 60 Me., 194; 65 Me., 435, 438; 68 Me., 545; 80 Me., 310; 83 Me., 278; 85 Me., 281; 86 Me., 57; 88 Me., 380.



deemed a private nuisance. *This section shall not apply to towns or cities of less than five thousand inhabitants.*

SEC. 7. The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades, employments, or manufactures aforesaid, and may forbid their exercise in other places, under penalty of being deemed public or common nuisances and the liability to be dealt with as such. All such assignments shall be entered in the records of the town, and may be revoked when said officers judge proper.

SEC. 8. When a place or building so assigned becomes a nuisance, offensive to the neighborhood, or injurious to the public health, any person may complain thereof to the supreme judicial court, and if after notice to the party complained of, the truth of the complaint is admitted by default, or made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for such purposes, under a penalty not exceeding one hundred dollars for each month's continuance after such prohibition, to the use of said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

SEC. 9. If any person manufactures gunpowder, or mixes or grinds the composition thereof, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

SEC. 10. A town, at its annual meeting, may prohibit the burning of bricks, or the erecting of brick-kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick-kiln to be forthwith removed, at the expense of the owner thereof; and the offender forfeits not exceeding two hundred dollars to the town; and if said bricks or brick-kiln are not removed before conviction, the court may issue a warrant for the removal thereof, or stay it as hereinafter provided.

SEC. 11. The erection and maintenance of water mills and dams to raise water for working them upon or across streams not navigable as provided in chapter ninety-two, shall not be deemed a nuisance unless they become offensive to the neighborhood, or injurious to the public health, or unless they occasion injuries or annoyances of a kind not authorized by said chapter. Fences and buildings fronting on public ways, commons, or lands appropriated to public use, shall not be deemed nuisances when erected for the times and in the manner provided in section ninety of chapter eighteen, unless the owner of the same shall be estopped as therein provided from justifying his occupation within the limits of said way. (a)

SEC. 12. Whoever erects, causes or continues a public or common nuisance, as herein described or at common law, where no other punishment is specially provided, may be fined not exceeding one hundred dollars; and the court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as hereinafter provided.

SEC. 13. Any person injured in his comfort, property, or the enjoyment of his estate by a common and public, or a private nuisance, may maintain against the offender an action on the case for his damages, unless otherwise specially provided. (b)

(a) 6 Me., 123; 7 Me., 156; 8 Me., 145; 24 Me., 234; 60 Me., 194; 85 Me., 281.

(b) 44 Me., 156; 49 Me., 30; 51 Me., 504; 57 Me., 377; 75 Me., 378; 80 Me., 33, 310; 85 Me., 281.

Town officers may assign places for unwholesome employments. R. S., c. 17, § 6. See c. 26, § 12. 34 Me., 40. 65 Me., 435. 85 Me., 281.

Proceedings, when places so assigned become offensive. R. S., c. 17, § 7. 85 Me., 281.

When buildings for manufacture of powder are nuisances. R. S., c. 17, § 8. See c. 26, § 20. 85 Me., 281. Burning of bricks may be prohibited. R. S., c. 17, § 9.

—violation of such prohibition, is a nuisance. 85 Me., 281.

Mills and dams on streams, and fences and buildings fronting on public ways, sometimes not nuisances. R. S., c. 17, § 10. 1895, c. 29.

Punishment, and abatement of nuisance. R. S., c. 17, § 11. 21 Me., 12. 85. 30 Me., 78. 85 Me., 281. 94 Me., 530.

Action for damages. R. S., c. 17, § 12.

SEC. 14. When, on indictment, complaint, or action, any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs, for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant; and after inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following:

Process for  
abatement of  
nuisance.  
R. S., c. 17, § 13.  
80 Me., 307.  
85 Me., 281.  
94 Me., 530.

"STATE OF MAINE.

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

Greeting.

Whereas, by the consideration of our honorable — court, at a term begun and held at —, within and for said county, upon indictment," (or "complaint," or "action in favor of A. B.," as the case may be,) "C. D., of —, &c., was adjudged guilty of erecting," ["causing," or "continuing,"] "a certain nuisance, being a building in —, in said county," (or "fence," or other thing, describing particularly the nuisance and the place,) "which nuisance was ordered by said court to be abated and removed: We therefore command you forthwith to cause said nuisance to be abated and removed; also that you levy of the materials by you so removed, and of the goods, chattels, and lands of said C. D., a sum sufficient to defray the expense of removing and abating the same, not to exceed — dollars," (the sum estimated by the court,) "together with your lawful fees, and thirty-three cents more for this writ. And, for want of such goods and estate to satisfy said sums, we command you to take the body of said C. D., and him commit unto our jail in —, in said county, and there detain until he pays such sums or is legally discharged. And make return of this warrant, with your doings thereon, within thirty days. Witness, A. B., Esq., at —, this — day of —, in the year of our Lord 19—.

J. S., Clerk."

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

SEC. 15. Instead of issuing such warrant, the court or trial justice may order it to be stayed on motion of the defendant, and on his entering into recognizance in such sum and with such surety as the court or justice directs, in case of an indictment, to the State, or in case of a complaint or action, to the plaintiff, conditioned that the defendant will either discontinue said nuisance, or that within a time limited by the court and not exceeding six months, he will cause it to be abated and removed, as may be directed by the court; and on failing to perform such condition, the recognizance shall be deemed forfeited, and the court, or any justice thereof, in term time or in vacation, or said trial justice on being satisfied of such default, may forthwith issue the warrant and scire facias on the recognizance.

Warrant to be  
stayed, if  
defendant  
gives security  
to discon-  
tinue the nu-  
isance.  
R. S., c. 17, § 14.

SEC. 16. The expense of abating a nuisance by virtue of a warrant shall be collected by the officer as damages and costs are collected on execution; except that the materials of buildings, fences, or other things removed as a nuisance, may be first levied upon and sold by the officer, and the proceeds, if any remain after paying the expense of removal, shall be paid by him, on demand, to the defendant or the owner of such property; and if said proceeds are not sufficient to satisfy the expenses, the officer shall collect the residue as aforesaid. A person committed to jail on such warrant, may avail himself of the poor debtor's oath, as if he had been committed on execution. If said expense cannot be collected of the defendant, it shall be paid as costs in criminal prosecutions.

Expenses of  
abatement to  
be defrayed  
from mate-  
rials, if suffi-  
cient; other-  
wise, as in  
case of execu-  
tion.  
R. S., c. 17, § 15.  
—defendant  
entitled to  
poor debtor's  
oath.

Equity juris-  
diction of S.  
J. Court, by  
injunction.  
R. S., c. 17, § 16.  
60 Me., 194.

Stationary  
gasoline or  
steam engine  
not to be used  
without  
license from  
town officers.  
R. S., c. 17, § 17.  
1901, c. 210.  
65 Me., 435.  
75 Me., 378.  
80 Me., 490.

Notice and  
hearing on  
application.  
R. S., c. 17, § 18.  
1889, c. 239.

—appeal may  
be taken to  
S. J. Court.

See c. 18, § 52.

—proceedings.

Unlicensed  
engine.  
R. S., c. 17, § 19.  
Abatement.  
R. S., c. 17, § 20.  
See c. 14, § 51.  
65 Me., 435.  
75 Me., 379.  
Steam boilers  
to be provided  
with fusible  
safety plugs.  
R. S., c. 17, § 21.  
1887, c. 49.

—exceptions.

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

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

SEC. 17. Any court of record, before which an indictment, complaint, or action for a nuisance is pending, may, in any county, issue an injunction to stay or prevent such nuisance, and make such orders and decrees for enforcing or dissolving it, as justice and equity require.

SEC. 18. No stationary, gasoline or steam engine shall be erected in a town until the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provision as to height of chimney or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records, and a certified copy of it furnished, without charge, to the applicant.

SEC. 19. When application is made for such license, said officers shall assign a time and place for its consideration, and give at least fourteen days' public notice thereof, in such manner as they think proper, at the expense of the applicant. From the decision of the selectmen of towns, in granting or refusing such license, any person aggrieved by such decision may appeal therefrom to the next term of the supreme judicial court held in said county, which court may appoint a committee of three disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give fourteen days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, the supreme judicial court in equity may enjoin the erection of such building and *steam engine*.

SEC. 20. Any such engine erected without a license shall be deemed a common nuisance without other proof than its use. (a)

SEC. 21. Said officers have the same authority to abate and remove a *steam* (an) engine, erected without license, as is given to the local board of health or health officer in chapter fourteen.

SEC. 22. No person or corporation shall manufacture, sell, use, or cause to be used, except as hereinafter provided, any steam boiler in the state unless it is provided with a fusible safety plug, made of lead for boilers carrying steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and said safety plug shall be not less than one-half inch in diameter, and shall be placed in the roof of the fire box when a fire-box is used, and in all cases shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the surface line of the water as good judgment shall dictate, excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section.

SEC. 23. If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures, or sells a steam boiler (of a class not exempted from the provisions of the preceding section,) unprovided with such safety fusible plug, such offender shall be fined not exceeding one thousand dollars.

SEC. 24. Persons engaged in blasting lime-rock or other rocks, shall before each explosion give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion; and no such explosion shall be made after sunset. (b)

(a) 65 Me., 435; 75 Me., 378; 80 Me., 490.

(b) 82 Me., 242; 88 Me., 268; 93 Me., 67.

SEC. 25. Whoever violates the preceding section, forfeits to the prosecutor five dollars for each offense, to be recovered in an action of debt, and is liable for all damages caused by any explosion; and if the persons engaged in blasting rocks are unable to pay, or after judgment and execution, avoid payment of the fine, damages and costs, by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.

Penalty for violation.  
R. S., c. 17, § 24.  
82 Me., 242.  
88 Me., 268.

SEC. 26. When the municipal officers of a town after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the state paper, and after a hearing of the matter, adjudge the same to be a nuisance, or dangerous, they may make and record an order, prescribing what disposal shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if a resident of the state, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown, or resides without the state, such notice shall be given by publication in the state paper, or in a paper published in the county, three weeks successively.

Dangerous buildings may be adjudged nuisances; proceedings.  
R. S., c. 17, § 25.  
See c. 26, § 34.

—powers of municipal officers.

—notice to owner.

—return.  
See c. 3, § 92.  
§ 8.

SEC. 27. If no application is made to a justice of the supreme judicial court, as is hereafter provided, the municipal officers of such town, shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand, or may be recovered of such person by an action for money paid.

Town officers may order nuisance abated, at owner's expense, unless owner applies to S. J. C.  
R. S., c. 17, § 26.

SEC. 28. Any owner aggrieved by such order, may apply to a justice of the supreme judicial court, in term time or vacation, who shall forthwith, after notice and hearing, affirm, annul, or alter such order. If the court is not in session, the action shall be entered on the docket of the preceding term.

Owner may apply to supreme court; proceedings.  
R. S., c. 17, § 27.

SEC. 29. If the court affirms such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant, and if it alters it in part, the court may render such judgment as to costs as justice requires.

Costs, by whom to be paid.  
R. S., c. 17, § 28.

SEC. 30. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.

Sections 26-29 require vote of town.  
R. S., c. 17, § 29.

## CHAPTER 18.

## WAYS.

## LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

County commissioners may lay out, alter or discontinue, all county roads.  
R. S., c. 18, § 1.

SEC. 1. County commissioners may lay out, alter, or discontinue highways leading from town to town, and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter, or discontinue county roads within the limits thereof. Responsible persons may present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description, without adhering strictly to its bounds. (a)

Notice, how given, proved and recorded.  
R. S., c. 18, § 2.  
19 Me., 343.  
30 Me., 305.  
68 Me., 406, 497.  
83 Me., 116.

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

Costs paid by petitioners on failure.  
R. S., c. 18, § 3.  
2 Me., 54.  
3 Me., 105.  
68 Me., 497.  
83 Me., 115.  
Proceedings before co. com'rs.  
R. S., c. 18, § 4.

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

—return.

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

—shall erect durable monuments.  
See § 11.

Return to be filed with clerk.  
R. S., c. 18, § 5.  
1887, c. 81, § 1.

SEC. 5. Their return, made at their next regular session after the hearing, shall be placed on file, and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regu-

(a) Authority of commissioners. 11 Me., 276; 15 Me., 22; 19 Me., 343; 26 Me., 356, 409; 31 Me., 270; 32 Me., 568; 37 Me., 559; 39 Me., 584; 40 Me., 437; 42 Me., 401; 59 Me., 89; 64 Me., 457; 70 Me., 408; 77 Me., 130; 78 Me., 156; 79 Me., 526; 87 Me., 151.

Petition. 2 Me., 53; 3 Me., 105; 26 Me., 356, 408; 32 Me., 568; 37 Me., 119; 63 Me., 114; 68 Me., 407, 497; 78 Me., 537; 80 Me., 44.

(b) Return. 12 Me., 212; 14 Me., 343; 23 Me., 13, 513; 26 Me., 409; 30 Me., 307; 35 Me., 377; 49 Me., 145; 51 Me., 384; 65 Me., 292; 72 Me., 430; 78 Me., 172; 79 Me., 528; 83 Me., 116; 89 Me., 252; 91 Me., 51.

Angles and monuments. 25 Me., 304; 35 Me., 377; 49 Me., 148.

Validity of proceedings. 8 Me., 272, 293; 11 Me., 473; 19 Me., 343; 23 Me., 11, 513; 24 Me., 152; 26 Me., 356, 408; 30 Me., 306; 31 Me., 270; 32 Me., 568; 37 Me., 120, 559; 42 Me., 400; 49 Me., 145; 52 Me., 27; 68 Me., 407; 73 Me., 324; 81 Me., 411; 83 Me., 523.

Damages. 19 Me., 315; 45 Me., 424; 49 Me., 145; 52 Me., 27; 54 Me., 478; 60 Me., 540; 61 Me., 442; 63 Me., 28; 67 Me., 460, 464.

lar term, and at any time on or before the third day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under the first thirteen sections of this chapter, paid out of the county treasury. But if an appeal from the location be taken in accordance with section fifty-one, then notice of appeal on damages may be filed with the clerk of the county commissioners within sixty days after the final decision of the appellate court in favor of such way, has been certified to him, to the supreme judicial court first held in the county where the land is situated, more than thirty days after such notice of appeal is filed, which court shall determine the same in the same manner as is provided in section eight, when no appeal on location is taken. (a)

SEC. 6. When a notice of appeal for increase of damages is presented within the time allowed, the case shall be further continued until a final decision respecting damages is made. If they then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners, or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly; and the whole proceedings shall be recorded and become effectual. But the provisions of this section shall not apply when a location has been determined by a committee of the supreme judicial court upon appeal from the decision of the county commissioners thereon. In such case proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

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

SEC. 8. Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time before the third day of the regular term succeeding that at which the commissioners' return is made, to the term of the supreme judicial court, first held in the county where the land is situated, more than thirty days after the expiration of the time within which such appeal may be taken, excluding the first day of its session, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of the court shall file a

—proceedings.  
59 Me., 391.  
78 Me., 101, 169.

—notice of appeal, from estimate of damages.

—in case of appeal from location, when appeal on damages to be filed.

Proceedings before and after decision respecting increase of damages.  
R. S., c. 18, § 6.  
1897, c. 269, § 1.  
63 Me., 28.  
78 Me., 173.

—provisions of this section shall not apply, when location has been determined upon appeal.

Damages, how estimated; to whom awarded; when to be paid.  
R. S., c. 18, § 7.  
71 Me., 140.  
84 Me., 54.  
91 Me., 51.  
93 Me., 127.

Appeal from commissioners to supreme court.  
R. S., c. 18, § 8.  
1885, c. 359, § 3.

—by agreement, appeal may be determined by committee of reference.  
21 Me., 390.  
77 Me., 181.  
78 Me., 173.

(a) Filing and recording return. 31 Me., 272; 32 Me., 568; 42 Me., 399; 59 Me., 391; 63 Me., 28; 83 Me., 522.

Close of proceedings. 23 Me., 11; 25 Me., 304; 30 Me., 308; 59 Me., 391; 63 Me., 28.

83 Me., 535.  
84 Me., 54.  
89 Me., 313.  
91 Me., 51.

—appellant to  
file notice of  
appeal with  
county com-  
missioners.

—costs.

Time allowed  
for removing  
growth, and  
opening way.  
R. S., c. 18, § 9.  
1897, c. 269, § 2.  
Way discon-  
tinued before  
damages paid,  
proceedings.  
R. S., c. 18, § 10.  
93 Me., 130.

County com-  
missioners to  
preserve  
boundaries of  
highways by  
durable monu-  
ments.  
R. S., c. 18, § 11.

—municipal  
officers to pre-  
serve and re-  
place them.  
See § 4.

—proceedings  
when an ap-  
peal is taken  
for increase  
of damages.  
1891, c. 41.  
83 Me., 42.

Petitions re-  
specting ways  
in two or  
more coun-  
ties, proceed-  
ings on them.  
R. S., c. 18, § 12.  
—notices.  
52 Me., 213.  
65 Me., 214.

Proceedings,  
how continued  
and closed.  
R. S., c. 18, § 13.  
25 Me., 292.  
45 Me., 424.  
52 Me., 213.  
73 Me., 57.

complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record, and order the damages therein recovered to be paid as provided in section seven. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party, said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners.

[The commissioner suggests that the following clause be added to § 8; "The compensation of the committee shall be the same as commissioners would have for like services, to be allowed by the court and paid from the county treasury upon the certificate of the clerk of courts." See § 53.]

SEC. 9. The owners of land taken shall be allowed not exceeding one year after the proceedings, regarding the location, are finally closed to take off timber, wood or any erection thereon. A time not exceeding two years shall be allowed for making and opening the way. (a)

SEC. 10. When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as herein provided.

SEC. 11. When the true boundaries of highways duly located are doubtful, uncertain or lost, the county commissioners of the county wherein such highway is located, upon petition of the municipal officers of the town wherein the same lies, shall, after such notice thereon as is required for the location of new ways, proceed to hear the parties, examine said highway, locate and define its limits and boundaries and cause durable monuments to be erected at the angles thereof, and if any real estate is damaged by said action, shall award damages to the owner as in laying out new highways. Said municipal officers shall maintain all highway monuments, and replace them forthwith when destroyed.

If any appeal for increase of damages is taken, and the commissioners are of opinion that their proceedings hereunder, or any part thereof, ought not to take effect, they shall enter a judgment that the prayer of the original petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county.

#### WAYS IN TWO OR MORE COUNTIES.

SEC. 12. When a petition is presented respecting a way in two or more counties, the commissioners receiving the petition being satisfied as aforesaid, may call a meeting of the commissioners of all the counties, to be held at a time and place named, by causing an attested copy of such petition and of their order thereon, to be served upon their chairmen; and they shall give notice of such meeting by causing a like copy to be published in the state paper and in one paper, if any, printed in every such county, and by posting it in three public places in each town interested, and serving it on the clerk thereof. These notices shall be posted, served, and published thirty days before the time of meeting.

SEC. 13. Each county must be represented at such meeting by a majority of its commissioners. A majority of those present may decide upon the whole matter. The duty of carrying that judgment into effect, shall be performed in each county by its own commissioners in the manner respecting ways wholly within it. When each county is not so represented, those present may adjourn the meeting to another time.

(a) See §37; 8 Me., 137; 39 Me., 116; 64 Me., 409; 84 Me., 100.

SEC. 14. When proceedings have been had by the county commissioners on a petition for laying out, altering, grading or discontinuing a way in two or more counties, an appeal may be taken in the manner provided in case of a way wholly in one county.

Appeals, how taken.  
1891, c. 5, § 1.

SEC. 15. When an appeal is so taken, it shall be filed with the commissioners of, and subsequent proceeding shall be had in, the county where proceedings originated and the commissioners with whom such appeal is filed shall immediately give notice of such appeal to the commissioners of all the counties interested, and the clerk of courts shall certify the final judgment of court to the commissioners of all said counties.

Proceedings in cases of appeals.  
1891, c. 5, § 2.  
86 Me., 142.

#### TOWN AND PRIVATE WAYS.

SEC. 16. The municipal officers of a town may personally or by agency lay out, alter, or widen town ways and private ways, for one or more of its inhabitants, or for owners of cultivated land therein, on petition therefor. They shall give written notice of their intentions, to be posted for seven days, in two public places in the town and in the vicinity of the way, describing it in such notice, and they shall determine whether it shall be a town way or a private way; and if a private way, whether it shall be subject to gates and bars. (a)

Power of municipal officers respecting town and private ways.  
—notice, how given.  
R. S., c. 18, § 14.  
—duty of officers in laying out way.

SEC. 17. They may lay out a way as aforesaid for the hauling of merchandise, hay, wood or lumber, to be used only when the ground is so covered with snow that such hauling shall not break the soil. When so laid out, they shall state in their return the purposes for which it is laid, and that it shall be used only in the winter season, and shall order the persons for whose accommodation it is laid, to pay into the town treasury an amount equal to the damages and expenses of such location for the benefit of the owner of the land over which it is laid, and it shall not be accepted by the town until such amount is so paid. No town shall be liable for damage to any person traveling on such way.

Municipal officers may lay out a winter road for hauling wood, hay, lumber, etc.  
R. S., c. 18, § 15.

—return of location.

—town not liable for damage.

SEC. 18. A written return of their proceedings containing the bounds and admeasurements of the way, and the damages allowed to each person for land taken, shall be made and filed with the town clerk in all cases. The way is not established until it has been accepted in a town meeting legally called after the return has been filed, by a warrant containing an article for the purpose. (b)

After municipal officers have laid out, town may accept.  
R. S., c. 18, § 16.  
1885, c. 359, § 4.

SEC. 19. A town, at a meeting called by warrant containing an article for the purpose, may discontinue a town or private way; and the municipal officers shall estimate the damages suffered by any person thereby. *It may, by an ordinance, set off portions of its ways or streets as sidewalks, and require them to be kept clear of snow and other obstructions; and may authorize trees to be planted by their side.* (c)

Towns may discontinue ways.  
R. S., c. 18, § 17.  
See § 64;  
c. 3, § 92, ¶ 6.

SEC. 20. The damages for a town way shall be paid by the town; for a private way, by those for whose benefit it is stated in the petition to be,

Damages for ways, how es-

(a) Notice. 3 Me., 439; 10 Me., 341; 11 Me., 113; 13 Me., 254; 18 Me., 185; 35 Me., 246; 43 Me., 576; 59 Me., 368, 518; 83 Me., 250.

Authority of municipal officers. 10 Me., 340; 11 Me., 113; 14 Me., 343; 18 Me., 185; 45 Me., 244; 46 Me., 427; 51 Me., 571; 57 Me., 45; 59 Me., 452; 62 Me., 328; 64 Me., 581; 84 Me., 101.

Legality of proceedings. 2 Me., 60; 10 Me., 25; 12 Me., 275; 25 Me., 71; 26 Me., 178; 32 Me., 568; 61 Me., 439; 83 Me., 123; 88 Me., 31; 89 Me., 251; 91 Me., 449.

(b) Return of selectmen. 12 Me., 35, 275; 13 Me., 254; 18 Me., 186, 346; 26 Me., 178; 30 Me., 26; 40 Me., 301; 67 Me., 286.

Bounds and admeasurements. 14 Me., 343; 25 Me., 304; 30 Me., 25; 40 Me., 301.

Acceptance. 10 Me., 344; 11 Me., 113; 12 Me., 36; 16 Me., 302; 18 Me., 185; 21 Me., 174; 23 Me., 124; 26 Me., 180; 35 Me., 246; 40 Me., 301; 48 Me., 457; 59 Me., 518; 64 Me., 579; 67 Me., 286; 89 Me., 251.

(c) 37 Me., 55, 71; 45 Me., 607; 69 Me., 440; 83 Me., 118; 85 Me., 388.



timated and  
paid.  
R. S., c. 18, § 18.  
1897, c. 214.

—appeal may  
be taken to  
supreme ju-  
dicial court.

Town or pri-  
vate way, neg-  
lect or refusal  
of municipal  
officers to lay  
out or alter;  
proceedings.  
R. S., c. 18, § 19.  
See §§ 1-4.

—county com-  
missioners to  
hear and de-  
cide.

—appeal.  
1889, c. 251.

When such  
way may be  
opened.  
R. S., c. 18, § 20.  
91 Me., 51.

Towns un-  
reasonably re-  
fusing to ac-  
cept, or to  
discontinue.  
R. S., c. 18, § 21.

or wholly or partly by the town, if under an article in the warrant to that effect it so votes at the meeting accepting such private way; or by cities, if it is proposed in the return laying out such way. Any person aggrieved by the estimate of such damages may have them determined as provided in section eight, by written complaint to the supreme judicial court, returnable at the term thereof next to be held within the county where the land lies, after sixty days from the date of the establishment, alteration or discontinuance of such way by the town at its town meeting. The complaint shall be served at least thirty days before said term by delivering in hand an attested copy to the clerk of the town where the land lies, and by posting attested copies in two public and conspicuous places within said town and in the vicinity of the way. But the final judgment shall be recorded in said court, and shall not be certified to the county commissioners. When any person aggrieved by the estimate of damages for his land taken for a town or private way, honestly intended to appeal therefrom and has by accident or mistake omitted to take his appeal within the time provided by law, he may at any time within six months after the expiration of the time when said appeal might have been taken, apply to any judge of the supreme judicial court in term time or vacation, stating in his said application the facts of his case, and said judge, after due notice and hearing, may grant to such petitioner permission to take his said appeal to such term of said court as said judge shall direct, and on such terms as said judge shall order, and the subsequent proceedings thereon shall be the same and with the same effect as if said appeal had been seasonably taken. (a)

SEC. 21. When the municipal officers unreasonably neglect or refuse to lay out or alter a town way, or a private way on petition of an inhabitant, or of an owner of land therein for a way leading from such land under improvement to a town or highway, the petitioner may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who shall give notice thereof to all interested and act thereon as is provided respecting highways. When the decision of the municipal officers is in favor of such laying out or alteration, any owner or tenant of the land over or across which such way has been located, shall have the same right of petition. When the decision of the commissioners is returned and placed on file such owner or tenant or other party interested has the same right to appeal to the supreme judicial court as is provided in sections fifty-one to fifty-four inclusive; and also to have his damages estimated as provided in section eight. (b)

SEC. 22. No such way shall be opened or used until after sixty days from its acceptance by the town, and if within that time notice of such appeal or petition is filed with the town clerk, such way shall not be opened or used until finally located by the appellate tribunal.

SEC. 23. When a town unreasonably refuses to discontinue a town or private way, or to accept one laid out or altered by the selectmen, the parties aggrieved may, within the time, and in the manner provided in section twenty-one, present a petition to the commissioners, who shall in like manner proceed and act thereon, and cause their proceedings to be recorded by their own and by the town clerk; and the rights of all parties may be preserved and determined as provided in the two preceding sections. (c)

(a) 11 Me., 265, 424; 12 Me., 212; 17 Me., 201; 19 Me., 316; 21 Me., 391; 19 Me., 343; 26 Me., 179; 28 Me., 123; 30 Me., 272; 32 Me., 568; 48 Me., 283; 57 Me., 342; 59 Me., 518; 60 Me., 537; 67 Me., 460; 83 Me., 535; 95 Me., 50.

(b, c) 8 Me., 271; 10 Me., 26; 12 Me., 211, 275; 18 Me., 185; 21 Me., 380; 25 Me., 71; 30 Me., 26; 31 Me., 271, 580; 36 Me., 76; 40 Me., 301; 41 Me., 605; 42 Me., 480; 51 Me., 571; 57 Me., 341; 59 Me., 514; 60 Me., 330, 537-540; 63 Me., 102; 64 Me., 581; 68 Me., 538; 70 Me., 324; 73 Me., 57; 78 Me., 106; 83 Me., 246, 430; 84 Me., 53; 87 Me., 223, 229; 88 Me., 31, 140.

SEC. 24. When a town way has been laid out, graded, or altered by the commissioners, their proceedings cannot be affected by any action of the town, within five years; and when one has been discontinued by them, it cannot be again laid out by the town, within two years. The commissioners have the same power to alter or discontinue such ways, for five years, as they have respecting highways.

SEC. 25. The county commissioners, in laying out new ways, or altering or grading ways already laid out, may direct the amount of such grading, which shall be stated in their return; and they may order a portion of the expense of such altering or grading, not exceeding fifty per cent thereof, to be paid to the town in which the altering or grading has been done, from the county treasury.

SEC. 26. When a town has accepted a town way, and said town way is subsequently discontinued by the county commissioners on appeal, before such road has been opened for travel, such town may, at its annual meeting, held within three years thereafter, by a majority of the voters present and voting, re-instate and lay out such town way, under an article for such purpose in the warrant. The damages shall be assessed, and the owners of the land over which said way passes shall be notified thereof by the municipal officers, within thirty days after said meeting; and any person (aggrieved by the estimate of damages may have them determined in the manner) *so damaged may petition the county commissioners within fifteen days after said notice, for an increase of damages, and such action shall be had thereon as is provided (in section twenty) in case of town ways laid out on petition.* A town way so re-established and laid out shall not be discontinued for five years thereafter.

[Upon consideration of the provisions of § 20, the commissioner recommends that the period of thirty days be reduced to twenty days.]

SEC. 27. No private way, town way, city street, or highway, taking land of any railroad corporation, shall be located, unless a notice of the time and place of the hearing upon said location has been served upon the station agent of said railroad within such town or city, if any, otherwise upon such agent whose station is nearest to the land proposed to be so taken, at least seven days before the time for such hearing.

SEC. 28. Town ways and highways may be laid out across, over or under any railroad track, in the same manner as other town ways and highways, except that before such way shall be constructed, the railroad commissioners, on application of the municipal officers of the city or town wherein such way is located, or of the parties owning or operating the railroad, shall, upon notice and hearing, determine whether the way shall be permitted to cross such track at grade therewith or not, and the manner and conditions of crossing the same and the expense of building and maintaining so much thereof as is within the limits of such railroad shall be borne by such railroad company, or by the city or town in which such way is located, or shall be apportioned between such company and city or town, as may be determined by said railroad commissioners. Said commissioners shall make a report in writing of their decision thereupon, file the same in their office and cause to be sent by mail or otherwise to each of the railroad corporations, and the municipal officers of the city or town as the case may be, interested therein, a copy of such decision. Such decision shall be final and binding upon all parties unless an appeal therefrom shall be taken and entered to (at) the next succeeding term of the supreme judicial court, to be held in the county where the crossing is located, more than thirty days after the date of the filing of the report. The appellant shall within fourteen days from the date of the filing of such report, file in the office of the board of railroad commissioners, its reasons for appeal and fourteen days at least before the sitting of the appellate court, it shall cause to be served upon such other interested corporations or municipality a copy of such reasons for appeal, certified by the clerk of the board of railroad commissioners. The presiding justice,

Town ways acted on by co. com'rs cannot be acted on by towns for what time. R. S., c. 18, § 23. See § 1. 91 Me., 47. Co. com'rs may fix amount of grading. R. S., c. 18, § 24. —order half the expenses to be paid by the county. Towns may re-instate town ways discontinued by county commissioners. R. S., c. 18, § 25. —damages. See § 16.

—proviso.

Lands shall not be taken from a railroad for any way without notice and hearing. R. S. c. 18, § 26. 84 Me., 100. 86 Me., 391. Ways, crossing railroad tracks, how laid out. R. S., c. 18, § 27. 1899, c. 73, § 1. See c. 51, §§ 40, 41.

—manner and conditions of crossing, to be determined by railroad commissioners.

—expense of building, how borne.

—commissioners shall report to railroad corporations and municipal officers.

—appeal may be taken to supreme judicial court.

—proceedings.

at such term of court, shall make such order or decree thereon as law and justice may require. Exceptions may be taken to such order or decree. The final adjudication shall be recorded as provided in section thirty-one of this chapter. Costs may be taxed and allowed to either party at the discretion of the court. (a)

—costs, how  
taxed.  
Such ways al-  
ready laid  
out, how  
maintained.  
R. S., c. 18, § 28.

SEC. 29. In case of such ways already so laid out, over or under any railroad track, and not at grade, the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne as provided in the preceding section; the question shall be determined upon application of any company whose track is so crossed, made within sixty days after written notice has been served thereon by the municipal officers of any town in which such way is located, requesting such company to build and maintain so much of such way as is within the limits of its road.

Ways over  
lands used for  
stations.  
R. S., c. 18, § 29.

SEC. 30. No way shall be laid out through or across any land or right of way of any railroad corporation, used for station purposes, unless after notice and hearing the railroad commissioners adjudge that public convenience and necessity require it.

Adjudications  
to be recorded.  
R. S., c. 18, § 30.

SEC. 31. Adjudications of the railroad commissioners relating to ways shall be recorded in the office in which the location of the way must be recorded.

#### ASSESSMENT OF DAMAGES UPON ABUTTERS ON CITY STREETS.

Damages  
caused by lay-  
ing out,  
widening,  
altering or  
discontinuing  
city streets,  
may be as-  
sessed in  
whole or in  
part upon  
abutters.  
R. S., c. 18, § 31.  
70 Me., 527.  
84 Me., 217.

SEC. 32. Whenever the city council lay out any new street or public way, or widen or otherwise alter or discontinue any street or way in a city, and decide that any persons or corporations are entitled to damage therefor, and estimate the amount thereof to each in the manner provided by law, they may apportion the damages so estimated and allowed, or such part thereof as to them seems just, upon the lots adjacent to and bounded on such street or way, other than those for which damages are allowed, in such proportions as in their opinion such lots are benefited or made more valuable by such laying out or widening, alteration or discontinuance (not exceeding in case of any lot the amount of such benefit); but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all persons interested of a hearing before said council, at a time and place specified, which notice shall be published in some newspaper in said city at least one week before said hearing.

—notice of  
hearing to be  
published for  
one week.

Owners to be  
notified of  
assessment.  
R. S., c. 18, § 32.

SEC. 33. After said assessment has been made upon such lots or parcels and the amount fixed on each, the same shall be recorded by the city clerk, and notice shall be given within thirty days after the assessment by delivering to each owner of said assessed lots resident in said city a certified copy of such recorded assessment, or by leaving it at his last and usual place of abode, and by publishing the same three weeks successively in some newspaper published in said city, the first publication to be within said thirty days, and said clerk within said thirty days shall deposit in the post office of said city, postage paid, a certified copy of such assessment directed to each owner or proprietor residing out of said city, whose place of residence is known to said clerk, and the certificate of said clerk shall be sufficient evidence of these facts, and in the registry of deeds shall be the evidence of title in allowing or assessing damages and improvements, so far as notice is concerned.

[Upon consideration of the provisions of § 20, the commissioner thinks that the period of thirty days mentioned in this section should be reduced to ten days; the words "at any time within six months after such assessment," in § 34 seems inconsistent with § 20 in its present form.]

(a) 78 Me., 67; 79 Me., 391; 83 Me., 277; 85 Me., 142; 87 Me., 251; 89 Me., 561; 91 Me., 137; 92 Me., 59.

SEC. 34. An aggrieved owner or proprietor, may, *at any time within six months after such assessment*, have the same assessed as is now provided for the estimate of damages for land taken for laying out, altering, widening or discontinuing any new street or public way in said cities; and if, upon appeal, such owner or proprietor fails to be assessed a smaller sum than that assessed by the city council, then said city shall recover costs, after such appeal, which shall be added to and become a part of said assessment; otherwise the appellant shall recover costs after said appeal, and the clerk of the courts for the county, shall, within thirty days after final judgment, in case of appeal, certify such judgment to the clerk of said city.

How owners aggrieved may have re-assessment made.  
R. S., c. 18, § 33.  
See § 20.

—costs.

SEC. 35. If the sums so assessed are not paid to the city treasurer within six months after such assessment and no appeal is claimed, the mayor, under the order of the council, may issue his warrant directed to the city treasurer, reciting substantially the proceedings had, and direct him to sell all such lots upon which the assessment has not been paid as aforesaid at public auction to the highest bidder, or so much of each as may be necessary to pay said assessment and all intervening charges and costs, first giving public notice of the time and place of sale by posting notices thereof in two public places in said city and publishing the same three weeks successively before said sale, in some newspaper published therein. Said treasurer shall obey said warrant and execute and deliver to the purchaser of such lot or any part thereof, a deed which shall convey a good and valid title of the same to the purchaser; and such owner or proprietor may redeem the same at any time within two years after such sale, by paying or tendering to the purchaser or depositing with said treasurer the amount paid by such purchaser, with interest at the rate of twelve per cent a year. And there shall be a lien upon each of said lots for the payment of said assessment and all costs and charges until the same is paid.

If no appeal, and assessment is not paid, proceedings.  
R. S., c. 18, § 34.

—lots may be sold at auction.

—two years redemption.

—twelve per cent interest, costs, etc.

SEC. 36. In addition to the foregoing provisions, any city treasurer may, for the use of his city, in an action of assumpsit, recover of each owner or proprietor any assessment which has become due and payable, with all charges and costs.

Treasurer may sue proprietor for assessment.  
R. S., c. 18, § 35.

#### WHEN WAYS ARE TO BE OPENED.

SEC. 37. When a town way, private way, or highway, is wholly or partly discontinued by the commissioners, a time shall be fixed for it. And when laid out by them the way shall be regarded as discontinued, if not opened within six years from the time allowed therefor. When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings are void. (a)

Way located by co. com'rs must be opened in six years.  
See §§ 7, 9, 18.  
—by town officers, in two years.  
R. S., c. 18, § 36.

SEC. 38. When a town way or highway is not opened and made passable by the town liable, or a hill therein has not been graded, within the time prescribed therefor by the commissioners, they may, after notice to the town, cause it to be done by an agent, not one of themselves, on petition of those interested. The agent shall make a written contract therefor and file a copy of it in the clerk's office; and the commissioners shall forthwith certify to the assessors of the town interested, the time when such contract is to be completed, and the amount to be paid therefor. They may examine the doings of their agent, and at pleasure remove him and appoint another. His account shall not be allowed without notice to the town. When the contract has been completed and the accounts allowed, the town shall pay the amount expended, with the expenses of the agent for superintendence, and for procuring the allowance of his

Commissioners may cause highways to be opened when towns neglect.  
R. S., c. 18, § 37.

—expenses, how paid.

(a) 12 Me., 237; 43 Me., 428; 59 Me., 543; 71 Me., 240; 79 Me., 273; 91 Me., 138; 95 Me., 51.

account. If the town neglects to pay for thirty days, a warrant of distress shall be issued by the commissioners to collect the same. (a)

Record loca-  
tion of high-  
way, when  
lost or disre-  
garded.  
R. S., c. 18, § 38.

—proceedings.

—any justice  
of S. J. C. to  
issue sum-  
mary notice,  
etc.

Plantations  
liable as  
towns and  
have same  
powers.  
R. S., c. 18, § 39.  
See c. 3, § 119.  
20 Me., 298.

SEC. 39. When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto, or said agent is not making said highway according to the record location, the municipal officers or town agent, may file a bill in equity in the supreme judicial court, setting forth the facts aforesaid and praying an injunction to stay the proceedings of said road agent; and any justice of said court shall issue a summary notice to said road agent to appear before him to answer said petition; and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable; and subsequent proceedings on the bill shall be similar to proceedings in equity in other cases.

SEC. 40. Plantations required to assess a state or county tax, have like powers and are subject to like liabilities and penalties as towns respecting ways. Their assessors have like powers and shall perform like duties, as municipal officers of towns, respecting them.

#### ACTIONS FOR DAMAGES AND COSTS.

Damages.  
R. S., c. 18, § 40.  
See § 7.  
45 Me., 429.  
83 Me., 246.  
93 Me., 231.

SEC. 41. A person entitled to receive payment of damages or costs, may, after thirty days from demand on the treasurer of the county, or town, or on the party liable therefor, recover them in an action of debt.

#### WAYS IN PLACES NOT INCORPORATED.

County com-  
missioners  
may lay out,  
alter, or dis-  
continue high-  
ways in un-  
incorporated  
townships.  
R. S., c. 18, § 41.  
See c. 56, § 14.

SEC. 42. The county commissioners, on petition as provided in section one, may lay out, alter or discontinue a highway on any tract of land in their county, not within any town or plantation required to raise money to make and repair highways; and all expenses for making and opening the same shall be paid by the owners thereof, excluding lands reserved for public uses, in proportion to their interest in the lands over any part of which it is laid, except as provided in chapter six, section one hundred and forty-four. (b)

Notice of  
hearing, how  
given.  
R. S., c. 18, § 42.  
38 Me., 495.

SEC. 43. If they think that there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor, by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, fourteen days before that time, and if unknown, by a publication thereof in the state paper for six successive weeks, the last, thirty days before that time. No proceedings shall take place until it is proved that such notice has been given.

Ways, how  
laid out.  
R. S., c. 18, § 43.  
Appeal.  
R. S., c. 18, § 44.  
59 Me., 514.  
63 Me., 570.  
64 Me., 21.  
72 Me., 248.  
80 Me., 285.  
91 Me., 103.  
—no person  
appearing to  
prosecute;  
proceedings.  
—appointment  
of committee.

SEC. 44. After hearing the parties at the time and place appointed, they may proceed as provided in section four.

SEC. 45. Any party interested in such decision may appeal therefrom to the supreme judicial court, to be entered at the term thereof first held after such decision, in said county. And all further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. If no person appears at that term to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines, or becomes interested, the court shall appoint another in his place, and they shall cause notice to be given of the time and place of hearing before them, by publi-

(a) 25 Me., 303; 37 Me., 120, 555; 49 Me., 155; 59 Me., 84; 64 Me., 331; 71 Me., 240; 80 Me., 429; 83 Me., 115.

(b) 3 Me., 133; 17 Me., 197; 27 Me., 294; 30 Me., 352; 33 Me., 458; 38 Me., 495; 46 Me., 346; 60 Me., 289; 63 Me., 255; 80 Me., 285; 83 Me., 517.

cation thereof in the state paper for six successive weeks, the last publication to be fourteen days, at least, before the day of hearing, and personal notice to the appellant and to the chairman of the county commissioners, thirty days, at least, before the time set for hearing; they shall view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed, or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. If the judgment of the commissioners in favor of laying out, grading, or altering a way as prayed for, is wholly reversed on appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole, or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court, in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The compensation of the committee shall be the same as commissioners would have for like services, to be allowed by the court. The costs allowed to the prevailing party, and the fees of the committee shall be collected as provided in section three.

SEC. 46. If the final decision of the commissioners or of the committee is against the prayer of the petition, no new petition for the same road shall be entertained by the commissioners for one year thereafter.

SEC. 47. County commissioners in their counties may, upon the same petition, lay out, alter, or discontinue highways, through a town or towns or a plantation or plantations, and tracts of land not in any town or plantation, and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section forty-three; in case of an appeal to the supreme judicial court, the appeal may be made at any time after the return of the commissioners has been placed on the files, and before the next term of said court in the county; and the proceedings upon the appeal shall be according to section forty-five. If no appeal is made, the case shall be continued to the next regular term after the regular term to which the return is made.

SEC. 48. When it is necessary for any person or persons, by themselves, men or teams, to cross or enter upon any tract of land not within any town, for the purpose of hauling supplies, wood, bark, logs or lumber, or to yard or land the same, such person or persons shall not be liable in an action of trespass therefor, *provided*, the bond is furnished as provided in the following section, but the person or persons carrying on said lumbering operation, shall be liable for all the actual damage done to said land by said men and teams so crossing said land.

SEC. 49. Should the person or persons carrying on said lumbering operation, and the owners of said land, be unable to agree upon said damages, such person or persons before crossing, or entering upon said land for the purposes aforesaid, as provided by the preceding section, shall give bond to the owners of said land with sufficient sureties, and in such sum as the county commissioners in the county in which said land lies, shall determine and approve, conditioned to pay such sum as said owners of said land may recover as damages, and costs as provided by section fifty.

—notice of time and place of hearing.

—duties of committee.

—proceedings on report.

—judgment of appellate court to be carried out.

—when appellant or prosecutor is to pay costs.  
—how collected.

No new petition for one year.  
R. S., c. 18, § 45.  
78 Me., 537.  
County commissioners may lay out, alter or discontinue highways, on same petition.  
R. S., c. 18, § 46.

—proceedings.

—appeal.

Liability of persons crossing or entering upon land in places not incorporated for purpose of hauling supplies, etc.,  
1893, c. 284, § 1.

Damages, how ascertained in case of disagreement.  
1893, c. 284, § 2.

—bond.

—amount of bond, and hearing thereon, when part of owners of land are unknown.

Damages may be fixed by county commissioners. 1893, c. 284, § 3. See c. 51, § 30.

—tender may be made.

—costs, how paid.

In case all or a part of the owners of said land are unknown, the county commissioners shall before fixing the amount of the bond, appoint a time and place for hearing thereon, and give notice thereof by publication in the county paper two successive weeks, the last publication to be seven days before said hearing, and in such case the bond shall be given to the treasurer of the county for the use and benefit of all the owners in proportion to their respective rights in the land.

SEC. 50. Should the person or persons carrying on said lumbering operation, and the owners of said land be unable to agree upon said damages, either party may, within twelve months from the time said bond is approved, apply to the county commissioners of the county in which said land lies and cause said damages to be ascertained and determined in the same manner and under the same conditions and restrictions as are prescribed by law in the laying out of railroads. Failure to apply for damages within said one year shall be held to be a waiver of the same. The person or persons liable for said damages may make a tender to any land owner damaged under the provisions of the two preceding sections, and if such land owner recovers more damages than the amount tendered him for such, he shall recover costs and the expenses of the county commissioners; otherwise the person or persons liable for said damages shall recover costs and such expenses. A tender made to any person who owns an undivided interest in land thus damaged shall be sufficient under this section.

#### WAYS IN INCORPORATED PLACES.

Parties interested may be heard by commissioners, on petition for laying out highway. R. S., c. 18, § 48. —may appeal from decision. —stay of proceedings.

On appeal, committee appointed; proceedings. R. S., c. 18, § 49.

If judgment of commissioners is reversed, no further proceedings. R. S., c. 18, § 50.

—if judgment is affirmed,

SEC. 51. Parties interested may appear jointly or severally, at the time of hearing, before the commissioners, on a petition for laying out, altering, grading, or discontinuing a highway; and any such party may appeal from their decision thereon, at any time after it has been placed on file, and before the next term of the supreme judicial court in said county, at which term such appeal may be entered and prosecuted by him, or by any other party who so appeared. And all further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. (a)

SEC. 52. If no person appears at that term to prosecute the appeal, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines, or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. (b)

SEC. 53. If the judgment of the commissioners in favor of laying out, grading, or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further; and in all cases when the judgment of the commissioners is reversed on appeal, no petition praying, substantially, for the same thing shall be entertained by them for two years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court; and in all cases they shall carry

(a) 32 Me., 454; 42 Me., 400; 51 Me., 194, 385; 63 Me., 29, 570; 64 Me., 435, 437, 586; 68 Me., 407; 78 Me., 172, 538; 81 Me., 259; 83 Me., 437; 91 Me., 51.

(b) 8 Me., 146; 11 Me., 473; 31 Me., 447; 32 Me., 454; 33 Me., 370; 37 Me., 448; 42 Me., 400; 53 Me., 337, 434; 56 Me., 262; 59 Me., 263, 514; 63 Me., 111; 64 Me., 586; 81 Me., 259; 83 Me., 435; 86 Me., 185.

into full effect the judgment of the appellate court in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The compensation of the committee shall be the same as commissioners would have for like services, to be allowed by the court. The costs allowed the prevailing party, and the fees of the committee, shall be collected as provided in section three; *provided, however*, that this section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings. (a)

SEC. 54. All such committees, whether agreed on or appointed on appeal from the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

shall carry in-  
to effect judg-  
ment of ap-  
pellate court.

—costs.  
—compensa-  
tion of com-  
mittee.  
—proviso.

Committee,  
when to be  
sworn.  
R. S., c. 18, § 51.  
83 Me., 433.

#### LIABILITY FOR REPAIR OF WAYS, AND FOR INJURIES.

SEC. 55. Highways, town ways and streets, legally established, shall be opened and kept in repair so as to be safe and convenient for travelers with horses, teams and carriages. In default thereof, those liable may be indicted, convicted, and a reasonable fine imposed therefor. (b)

Ways to be  
kept open and  
in repair.  
R. S., c. 18, § 52.

SEC. 56. When a town liable to maintain a way, unreasonably neglects to keep it in repair, as aforesaid, after one of the municipal officers has had five days' actual notice or knowledge of the defective condition, any three or more responsible persons may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way, for a hearing on such petition, and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way, alleged to be out of repair, and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travelers, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

Towns neg-  
lecting to re-  
pair ways,  
three persons  
may petition  
commission-  
ers.  
R. S., c. 18, § 53.

—time and  
place for  
hearing, and  
notice.

—prescribe re-  
pairs and fix  
time for mak-  
ing.  
90 Me., 433.

—if they find  
way safe,  
shall dismiss  
petition.  
—costs.

—if way re-  
paired since.

SEC. 57. Such petition may be presented to said commissioners at any of their sessions, or in vacation to their chairman, who shall procure the concurrence of his associates in fixing the time and place in the order of notice, and cause the petition to be entered at their next session. And

Petition, how  
and when  
presented.  
R. S., c. 18, § 54.

(a) 32 Me., 473; 42 Me., 401; 53 Me., 86; 59 Me., 451; 67 Me., 531; 68 Me., 485; 80 Me., 428; 83 Me., 435; 91 Me., 51.

(b) Ways not established by statute provisions. 2 Me., 60; 3 Me., 273; 4 Me., 272; 5 Me., 368; 11 Me., 280; 18 Me., 68, 412; 21 Me., 174; 25 Me., 299; 35 Me., 104, 169; 37 Me., 70; 40 Me., 155; 42 Me., 23; 46 Me., 427; 47 Me., 344; 48 Me., 457; 51 Me., 260; 54 Me., 364; 56 Me., 348; 73 Me., 54.

Ways presumed to be legally established. 34 Me., 245; 37 Me., 55, 507; 39 Me., 300.

Liability for repair. 5 Me., 256; 15 Me., 407; 16 Me., 189; 18 Me., 287; 35 Me., 104; 36 Me., 397; 37 Me., 251; 38 Me., 221; 46 Me., 485; 51 Me., 128, 131, 533; 57 Me., 533, 536; 62 Me., 105, 470, 472; 63 Me., 477, 550-1; 64 Me., 60; 65 Me., 37, 286, 515, 550; 68 Me., 153, 360; 69 Me., 197; 82 Me., 276; 84 Me., 23; 85 Me., 281.

Traveler and negligence. 62 Me., 470, 472; 67 Me., 166; 70 Me., 306.

Generally. 12 Me., 301; 58 Me., 57; 68 Me., 499.



—return of proceedings.

Towns neglecting to make repairs.  
R. S., c. 18, § 55.

—agent to be appointed.

—notice upon his account.

—towns liable for his account when allowed.

—when warrant of distress to issue therefor.

Ways on line between towns, how divided.  
R. S., c. 18, § 56.  
52 Me., 214.  
74 Me., 201.

—liability of towns.

Ways laid out between towns, how divided, for repair.  
R. S., c. 18, § 57.  
52 Me., 214.  
Towns to raise money.  
R. S., c. 18, § 59.  
1897, c. 329, § 3.  
72 Me., 517.  
Snow to be trodden down.  
R. S., c. 18, § 61.  
1889, c. 272.

—sudden injuries to be repaired.

—damage accruing through neglect, may be recovered of town.

Mail routes, apparatus for opening.  
R. S., c. 18, § 62.

—fences may be taken down to prevent drifting.  
—to be replaced

Trees may be planted.  
R. S., c. 18, § 64.  
See § 19.  
c. 3, § 92, ¶ 6.

they shall make full return of their proceedings on the petition, and cause the same to be recorded as of their next regular term after the proceedings are closed.

SEC. 58. If the town neglects to make the repairs prescribed by the commissioners, within the time fixed therefor in such notice to the town, they may cause it to be done by an agent, not one of themselves. Such agent shall cause the repairs to be made forthwith, and shall render to the commissioners his account of disbursements and services in making the same. His account shall not be allowed without such notice to the town, as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the agent's expenses in procuring the allowance of his account, and interest after such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If the town neglects to pay said judgment for thirty days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

SEC. 59. When a way is established on a line between towns, their municipal officers shall divide it crosswise, and assign to each town its proportion thereof by metes and bounds, which, within one year thereafter, being accepted by each town, at a legal meeting, shall render each town liable, in the same manner as if the way were wholly within the town; when a division of it is not so made, the selectmen of either town may petition the county commissioners, who shall give notice by causing a copy of such application with their order thereon appointing a time and place of hearing, to be served upon the clerk of each town for thirty days, or by causing it to be published in some newspaper printed in the county for three weeks, previous to the time appointed; and after hearing the parties, they may make such division.

SEC. 60. A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

SEC. 61. *Each town shall annually raise money to be expended on the town ways and highways, to be assessed as other town charges.*

[It is thought that this section may well be incorporated with § 70 in the form suggested for the latter section.]

SEC. 62. When *such* (any) ways *within his limits* are blocked or encumbered with snow, the *surveyor* (road commissioner) shall forthwith cause so much of it to be removed or trodden down, as will render them passable. The town may direct the manner of doing it. In case of sudden injury to ways or bridges, he shall, without delay, cause them to be repaired. And all damage accruing to a person in his business or property, through neglect of such *highway surveyor* (road commissioner) or the municipal officers of such town, to so render passable, ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a special action on the case.

SEC. 63. There shall be furnished and kept in repair in each *surveyor's district* (section of the town), through which there is a mail route, some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of ten feet, and the municipal officers of towns, or *highway surveyors* (any road commissioner) under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein; but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

SEC. 64. A sum not exceeding five per cent of the amount *committed to him*, (raised for repair of ways and bridges) may be expended by a *surveyor*, (road commissioner) under the direction of the municipal officers, in planting trees about public burying-grounds, squares, and ways, if the town by vote authorizes it.

SEC. 65. A *surveyor within his district* (road commissioner) may remove any obstacle, which obstructs or is likely to obstruct a way, or render its passage dangerous. He may dig for stone, gravel, or other material suitable for making or repairing ways in land not enclosed or planted, and remove the same to the ways. If the land from which such materials were taken is not within the limits of the way, the owner of it shall be paid therefor in money by the town, to be recovered after demand and refusal by the *surveyor* (road commissioner), in an action as on an implied promise. (a)

Materials may be taken from lands not enclosed or planted.  
R. S., c. 18, § 65.  
75 Me., 30.  
89 Me., 262.

SEC. 66. Road commissioners shall go over *their highway districts*, (the roads in their towns) or cause it to be done, in April, May, June, August, September, October and November in each year, remove the loose obstructions to the public travel, and whenever so directed by the selectmen, remove all shrubbery and bushes growing within the limits of highways, not planted or cultivated therein for the purpose of profit or ornamentation, having care for the proper preservation of shade trees, and repair such defects as may occur from time to time, rendering travel dangerous, or they shall give notice of such defects to the municipal officers, under a penalty of five dollars for neglect of such duty.

Duties of road commissioners.  
R. S., c. 18, § 66.  
1897, c. 314.

SEC. 67. No road commissioner without written permission from the municipal officers, shall cause a water-course to be so constructed by the side of a way as to incommode any person's house or other building, or to obstruct any one in the prosecution of his business. Any person so aggrieved may complain to the municipal officers, who shall view the water-course and may cause it to be altered as they direct. (b)

Water courses not to be so made as to do injury; remedy.  
R. S., c. 18, § 67.  
See c. 16, § 25.

SEC. 68. When a way or street is raised or lowered by a *surveyor* (road commissioner) or person authorized, to the injury of an owner of land adjoining, he may, within a year, apply in writing to the municipal officers, and they shall view such way or street and assess the damages, if any have been occasioned thereby, to be paid by the town, and any person aggrieved by said assessment, may, *in addition to any other remedy now provided by law*, have them determined, on complaint to the supreme judicial court, in the manner prescribed in section twenty of this chapter. (c)

Damages by raising or lowering streets how determined.  
R. S., c. 18, § 68.  
1887, c. 97.

SEC. 69. When the amount appropriated is not sufficient to repair the ways *in a surveyor's district*, he (a road commissioner) may, with the written consent of the selectmen, employ inhabitants of the town to labor on such ways, to an amount not exceeding fifteen per cent of the *sum committed to him*, (amount so appropriated) and in addition thereto. (d)

When appropriation insufficient, procedure.  
R. S., c. 18, § 69.

SEC. 70. Towns may, (shall) raise money for the repair of bridges and ways, and *direct the same* (shall) *to be assessed* (and collected) as for (other) town taxes, *to be* (and) expended for the purpose by a road commissioner, or by the selectmen as each town may determine.

Towns may raise and assess moneys for bridges, and ways.  
R. S., c. 18, § 70.  
1899, c. 32, § 2.

[The words "and collected," seem to have been inadvertently omitted in P. L. 1899, c. 32, § 2 and 1897, c. 329, § 2, and are considered necessary to make clear the method of collecting road taxes.]

SEC. 71. Sixty-five per cent of the highway taxes assessed shall be expended upon the highways prior to the fifteenth day of July, and the balance at such time as the commissioner, or in case no commissioner is elected, as the selectmen deem for the best good of the public.\*

When and how money shall be expended.  
1899, c. 32, § 4.

SEC. 72. The road commissioner under the direction of the selectmen, shall have charge of the repairs of all highways and bridges within the towns and shall have authority to employ the necessary men and teams,

Powers and duties of road commissioner.  
1899, c. 32, § 3.  
See c. 3, §§ 13, 15.

(a) 11 Me., 274; 13 Me., 254; 16 Me., 190; 25 Me., 128; 32 Me., 328; 38 Me., 221; 43 Me., 332; 51 Me., 359; 66 Me., 235; 68 Me., 361, 499.

(b) 32 Me., 327; 63 Me., 480; 86 Me., 380; 89 Me., 427.

(c) 43 Me., 332; 65 Me., 592; 79 Me., 368; 82 Me., 535; 86 Me., 369.

(d) 3 Me., 446; 13 Me., 294; 30 Me., 159; 34 Me., 406; 51 Me., 352; 55 Me., 437; 84 Me., 22.

—shall be sworn and give bond.  
95 Me., 432.

—compensation.

—make monthly statement.

Commissioner shall keep account of expenditures.  
1899, c. 32, § 6.

—accounts shall be kept by selectmen, if commissioner is not chosen.  
See c. 3, § 15.

Wide wheels and watering troughs, abatement for.  
R. S., c. 18, § 71.  
57 Me., 539.  
67 Me., 138.

—public drinking troughs and fountains.  
See c. 3, § 92, ¶ 6.

Ways may be opened or repaired by contract.  
R. S., c. 18, § 72.

Persons injured by defect in highways may recover damages.  
R. S., c. 18, § 80.

—limitation.

—when sufferer must give previous notice.

—county commissioners or town officers must be notified in writing within 14 days.

1895, c. 164.

—loss of life, damages for, how recovered.

and purchase timber, plank and other material for the repair of highways and bridges. He shall be sworn to the faithful discharge of his duty, give bonds to the satisfaction of the selectmen, (if required,) and be responsible to them for the expenditure of money, and discharge of his duties generally. His compensation shall be such sum as the towns shall annually vote therefor, which sum shall, in no case be less than one dollar and fifty cents a day, for every day of actual service; and he shall render to the selectmen monthly statements of his expenditures, and receive no money from the treasury except on the order of the selectmen.

SEC. 73. He shall keep accurate accounts, showing in detail, all moneys paid out by him, to whom and for what purpose; he shall settle his accounts on or before the twentieth day of February, annually, and the same shall be reported in the annual town report in detail. In case no commissioner is elected by a town at its annual meeting, the selectmen of said town shall keep accurate accounts showing in detail all moneys paid out by them for the repair of bridges and ways, to whom and for what purpose, and the same shall be reported in the annual town report in detail.

SEC. 74. A town at its annual meeting may authorize its assessors to abate not exceeding three dollars of the highway tax of any person, upon proof that he has owned and used on the ways during that year cart wheels having felloes not less than six inches wide. And they shall abate three dollars from such tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in a *surveyor's district* (the same locality) claims to furnish it, the municipal officers shall decide where it shall be located. Such officers may establish such public drinking troughs, wells and fountains within the public highways, squares and commons of their respective towns, as in their judgment the public necessity and convenience require; and towns may raise and appropriate money to defray the expense thereof.

SEC. 75. Towns may authorize their *surveyors* (road commissioners) or other persons to make contracts for opening or repairing their ways.

[The commissioner is of the opinion that the part of R. S., c. 18, § 72 not included in § 75, and §§ 58, 74 to 79 both inclusive, and § 88 of c. 18 are inconsistent with P. L. 1897, c. 329, as amended by P. L. 1899, c. 32, and are repealed by § 10 of the act first named. Said sections have therefore been omitted from this report.]

SEC. 76. Whoever receives any bodily injury, or suffers damage in his property, through any defect or want of repair or sufficient railing, in any highway, town way, causeway or bridge, may recover for the same in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county, or the municipal officers, highway surveyors or road commissioners of such town, had twenty-four hours' actual notice of the defect or want of repair; but not exceeding two thousand dollars in case of a town; and if the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way; and any person who sustains injury or damage, as aforesaid, or some person in his behalf, shall within fourteen days thereafter, notify one of the county commissioners of such county, or of the municipal officers of such town, by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in an action on

the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged, when it would materially aid in a clear understanding of the case. (a)

—view may be ordered at trial.

SEC. 77. When on trial of any such action or indictment, it appears that the defendant (county or town) has, within six years before the injury, made repairs on the way or bridge, it shall not deny *its* (the) location (of such way or bridge.) (b)

Repair within six years, proof of way. R. S., c. 18, § 81.

SEC. 78. No town is liable for such an injury when the weight of the load, exclusive of the carriage, exceeds six tons. Proof of its weight must be made by the plaintiff.

No liability if load exceeds six tons. R. S., c. 18, § 82.

SEC. 79. No town is liable to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk, nor on account of the slippery condition of any sidewalk or cross-walk.

Slippery sidewalk no cause of action for pedestrian. R. S., c. 18, § 83. Railroad company may be notified of suit against town for defective crossing. R. S., c. 18, § 84.

SEC. 80. In an action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing, constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing, may be notified of the pendency of the suit, and take upon itself the defense of the same.

SEC. 81. In such trial, after notice as provided in the preceding section, if the plaintiff recovers, and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said suit in an action of debt for all damage and costs paid by them.

Liability of railroad company. R. S., c. 18, § 85. 66 Me., 486.

(a) When and how ways should be constructed. 18 Me., 288; 26 Me., 240; 33 Me., 460; 39 Me., 115; 46 Me., 485.

Defective ways. 11 Me., 273; 14 Me., 200, 203; 16 Me., 189, 17 Me., 201; 18 Me., 287; 26 Me., 239; 32 Me., 49; 35 Me., 104; 36 Me., 398; 37 Me., 251; 39 Me., 115; 42 Me., 253, 526; 46 Me., 485; 51 Me., 186, 314, 533; 55 Me., 48; 56 Me., 17; 62 Me., 470; 64 Me., 60, 62; 65 Me., 285; 66 Me., 348, 402; 68 Me., 366; 69 Me., 73; 72 Me., 250, 540; 74 Me., 536; 76 Me., 427; 82 Me., 437; 87 Me., 265; 90 Me., 487; 91 Me., 566; 94 Me., 165; 95 Me., 374.

Damage. 14 Me., 205; 16 Me., 191; 20 Me., 248; 29 Me., 311; 31 Me., 301; 32 Me., 273, 538; 33 Me., 272; 41 Me., 533; 50 Me., 223; 51 Me., 440; 61 Me., 203; 82 Me., 438.

Defect sole cause of damage. 18 Me., 288; 20 Me., 50; 32 Me., 50, 576; 38 Me., 206, 445; 42 Me., 335, 347; 43 Me., 496; 51 Me., 127; 61 Me., 572; 64 Me., 53; 65 Me., 550; 66 Me., 402; 68 Me., 154; 69 Me., 73; 74 Me., 533.

Due care. 11 Me., 337; 14 Me., 200; 18 Me., 288, 381; 21 Me., 31; 26 Me., 240; 31 Me., 301; 32 Me., 54, 576; 38 Me., 207, 445; 42 Me., 336; 43 Me., 496; 50 Me., 224; 64 Me., 544; 65 Me., 285; 70 Me., 306; 72 Me., 541; 77 Me., 44; 78 Me., 200; 81 Me., 188; 82 Me., 438; 84 Me., 334.

Notice of defects. 7 Me., 445; 21 Me., 31; 23 Me., 558; 32 Me., 272; 42 Me., 203; 51 Me., 533; 56 Me., 17; 68 Me., 360, 513; 69 Me., 74; 70 Me., 123; 72 Me., 252; 74 Me., 147, 333; 75 Me., 559; 77 Me., 384; 80 Me., 598; 82 Me., 65, 75, 437; 84 Me., 147; 87 Me., 188, 231, 528; 88 Me., 297, 467; 90 Me., 131, 213, 487; 93 Me., 361; 94 Me., 268.

Notice of claim. 64 Me., 134; 66 Me., 333, 454, 549; 68 Me., 513; 69 Me., 196; 70 Me., 124; 73 Me., 486; 75 Me., 81, 115; 83 Me., 428; 84 Me., 278, 577; 87 Me., 231; 88 Me., 474; 94 Me., 234.

Evidence. 15 Me., 27; 31 Me., 301; 33 Me., 460; 35 Me., 104; 37 Me., 251; 39 Me., 301.

Generally. 12 Me., 301; 57 Me., 376; 63 Me., 477, 550; 65 Me., 37, 38; 67 Me., 167; 69 Me., 280; 76 Me., 532; 83 Me., 416.

(b) 5 Me., 368; 12 Me., 237; 51 Me., 187; 54 Me., 94; 58 Me., 349; 66 Me., 349.

Notice to  
company.  
R. S., c. 18, § 86.

One indictment only at a term.  
R. S., c. 18, § 87.  
See c. 1, § 6,  
¶ 6.  
See c. 19, § 1.  
18 Me., 69.  
59 Me., 452.  
Agents appointed to expend fines; their duties.  
R. S., c. 18, § 89.  
65 Me., 212.

Clerk of court to certify fines to assessors; how collected and paid.  
R. S., c. 18, § 90.  
65 Me., 211.  
See c. 6, § 177.

If way is not repaired in four months, fine to be collected.  
R. S., c. 18, § 91.

When gates, bars, and fences on ways may be removed.  
R. S., c. 18, § 92.  
12 Me., 38.  
59 Me., 144.

Road com'rs may remove logs and lumber as a nuisance; proceedings.  
R. S., c. 18, § 93.  
—materials may be sold.  
12 Me., 38.  
35 Me., 253.  
46 Me., 485.  
47 Me., 162.  
51 Me., 262.  
54 Me., 47.  
68 Me., 361.

Persons convicted of nuisance to pay, if materials are not sufficient.  
R. S., c. 18, § 94.

When buildings and fences on a street or way for twenty

SEC. 82. The notice required in section eighty, shall be by copy of the writ served upon the company at least thirty days before the sitting of the court in which it is returnable, or by such notice as the court may order after entry.

SEC. 83. One indictment only for neglect to open ways or to keep them in repair shall be presented against a town at the same term of court; but it may contain as many counts as are necessary to describe all portions of ways alleged to be defective. The word "highway" used herein includes town ways, causeways, and bridges.

SEC. 84. All fines imposed shall be appropriated to the repair of such ways. The court imposing them shall appoint one or more agents to superintend their collection and application. Within three months after collection, they shall make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject, on their motion, to be audited and corrected by the court. If an agent is guilty of gross neglect of duty, or fraudulently misapplies or retains the fine, he forfeits to the town double its amount, to be recovered by indictment.

SEC. 85. When a fine is imposed on a town, the clerk of the court shall certify it forthwith to the assessors; who shall assess the amount thereof, as other town taxes, certify the same to said clerk, and cause the amount to be collected by their collector, who shall pay the same to such agent at such time as the court orders. If not paid by that time, the clerk, on application of such agent, shall issue a warrant for its collection, as the treasurer of state may do for the collection of a state tax.

SEC. 86. If the assessors neglect to make such assessment and to certify it to the clerk, and the defective way is not repaired to the acceptance of such agent within four months after notice of the fine, the court may issue a warrant to collect of the town the fine and costs, or the unpaid part thereof.

SEC. 87. Any person may take down and remove gates, bars, or fences, upon or across any highway or town way, unless they are there to prevent the spread of infectious disease, *or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license, a person aggrieved by such removal may apply, and on proof that such erections were made by their license, they may order them to be replaced by the person who removed them.*

[It is thought that no provision exists for granting such license. The maintenance of gates and bars seems to be restricted to private ways. See § 16.]

SEC. 88. When logs, lumber, or other obstructions, without necessity are left on such ways, any road commissioner, or when no road commissioner is chosen, one of the municipal officers, may remove them; and he shall not be liable for loss or damage thereof, unless occasioned by design or gross negligence. When no one appears to pay the expense and trouble of removal, he may sell at public auction so much thereof, as is sufficient for the purpose, with charges of sale, posting notice of the time and place of sale in two public places in the town seven days prior thereto. The person, through whose neglect or wilful default they were left, may be prosecuted as for a nuisance.

SEC. 89. When any thing has been adjudged to be a nuisance and to be abated, and the materials of which it is composed do not, on sale as aforesaid produce sufficient to pay the charges of prosecution, removal, and sale, the court may order the deficiency to be raised by levy on the personal property of the person convicted of causing such nuisance.

SEC. 90. When buildings or fences have existed more than twenty years fronting upon any way, street, lane, or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify

their continuance thereon, and on indictment and conviction they may be removed. Persons owning lands beside a highway or town way, on which are buildings or fences that encroach within the limits of said way, may by a writing under seal, by them signed and acknowledged, and recorded in the registry of deeds for the county in which the land lies, admit to the municipal officers of the town in which said way exists, the true bounds or limits of said way, and the extent of their wrongful occupancy thereof. And thereafter such persons, and all claiming title under or through them, shall be estopped from asserting any right to the continuance of such buildings or fences within said limits, for the full term of forty years from the date of such deed. (a)

SEC. 91. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guideposts not less than eight feet high, and fasten to the upper end of each a board, on which shall be plainly printed, in black letters on white ground, the name of the next town on the route, and of such other place as the municipal officers direct, with the number of miles thereto, and a figure of a hand with the forefinger pointing thereto; and for any neglect herein, towns are subject to indictment, and fine not exceeding fifty dollars.

SEC. 92. If the municipal officers of any town unreasonably neglect to cause a guide-post to be erected in their town as provided by law, they forfeit five dollars for each month's neglect, to be recovered in an action on the case by any person suing therefor. Plantations assessed in state or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

SEC. 93. Persons desiring to make an excavation near a street or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; such officers shall in writing direct whether it may or not be made, and if permitted, the manner of making it; and when so made, no liability is incurred thereby. If not so made, the person making it is liable to the town, in an action on the case, for all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

SEC. 94. Ice bridges may be constructed and maintained by persons for their own and the public use across any river or body of water, when its ordinary navigation is obstructed by ice. Whoever wilfully destroys such bridge to prevent its use, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint, half to the complainant, and half to the State. No person shall take down or injure any fence or occupy any land for the construction or use of such a bridge without consent of the owner first obtained.

#### REPAIR OF PRIVATE WAYS OWNED IN COMMON.

SEC. 95. When four or more persons are owners and occupants of a private way or bridge, any three of them may make written application to a justice of the peace to call a meeting, who may issue his warrant setting forth the time, place and purpose thereof, a copy of which shall be posted at some public place in the town seven days before such time. When so assembled they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary, and the *proportion of labor and materials to be furnished by each owner*; (amount of money to be raised therefor) and the manner of calling future meetings.

SEC. 96. The surveyor so chosen, with respect to such way or bridge, has the powers of a *surveyor of highways* (road commissioner). For refusing to accept the trust or to take the oath he forfeits four dollars, to

years become bounds.  
R. S., c. 18, § 95.  
See c. 17, § 11.

—when it takes forty years.

—estoppel created by writing under seal.  
1895, c. 33.

Towns required to maintain guide posts at crossings of ways.  
R. S., c. 18, § 96.  
72 Me., 287.  
—penalty.  
See c. 126, § 17.

Town officers to erect guideposts.  
—plantations obligated as towns.  
R. S., c. 18, § 97.  
72 Me., 237.

Excavations near ways, how to be made; responsibilities.  
R. S., c. 18, § 98.  
54 Me., 47.  
57 Me., 377.

Ice bridges may be made.  
R. S., c. 18, § 99.  
18 Me., 435.

—protected.

—proviso.

Owners of private ways and bridges may call meetings; proceedings.  
R. S., c. 18, § 100.

Surveyor's duties; penalty for neglect of owners to pay.  
R. S., c. 18, § 101.

(a) 59 Me., 144; 73 Me., 359; 79 Me., 273; 82 Me., 395; 83 Me., 511; 85 Me., 422; 90 Me., 136, 234; 94 Me., 527.

be recovered as of *surveyors of highways* (provided in section ninety-eight). *Any owner or occupant, who on requirement of the surveyor, neglects to furnish his proportion of labor and materials, is subject to liabilities and penalties, as in like cases respecting highways, to be recovered in like manner.*

Owners may contract for repair, and cause money to be assessed and collected.  
R.S., c. 18, § 102.

See c. 6, § 203.

Penalties and process.  
R. S., c. 18, § 103.

SEC. 97. The owners, at such meeting, may authorize a contract to be made for making and keeping such way or bridge in repair, by the year or for a less time; may raise money for that purpose, and choose assessors to assess it on such owners and occupants in proportion to their interests, who shall deliver their assessment with a warrant for its collection to the surveyor. Such warrant shall be in substance such as is prescribed for collection of town taxes. The surveyor shall collect the same as (town) taxes for highways are collected; and be liable for neglect of duty, as *surveyors of highways* (town collectors) are for similar neglects.

SEC. 98. Money recovered under the two preceding sections is for the use of such owners. In any process for its recovery, a description of them in general terms as proprietors and occupants of the way or bridge, clearly describing it therein, is sufficient. Such process is not abated by the death of any owner, or by the transfer of his interest.

#### STATE ROADS.

Towns may establish state roads.  
1901, c. 285, § 1.

Towns establishing state roads may receive state aid in improving the same.  
1901, c. 285, § 2.

—when money shall be expended.

—when aid shall be paid.

Municipal officers shall make return to county commissioners.  
1901, c. 285, § 3.

—commissioners shall inspect the road improved and report to governor and council.

Towns taking advantage of §§ 99-104 must make application to secretary of state.  
1901, c. 285, § 1.

SEC. 99. Upon the request of the municipal officers of any town, the county commissioners of the county wherein said town is located, shall designate that highway running through said town which in their judgment is the main thoroughfare, and said highway shall be known as a state road.

SEC. 100. Towns establishing state roads as aforesaid may, on complying with the conditions hereinafter set forth, receive from the state one-half of the amount actually expended in permanent improvement of said roads, not exceeding one hundred dollars a year; *provided* that no town shall receive such state aid unless its appropriation and expenditure for such road shall amount to at least one hundred dollars and shall have been exclusive of and in addition to the amount regularly raised in such town for highways and bridges; and *provided also*, that the amount so expended shall be used before the first day of August in permanent improvement of a continuous portion of said road, and in a manner satisfactory to the county commissioners of the county wherein said road is located. Such aid shall be paid from the state treasury on and after the first day of January, upon certificate by the governor and council as provided by the following section.

SEC. 101. Municipal officers of towns improving state roads under the foregoing provisions shall annually before the first day of September make return, under oath, to the county commissioners of their county of the amount appropriated and expended by their town in such permanent improvements, the amount of road improved, and the character of the work done. The county commissioners shall inspect the road so improved and if they are satisfied that the provisions of the preceding section have been complied with, they shall certify to the governor and council the sum which said town is entitled to receive from the state. Any town dissatisfied with their decision may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town for such amount as they adjudge such town entitled to receive from the state treasury.

SEC. 102. Towns desiring to take advantage of the provisions of sections ninety-nine to one hundred and four inclusive, may, through their municipal officers make application therefor to the secretary of state, and he shall record such applications in the order in which they are received. If the appropriation provided by the state for that

purpose is insufficient in any year to furnish aid to all the towns applying therefor they shall receive such aid in the order in which their applications were presented, providing the other conditions of said sections have been complied with, and those towns whose claims cannot be paid in any year by reason of such lack of funds shall have the preference of all others in the succeeding year, and shall be the first to receive aid out of the appropriation for that year.

SEC. 103. No town which receives by special act or appropriation assistance from the state in the construction or repairs of its highways or bridges shall be entitled to the benefits of sections ninety-nine to one hundred and four inclusive during the year in which such assistance is given.

SEC. 104. The word "town" in the five preceding sections shall be construed as meaning cities, towns or organized plantations. Nothing therein contained shall be construed as changing the existing control of highways by counties or towns or as limiting or changing their liabilities therefor.

Note. Ditches and drains may be constructed by municipal officers when necessary for care of highway, c. 16, § 25.

Municipal officers to grant permits for opening streets, c. 53, § 7; for erection of poles and wires therein, c. 53, § 20; as to damages occasioned thereby, c. 53, §§ 8 and 11.

Owners of unincorporated tracts of lands may raise money for roads, c. 56, § 14.

Penalty for advertising upon rocks or other natural objects in highway, c. 126, § 12.

Penalty for injuring guide-boards, c. 126, § 18.

Towns receiving special aid not entitled to benefits of §§ 99-104.  
1901, c. 285, § 5.  
The word "town" construed.  
See c. 1 § 6, ¶ 18.  
—existing control of highways not changed.  
1901, c. 285, §§ 7, 8.

## CHAPTER 19.

### LAWS OF THE ROAD.

SEC. 1. As used in this chapter, the word "way" includes all kinds of public ways. And the word "team" all kinds of conveyances on such ways for persons and for property.

SEC. 2. When persons traveling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is unsafe, or difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, shall stop a reasonable time, at a convenient place, to enable the other to pass. (a)

SEC. 3. When a person with a team is stationary, or traveling slowly on a way at a place unsafe or inconvenient for passing him with a team, he shall, if requested, drive to the right or left, or stop a reasonable time at a convenient place, to allow the other to pass.

SEC. 4. No person shall leave his team stationary on a way so as to obstruct the free passage of other teams; or allow his team to be on a way without a driver.

SEC. 5. Three or more bells must be fastened to one of the foremost horses drawing teams on snow without wheels.

SEC. 6. Any person injured by violation of either of the previous sections, may recover damages in an action on the case, commenced within one year. Such violator forfeits not less than one, nor more than twenty dollars, to be recovered on complaint made within sixty days.

SEC. 7. No team shall travel faster than a walk on a bridge erected wholly or partly by the State, or on any bridge covered with plank and fifty feet long composing part of a way, or on any bridge owned by a corporation, if a board with the words "three dollars fine for riding or driving on this bridge faster than a walk," legibly painted in black letters on a white ground, is kept exposed in some conspicuous place at each end thereof.

(a) 11 Me., 339; 25 Me., 46; 66 Me., 376; 71 Me., 347.

Definitions.  
R. S., c. 19, § 1.  
See c. 1, § 6,  
¶ 6; c. 18, § 83.

Travelers to turn to right; if unable to turn, must stop.  
R. S., c. 19, § 2.

If stationary, or moving slowly, must allow others to pass.  
R. S., c. 19, § 3.  
25 Me., 46.  
71 Me., 347.  
Teams must not obstruct passage, etc.  
R. S., c. 19, § 4.  
Bells.  
R. S., c. 19, § 5.

Damage to party injured; penalty.  
R. S., c. 19, § 6.

Teams must walk on bridges, if boards prohibiting faster driving are exposed.  
R. S. c. 19, § 7.



Forfeiture  
for fast driv-  
ing on bridge.  
R. S., c. 19, § 8.

—exception.

Driver not to  
leave team  
without  
fastening.  
R. S., c. 19, § 9.

Certain teams,  
to have wide  
rimmed  
wheels, on  
Jackson Brook  
road, in Wash-  
ington county,  
and road in  
Willimantic,  
Piscataquis  
county.  
R. S., c. 19, § 10.  
1891, c. 137.

—penalty, for  
violation.

SEC. 8. Whoever wilfully violates the preceding section, forfeits three dollars, to be recovered on complaint made by any owner of said bridge, or by any municipal officer of the town in which it is located, to the owners of the bridge, or to the town required to keep it in repair; but no person passing after sunset and before sunrise is so liable without proof that he previously had knowledge of such prohibition.

SEC. 9. If the driver of a team having passengers therein conveyed for hire, leaves it without any person in charge and without fastening it securely, he may be fined not exceeding thirty dollars or imprisoned not exceeding one month.

SEC. 10. Teams with wheels, if drawn by more than two horses, oxen or mules, must have the rims of their wheels at least four inches wide; and if drawn by more than four horses, oxen or mules, at least five inches wide, when traveling on the road from Jackson Brook, in Washington county, to Forest City, and when traveling on the highway from the spool mill of the Willimantic Linen Company, in Willimantic, in Piscataquis county, by the residences of Irvine Floyd or Jabez Hathaway, to Francis' siding on the Bangor and Aroostook railroad in Abbot; and no team drawn by more than six horses, oxen or mules, shall travel thereon. This section is not applicable to stage or pleasure carriages, or to those owned by the state or the United States, or to any cart or wagon owned by the settlers in the vicinity and used for farming purposes. The owner or driver of a team violating this section, forfeits twenty dollars and one dollar more for each mile of road passed, to be recovered by complaint before a (municipal or police court or) trial justice in the county where the offense was committed, and on a libel or complaint, he may issue his warrant to seize and detain such team to respond to such fine and cost.

## CHAPTER 20.

### FERRIES.

County com-  
missioners  
may license  
ferries, estab-  
lish tolls, take  
bond.  
R. S., c. 20, § 1.  
8 Me., 368.  
42 Me., 20.

—property to  
be appraised  
on removal of  
ferryman.

They may es-  
tablish ferries  
to be support-  
ed by towns;  
penalty for  
neglect.  
R. S., c. 20, § 2.

Penalty for  
neglect to  
keep safe  
boat, and for  
neglect of  
attendance.  
R. S., c. 20, § 3.

SEC. 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of state, with sureties, for the faithful performance of his duties. Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

SEC. 2. They may establish ferries at such times and places as are necessary, and fix their tolls. When no person is found to keep them therefor, the towns in which they are established shall provide a person to be licensed to keep them, and shall pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they shall be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars.

SEC. 3. Every keeper of a ferry shall keep a suitable and safe boat, or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance, one dollar, to the prosecutor in an action of debt; and is liable in an action on the case to the party injured for his damages.

SEC. 4. Any one injured in person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs.

SEC. 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry shall be established on the same river within one mile above or below it.

SEC. 6. A person, who keeps a ferry contrary to the provisions of sections one and two, or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire, a boat or other craft for such purpose, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case.

SEC. 7. When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them shall level the ice, and clear and repair the passage way from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds, and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners shall fix a reasonable compensation therefor, to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

SEC. 8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable, in an action on the case, for damages to any person injured thereby.

SEC. 9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to any person or corporation for damages occasioned thereby.

SEC. 10. Persons required to use, at a ferry, steam or horse boats, may, when the passage by them is dangerous, use other safe boats.

SEC. 11. Whoever places a weir or other obstacle, or without necessity, anchors or places a raft, vessel, or water craft, so as to obstruct the ordinary passage-way of any boat at a ferry licensed or established, forfeits twenty dollars to the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without unreasonable delay or wilful misconduct.

SEC. 12. The proprietors of a ferry, to guide their boats, may sink piers near their ferry ways, above, and below the same, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights.

SEC. 13. The commissioners of the county of Somerset have exclusive jurisdiction in all matters relating to ferries between the counties of Somerset and Kennebec.

Note. Penalty for disorderly conduct on ferry, c. 51, §§ 95, 96. Penalty for evading payment of fare on ferry, c. 51, § 109.

Who may sue ferryman's bond.  
R. S., c. 20, § 4.  
See c. 80, § 14.  
Steam or horse ferry.  
R. S., c. 20, § 5.

Penalty for keeping a ferry, or conveying passengers or property, contrary to law.  
R. S., c. 20, § 6.

Ice to be leveled and way kept in repair in winter.  
R. S., c. 20, § 7.  
79 Me., 463.

Penalty for neglect and liability.  
R. S., c. 20, § 8.

Use of horse or steamboats.  
R. S., c. 20, § 9.

Use of other boats.  
R. S., c. 20, § 10.  
Obstructions to ferries, prohibited; penalty.  
R. S., c. 20, § 11.

Piers sunk to guide boats at ferries.  
R. S., c. 20, § 12.  
42 Me., 19.

Somerset commissioners, jurisdiction of.  
R. S., c. 20, § 13.

## CHAPTER 21.

## WORK-HOUSES.

Towns may provide work-house.

—persons liable to commitment.  
R. S., c. 21, § 1.  
See c. 24, § 28.  
11 Me., 210.  
65 Me., 121.

Towns may choose overseers of such houses.

R. S., c. 21, § 2.

Duties of such overseers.

R. S., c. 21, § 3.

Contiguous towns may build one work-house.

R. S., c. 21, § 4.

Joint board of overseers, and their powers.

—how chosen, and mode of proceeding.  
R. S., c. 21, § 5.

Quarterly and other meetings of such board.

R. S., c. 21, § 6.

Choice of officers.

R. S., c. 21, § 7.

By-laws, when and how made.

R. S., c. 21, § 8.

—duties and proceedings.

Proportion in which expenses are to be paid.

R. S., c. 21, § 9.

SEC. 1. Any town may erect or provide a work-house for the employment and support of persons of the following description: all poor and indigent persons, maintained by or receiving alms from the town; all able-bodied persons not having estate or means otherwise to maintain themselves, who refuse or neglect to work; all who live a dissolute and vagrant life and exercise no ordinary calling or lawful business sufficient to gain an honest livelihood; and all such persons, as spend their time and property in public houses, to the neglect of their proper business, or by otherwise mis-spending what they earn, to the impoverishment of themselves and their families, are likely to become paupers.

SEC. 2. Every town having a work-house, may, at its annual meeting, choose three, five, seven, or more overseers thereof, who shall have the inspection and government thereof, with power to appoint a master and needful assistants for the more immediate care and superintendence of the persons received or employed therein.

SEC. 3. The overseers, as occasion requires, shall hold meetings on the business of their office; and make needful orders and regulations for such house, to be binding until the next town meeting, when they shall be submitted to the consideration of the inhabitants; and such as are approved at said meeting shall remain in force until revoked by the town.

SEC. 4. Any two or more contiguous towns, at their joint charge and for their common benefit, may erect or provide such a work-house and may purchase land for the use thereof.

SEC. 5. The authority to order, govern, and repair such work-house, to appoint a master and necessary assistants, and to remove them from office for sufficient cause, is vested in a joint board of overseers, three of whom shall be chosen by each of said towns at its annual meeting, unless all said towns agree on a different number. Vacancies may be supplied by the town in which they happen, at any legal meeting. The members appointed by any one or more of said towns have power to proceed in all affairs of said house, notwithstanding any one or more of the towns interested have neglected to furnish its proportion of members.

SEC. 6. There shall be stated quarterly meetings of all said overseers on the first Tuesdays of January, April, July and October, at the work-house, to inspect the management and direct the business thereof; other meetings may be called at the work-house, by the overseers of any town concerned, by giving notice of the time and occasion thereof to the other members of the board as agreed upon at any stated meeting.

SEC. 7. The joint board when assembled, may choose a moderator. At their first general meeting after their election, they shall appoint a clerk who shall be sworn, and shall record all votes and orders of the board.

SEC. 8. Said board, at any general quarterly meeting composed of at least one half of their whole number, may make all reasonable by-laws and orders, not repugnant to law, respecting the affairs of such work-house; agree with the master and assistants, and order proper allowance for their care and services; but all other matters relating to said work-house, may be acted upon at any other meeting duly notified, if one-third of the board are present.

SEC. 9. The yearly compensation of the master and assistants in any joint work-house, in addition to the allowance aforesaid, and the expense of keeping the house in repair, shall be paid by the several towns interested, in proportion to the state tax last assessed upon them when the expense was incurred; or in such other proportion, as all the towns interested agree upon.

SEC. 10. If any town refuses or neglects to advance or re-imburse its proportion of such allowance or other charges, after they have been stated and adjusted by the joint board of overseers, it may be recovered of such delinquent town in an action brought in the name of any person or persons whom the overseers in writing appoint for that purpose.

Mode of recovery from delinquent town.  
R. S., c. 21, § 10.

SEC. 11. No greater number of persons belonging to a town shall be received into a joint work-house, than its proportion thereof can accommodate, when the receiving of them will exclude or incommode those belonging to the other towns.

Neither town may commit more than its proportion.  
R. S., c. 21, § 11.

SEC. 12. When any person, not having a legal settlement in any town in the state, becomes idle or indigent, he may be committed to the work-house provided for the town in which he resides, to be employed, if able to labor, in the same manner, and to be subject to the same rules as the other persons thereto committed.

Idlers having no settlement may be committed.  
R. S., c. 21, § 12.  
See c. 24, § 46.

SEC. 13. If any town jointly interested in any work-house refuses or neglects to provide its proportion of the necessary expenses thereof, or of the materials, implements or other means for carrying on the work there required, according to its agreement, or the proper direction of the overseers, it shall be deprived of the privilege of sending any person there, until it complies with such agreement or direction.

Delinquent town may be deprived of the right to occupy the house.  
R. S., c. 21, § 13.

SEC. 14. In addition to the expenses and other things to be furnished jointly, each of such towns may furnish such other materials, implements and means of work as its overseers determine, for the employment of any person by them committed to such house; and the master shall receive such materials, implements, and means of work, and keep them separate from those of other towns; and shall be accountable to such town for the cost, and for all profits and earnings acquired by the labor of the persons under his care belonging to such town.

Either town may furnish additional materials for labor.  
R. S., c. 21, § 14.

SEC. 15. The master of such work-house shall keep a register of the names of the persons committed, and of the towns to which they belong, with the time of their commitment and discharge, and the amount of their earnings; and the same shall be open to the inspection of the overseers.

Master to keep a register.  
R. S., c. 21, § 15.

SEC. 16. All controversies between the master of such house and the overseers of any town, relating to his official transactions, may be determined by the joint board of overseers at a general or quarterly meeting.

Controversy between master and overseers, how determined.  
R. S., c. 21, § 16.  
Each town liable for its own commitments.

SEC. 17. No town shall be chargeable for the expenses of any person not committed to said house by its overseers, nor shall any person duly committed be discharged except by written order of the overseers of his town, by vote of the joint board at a quarterly meeting, or by the supreme judicial or superior court held in the same county upon application for that purpose.

—discharges.  
R. S., c. 21, § 17.

SEC. 18. Every person committed to such work-house, if able to work, shall be kept diligently employed during the term of his commitment. For idleness, obstinacy, or disorderly conduct, he may be punished as provided by the lawful regulations of the house.

Persons committed to be kept employed.  
R. S., c. 21, § 18.

SEC. 19. Any work-house may be discontinued, or applied to any other use, when the town or towns concerned agree so to do.

Work-houses discontinued.  
R. S., c. 21, § 19.

Note. For provisions as to commitment of vagrants to workhouses, c. 140, § 23. No person shall be committed to the workhouse except upon conviction before some municipal or police court or trial justice of the offenses, acts or conditions for which such commitments are authorized, c. 140, § 25.

Authority to deal with idle persons is given to overseers of the poor, by c. 24, § 28; c. 24, §§ 11, 12, give authority to care for indigent persons; c. 24, § 46 provides for commitment of drunkards; c. 140, §§ 23, 24 and c. 127, §§ 26-33 provide for commitment of vagrants. It therefore seems that ample provision is made by law, for dealing with all classes of persons liable to be committed to workhouses, other than by commitment to such institutions.

The commissioner calls attention to the fact that by § 17, the former mode of commitment to workhouses by two or more overseers, which was held in *Portland vs. Bangor*, 65 Me., 120, to be in conflict with the fourteenth amendment to the Constitution of the United States, is still recognized, notwithstanding the provisions of c. 140, § 25, and he suggests the advisability of repealing all provisions for the maintenance of a workhouse by two or more contiguous towns.

## CHAPTER 22.

## FENCES, COMMON FIELDS AND DRAINAGE OF SALT MARSHES.

Legal fences.  
R. S., c. 22, § 1.  
1887, c. 15.  
1897, c. 307.

—proviso.  
82 Me., 126.

Maintenance.  
R. S., c. 22, § 2.  
60 Me., 560.

If either neglects, proceedings of fence viewers on application.  
R. S., c. 22, § 3.  
See c. 3, § 26.

Complainant may recover double compensation for building fence, in certain cases.  
R. S., c. 22, § 4.

Proceedings for division of partition fences.  
R. S., c. 22, § 5.

—assignments by fence viewers, where to be recorded.

—fees, how paid.

SEC. 1. All fences four feet high and in good repair, consisting of rails, timber, stone walls, iron or wire, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which in the judgment of the fence viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences; *provided, however*, that no barbed wire fence *built since April fifteen, eighteen hundred and eighty-three*, shall be accounted legal and sufficient, unless it is protected by an upper rail or board of wood, and no division fence built after March twenty-six, eighteen hundred ninety-seven within thirty rods of any dwelling house in the construction of which barbed wire is used, shall be accounted legal and sufficient, except by mutual written consent of the adjoining owners.

SEC. 2. The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them.

SEC. 3. If any party neglects or refuses to repair or rebuild any such fence, which he ought to maintain, the aggrieved party may complain to two or more fence viewers of the town where the land is situated, who, after due notice to such delinquent, shall proceed to survey it, and if they determine that it is insufficient, they shall signify it in writing to the delinquent occupant, and direct him to repair or rebuild it within such time as they judge reasonable, not exceeding thirty days. If the fence is not repaired or rebuilt accordingly, the complainant may make or repair it. (a)

SEC. 4. When the complainant has completed such fence, and after notice given, it has been adjudged sufficient by two or more of the fence viewers, and the value thereof, with the fence viewers' fees, certified under their hands, he may demand of the occupant or owner of the land, where the fence was deficient, double the value and fees thus ascertained; in case of neglect or refusal for one month after demand, he may recover the same by an action on the case, with interest at the rate of one per cent a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence viewers, certified by them, double the amount thereof may be recovered by the complainant as herein provided. (b)

SEC. 5. When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, two or more fence viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each his share thereof, and limit the time in which each shall build or repair his part of the fence, not exceeding thirty days. Such assignment and all other assignments of proprietors of partition fences herein provided for, recorded in the town clerk's office, shall be binding upon the parties, and they shall thereafter maintain their part of said fence. If such fence has been built and maintained by the parties in unequal proportions, and the fence viewers adjudge it to be good and sufficient, they may, after notice as aforesaid, in writing under their hands, award to the party who built and maintained the larger portion, the value of such excess, to be recovered in an action on the case against the other party, if not paid within six months after demand. Parties to assignments under the provisions hereof shall pay the fees of

(a) 8 Me., 83; 13 Me., 376; 22 Me., 546; 29 Me., 367; 33 Me., 65; 35 Me., 27; 48 Me., 375; 53 Me., 100.

(b) 22 Me., 547; 29 Me., 366; 50 Me., 86; 58 Me., 452; 78 Me., 244; 87 Me., 116.

the fence viewers certified under their hands, in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence viewers may pay the same and recover of said delinquent party, in an action on the case, double the amount of his said proportion thereof. (a)

SEC. 6. If any party refuses or neglects to build and maintain the part thus assigned to him, it may be done by the aggrieved party; who is entitled to double the value and expenses, to be ascertained, and recovered as provided in section four, and shall have a lien therefor on the land owned or occupied by the party neglecting or refusing to build or maintain the partition fence assigned to him by the fence viewers, to be enforced by attachment made within one year from the day of division by them. (b)

SEC. 7. All division fences shall be kept in good repair throughout the year, unless the occupants of adjacent lands otherwise agree.

SEC. 8. When in the opinion of the fence viewers having jurisdiction of the case, it is, by reason of natural impediments, impracticable or unreasonably expensive to build a fence on the true line between adjacent lands, and the occupants disagree respecting its position, on application of either party as provided in section five, and after notice to both parties, and a view of the premises, they may determine, by a certificate under their hands communicated to each party, on which side of the true line, and at what distance, or whether partly on one side and partly on the other, and at what distances, the fence shall be built and maintained, and in what proportion by each party; and either party may have the same remedy against the other, as if the fence were on the true line.

SEC. 9. When adjacent lands have been occupied in common without a partition fence, and either party desires to occupy his in severalty, or when it is necessary to make a fence running into the water, and the parties liable to build and maintain it disagree, either party may apply to the fence viewers of the town, who shall proceed as in section five; except that the fence viewers may allow longer than thirty days for building the fence, having regard to the season of the year. In other respects the remedy shall be as there provided.

SEC. 10. When one party ceases to improve his land, or lays open his enclosure, he shall not take away any part of his partition fence adjoining the next enclosure improved, if the owner or occupant thereof will pay therefor what two or more fence viewers, on due notice to both parties, determine to be its reasonable value.

SEC. 11. When any land, which has been unenclosed, is afterwards enclosed, or used for pasturing, its occupant or owner shall pay for one-half of each partition fence on the line between his land and the enclosure of any other occupant or owner, and its value shall be ascertained in writing; if the parties do not agree, by two or more of the fence viewers of the town where such fence stands; and after the value is so ascertained, on notice to such occupant or owner, if he neglects or refuses for thirty days, after demand, to pay it, the proprietor of the fence may have an action on the case for such value and the cost of ascertaining it.

SEC. 12. If the line on which a partition fence is to be made or to be divided, is the boundary between two or more towns, or partly in one town, and partly in another, a fence viewer shall be taken from each town.

SEC. 13. When a fence between owners of improved lands is divided either by fence viewers, or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall

—In case of neglect, how recovered.

Each party shall build part assigned. R. S., c. 22, § 6.

—if not, remedy for other party.

To be kept in repair. R. S., c. 22, § 7. Fences may vary from the dividing line in certain cases. R. S., c. 22, § 8.

Assignment of parts before fence is built. R. S., c. 22, § 9.

Occupant ceasing to improve, not to remove his fence if the other will buy. R. S., c. 22, § 10. 60 Me., 560.

Liability of owner beginning to improve land lying in common. R. S., c. 22, § 11. 60 Me., 560.

If fence is on town line, how divided. R. S., c. 22, § 12. Division of fences, when binding. R. S., c. 22, § 13. 60 Me., 560.

(a) 5 Me., 359; 8 Me., 83; 29 Me., 367; 33 Me., 65; 34 Me., 334; 35 Me., 28; 48 Me., 375; 53 Me., 100; 58 Me., 452; 60 Me., 557, 559; 68 Me., 535; 78 Me., 243; 87 Me., 116.

(b) 58 Me., 452; 68 Me., 535; 78 Me., 242; 87 Me., 116.

—owners of land lying common giving six months' notice, not required to build.

—verbal agreements for division, to be enforced.

Foregoing provisions not applicable to house lots, nor to agreements.  
R. S., c. 22, § 14.  
2 Me., 73.

erect and support it accordingly; but if any person lays his lands common, and determines not to improve any part of them adjoining such fence, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such fence while his land so lies common and unimproved. But all partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement, until otherwise ordered by the fence viewers, on application to them by either party. And when a party has constructed his part of a fence in pursuance of a parol or written agreement or assignment of fence viewers, no assignment shall thereafter be made by fence viewers, depriving him of the full value of such fence or any part thereof.

SEC. 14. Nothing herein extends to house lots, the contents of which do not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain one-half of the fence between them, whether he improves or not; nor does this chapter make void any written agreement respecting *public* (partition)\* fences.

#### FENCES OF COMMON FIELDS.

Enclosure of lots lying together, by a general fence.  
R. S., c. 22, § 15.

SEC. 15. When several lots or pieces of land are enclosed and fenced in one common field, or when all the proprietors of such lands agree to enclose them in that manner, said proprietors may hold regular meetings when they adjudge proper, make such rules for managing their common concerns, and adopt such equitable modes of improvement as their common interest requires; but in all other respects each proprietor may, at his own expense, enclose, manage and improve his own land as he thinks best, maintaining his proportion of fence enclosing the general field.

Manner of calling meeting of proprietors.  
R. S., c. 22, § 16.

SEC. 16. Upon application of any two or more proprietors to any justice of the peace, he shall issue his warrant to one of the applicants, or to the clerk of the proprietors, requiring him to call a meeting of the proprietors, and expressing in the warrant the time, place and purpose thereof.

How notice of proprietors' meeting is to be given.  
R. S., c. 22, § 17.

SEC. 17. Notice of the meeting shall be served at least fourteen days previous to the time appointed, when all the proprietors reside in the town where the land lies, by reading the warrant to each proprietor, or giving him a copy in hand, or by leaving it at his usual place of abode, if the proprietors have not been previously organized for said purpose, or if no other mode of notice has been fixed by their standing rules; and in such case if one or more of the proprietors reside without the town or plantation, notice shall be given to them by publishing a copy of said warrant in some newspaper printed in the county, or in the state paper, three weeks successively, the last publication to be at least fourteen days before the time appointed. When the standing rules of the proprietors determine the mode of serving notices for their meetings, it may be observed in service of said warrant, at the election of the party serving it.

How they may vote.  
R. S., c. 22, § 18.

SEC. 18. At all meetings of the proprietors, each may vote according to the relative amount or value of his interest, if known; if not, they shall all vote equally, and absent proprietors may vote by written proxy.

May raise and assess money.  
R. S., c. 22, § 19.

SEC. 19. They may raise money from time to time for defraying their common charges and for managing their affairs, which sum shall be assessed upon the several proprietors, in proportion to their interests, by their assessors; and any person aggrieved by such assessment may apply to the county commissioners, who may abate his part of it in whole or in part, if they see cause.

—abatements.

\* See Laws 1821, c. 44, § 7.

SEC. 20. They may, at their annual or other meeting, duly notified, choose a clerk, three or five assessors, a collector, and such other officers as they find necessary, to continue in office until removed by them, or others are chosen and qualified in their stead. The clerk and assessors shall be sworn.

Choice of officers.  
R. S., c. 22, § 20.

SEC. 21. Such clerk shall issue his warrant to the collector, requiring him to collect all money so assessed, and to pay it over to the clerk or other proper officer according to the orders of the proprietors; and the collector shall collect it as collectors of towns are authorized to collect town taxes.

Clerk to issue warrant to collect taxes.  
R. S., c. 22, § 21.

SEC. 22. The whole fence enclosing such general field, so far as convenient, shall be apportioned among the proprietors according to the number of acres held and cultivated or otherwise used by each; and the part to be maintained by each shall be set out and assigned to him by any two or more fence viewers of the town, unless the proprietors agree on an apportionment of the fence among themselves. The proportion of fence so assigned to each shall be recorded by the clerk, in the books of the proprietors; and if there is no such clerk, by the clerk of the town, on the town records.

Apportionment of the general fence.  
R. S., c. 22, § 22.

SEC. 23. If any proprietor in such general field declines to cultivate his land, or to use it for pasturing, and gives written notice of his intention to the clerk of the proprietors, he shall not be required to maintain any part of the fence, nor to pay any tax or assessment on account of his land while he neglects to cultivate or use it as aforesaid.

Proprietors who do not occupy their lots, not liable.  
R. S., c. 22, § 23.

SEC. 24. The expense of apportioning the fence, and of making and maintaining such part thereof as cannot conveniently and justly be assigned to any one proprietor, shall be borne by all the proprietors, to be taxed in proportion to their interests; and the part assigned to each shall be made and maintained by him while he uses his part of the general field for pasturing, planting, mowing, or otherwise.

Apportionment of expenses according to interest.  
R. S., c. 22, § 24.

SEC. 25. If any part of the fence assigned to a proprietor becomes deficient, and he does not repair it within three days after notice of such deficiency given to him or his tenant by a fence viewer of the town, it may be repaired by any other proprietor; and such repairs may be examined by any two or more fence viewers, and if adjudged by them, after notice, to be sufficient, they shall ascertain the cost thereof, and make a statement of the same, and of the amount of their fees, in writing under their hands.

Manner of repairing fences of delinquents.  
R. S., c. 22, § 25.  
29 Me., 367.

SEC. 26. The person making such repairs may demand of the deficient proprietor, or of his tenant, double the cost of such repairs and the fees thus ascertained; and if not paid within one month after notice and demand, he may recover them in an action on the case.

Delinquent liable for double the expense.  
R. S., c. 22, § 26.

SEC. 27. If part of the fence is suddenly blown down, or carried away by a flood or tempest, and the crops in the field are thereby exposed to immediate destruction or injury, the proprietor to whom it was assigned shall repair it within twenty-four hours after notice thereof given him by a fence viewer. If he fails so to do, it may be repaired by any other proprietor; and he may recover double the cost thereof, and fees, as provided in the preceding section. The fence viewers may allow a longer time than twenty-four hours, if they think proper.

Proceedings, if any part is suddenly destroyed.  
R. S., c. 22, § 27.

SEC. 28. *The proprietors may choose one or more field drivers, who shall have and exercise the same powers with respect to the general fields, as are exercised by field drivers chosen by a town.*

Choice and powers of field drivers.  
R. S., c. 22, § 28.

[No such town officer as field-driver, is recognized by the statutes of the state. 63 Me. 154.]

SEC. 29. If a proprietor violates the regulations of the proprietors, either by putting into the common field more horses, cattle, or other beasts than the number allotted him, or before the day fixed for that purpose, or by keeping them therein longer than the time limited, he is a trespasser; and his beasts may be impounded, as taken doing damage, as if he owned no land in the general field.

No proprietor to put in stock contrary to regulations.  
R. S., c. 22, § 29.

—penalty.



Remedy, if a proprietor is injured by beasts of a stranger.  
R. S., c. 22, § 30.

Lines between proprietors to be run once in two years.  
R. S., c. 22, § 31.

Association may be discontinued.  
R. S., c. 22, § 32.

Certain proprietors not subject to these regulations.  
R. S., c. 22, § 33.

Waste portions of lots excluded from estimates and assessments.  
R. S., c. 22, § 34.

Proceedings, on application of three or more proprietors to be set off.  
R. S., c. 22, § 35.

Proceedings for organizing to enclose a common field.  
R. S., c. 22, § 36.

SEC. 30. If a proprietor is injured in his lands by the beasts of a stranger, he has the same remedy therefor as if his land had been enclosed and used separately. When damage happens to a proprietor through the insufficiency of the fence of a co-proprietor, he or the occupant of his land shall pay it.

SEC. 31. Every proprietor of land lying unfenced in a general field shall once in every two years, if requested by the owner of the adjoining land, run lines with him between their lots, and establish boundaries by sufficient mete stones, at their joint expense; and if he fails so to do, after at least six days' notice, he forfeits two dollars, to be recovered by such adjoining owner in an action on the case.

SEC. 32. A major part in interest in any common or general field, at any legal meeting called for the purpose, may discontinue their association; but not to take effect until six months after the vote for that purpose, unless all the proprietors consent to an earlier period.

SEC. 33. Nothing contained in this chapter shall prevent the proprietors of any such common field fenced, who had been duly organized previous to February twenty-four, eighteen hundred and twenty-one, from making and maintaining their fences according to rules and orders before that date agreed on by them at any legal meeting.

SEC. 34. Portions of common fields enclosed under the provisions hereof, which are unoccupied and unimproved by their owners on account of rocks or barrenness, shall be excluded in all estimates for assessments under section nineteen, or for apportionments of fence under section twenty-two.

SEC. 35. Any three or more proprietors of lots within one general fence or enclosure, by a petition in writing to the proprietors of such field, at any meeting thereof, legally warned for that purpose, may request to have their lots, either alone, or jointly with any other lots therein, divided from the remainder, to be enclosed by one common fence, and occupied by them as an entire field separately from the other proprietors of the general field; and if the majority of the proprietors in interest, present at such meeting, refuse their assent to such division, the county commissioners may, upon like application, appoint three or five disinterested and suitable persons within the county where such general field is situated, to make such division thereof, if they deem it expedient; and to assign to each field its proportion of the partition fence which shall become necessary by reason of such division, to be kept up and maintained by each proprietor of said general field; and such persons shall, as soon as may be after their appointment, make return of their doings under their hands to such commissioners; and after the acceptance thereof by them, the fields so divided shall be deemed separate general fields, and the proprietors of the field so set off and the remaining proprietors of the original general field shall be distinct and separate proprietary bodies, having all the like powers and privileges, and subject to all the duties and liabilities, as the proprietors of the original general field before such division was made; but no order for such division shall be made, nor any committee appointed as aforesaid, until the other proprietors have had notice of the petition for such division; which shall be given by serving the clerk of the proprietors with a copy of the petition, thirty days at least before such order or appointment is made.

SEC. 36. When the major part in interest of the proprietors of any tract of land consisting of five or more allotments desire to enclose them in one general field they may apply to the supreme judicial court in the county where such land lies, and when it lies in different counties, then to such court held in either; and the court may order such notice to all parties interested, as it deems reasonable, and after a hearing, may order the land to be so enclosed.

SEC. 37. After a common or general field is so established by order of court, further proceedings in relation thereto shall be the same as are provided when a field is so enclosed by the consent of all the proprietors; and the proprietors shall be entitled to all the privileges, and subject to all the duties, before provided with respect to the proprietors of fields enclosed by consent.

After establishment of a common field, how proprietors shall proceed.  
R. S., c. 22, § 37.  
See § 15.

SEC. 38. Any fence viewer, who, when requested, unreasonably neglects to view any fence, or to perform any other duties herein required of him, forfeits three dollars to any person suing therefor within forty days after such neglect, and is liable for all damages to the party injured.

Penalty, if fence viewers neglect their duty.  
R. S., c. 22, § 38.

SEC. 39. Each fence viewer shall be paid by the person employing him, at the rate of two dollars a day for the time employed. If the party liable neglects to pay the same for thirty days after demand, each fence viewer may recover double the amount in an action on the case.

Fence viewers' compensation, and how recovered.  
R. S., c. 22, § 39.

#### DITCHES ON SALT MARSHES.

SEC. 40. The owners or occupants of salt marsh in any town, enclosed by ditches for drainage and partition, shall maintain such ditches between their own and the adjoining enclosures while they continue to improve them, in proportion to the benefits accruing to each by such drainage, in the judgment of the fence viewers in such town, who shall have jurisdiction thereof the same as they have of fences; and all the duties, obligations and liabilities of adjoining owners or occupants of such marsh as to making, repairing, and maintaining such ditches, and the powers, duties, penalties and fees of fence viewers in relation thereto shall be the same as prescribed in the preceding sections in relation to partition fences.

Ditches subject to jurisdiction of fence viewers.  
R. S., c. 22, § 40.

SEC. 41. Said fence viewers shall determine the width and depth of the ditch, neither to exceed three feet, and the time to be allowed for making it, not exceeding sixty days; notice thereof shall be given to the delinquent proprietor; and if he neglects to make or repair his portion of such ditch, it may be done by the complainant, to be adjudged sufficient by two or more fence viewers, who shall make a certificate thereof, and of its value and their fees. If such delinquent owner or proprietor neglects payment of said value and fees, for one month after demand, the complainant may recover of him double the amount thereof with interest at the rate of one per cent a month, in an action on the case.

Width and depth of ditches.  
R. S., c. 22, § 41.

—complainant to recover of delinquent owners expense of making.

SEC. 42. When a ditch between improved lands of different owners is divided by fence viewers, or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall make and maintain it accordingly; but if any person lays his lands common, determines not to improve any part of them adjoining such ditch, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such ditch while his lands so lie common and unimproved.

Provisions respecting improved lands.  
R. S., c. 22, § 42.

—exemption from maintenance of ditches, while lands lie common.

#### IMPROVEMENTS OF MARSHES, MEADOWS AND SWAMPS, BY A COMMISSION FROM THE SUPREME JUDICIAL COURT.

SEC. 43. When any meadow, swamp, marsh, beach or other low land is held by several proprietors, and it becomes necessary or useful to drain or flow the same, or to remove obstructions in rivers or streams leading therefrom, such improvements may be effected under the direction of commissioners in the manner hereinafter provided.

Lands owned by several proprietors may be improved by commissioners.  
R. S., c. 22, § 43.

SEC. 44. Such proprietors, or a majority of them in interest, may apply by petition to the supreme judicial court sitting in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor; and the court shall cause notice of the petition to be given in such manner as it may judge proper, to any proprietors who have not joined in the petition, that they may appear and answer thereto.

Proprietors may apply to supreme court, and notice shall be given.  
R. S., c. 22, § 44.

Court may appoint commissioners.  
R. S., c. 22, § 45.

Commissioners shall make improvements according to tenor of petition and order of court.  
R. S., c. 22, § 46.

May employ workmen, unless proprietors do the work.  
R. S., c. 22, § 47.  
Expenses to be apportioned among proprietors.  
R. S., c. 22, § 48.

Collector may be appointed.  
R. S., c. 22, § 49.  
—duties and powers.  
See c. 6.  
§§ 196-260.

Liability of collectors.  
R. S., c. 22, § 50.

Pay of collector and commissioners, how fixed.  
R. S., c. 22, § 51.

Commissioners to make return to court.  
R. S., c. 22, § 52.

Commissioners to determine the amount to be paid by life tenant and by landlord, unless parties agree.  
R. S., c. 22, § 53.

Possessor of mortgaged property, considered proprietor.  
R. S., c. 22, § 54.

Commissioners may enter premises of third parties, open flood-gates and build temporary dams.  
R. S., c. 22, § 55.

SEC. 45. If upon hearing, it appears that the proposed improvements will be for the general advantage of the proprietors, the court may appoint three suitable persons as commissioners, who shall be sworn to the faithful discharge of their duties; view the premises, notify parties concerned, hear them as to the best manner of making the improvements, and prescribe the measures to be adopted for that purpose.

SEC. 46. They shall, according to the tenor of the petition and order of court, cause dams or dikes to be erected on the premises, at such places and in such manner as they direct; may order the land to be flowed thereby for such periods of each year as they deem most beneficial; and cause ditches to be opened on the premises, and obstructions in any rivers or streams leading therefrom to be removed; and they shall meet from time to time, as may be necessary, to cause the works to be completed according to their directions.

SEC. 47. They may employ suitable persons to erect the dams or dikes, or to perform the other work, under their direction, for such reasonable wages as they may agree upon; unless the proprietors do the same in such time and manner as the commissioners direct.

SEC. 48. They shall apportion the whole charge and expense of the improvements, and of executing the commission, among the proprietors of the lands, having regard to the quantity, quality and situation of each proprietor's part thereof, and the benefit that he will derive from the improvements, and shall assess the same upon the proprietors.

SEC. 49. They may appoint a collector of the moneys assessed, and shall give him a warrant to collect, pay over, and account for the same, to such person as they appoint. The collector shall have the same power, and proceed in like manner in collecting the assessment, as is provided for collecting town taxes.

SEC. 50. If the collector neglects for twenty days after being thereto required by the commissioners, to account for and pay over the money collected, the commissioners may recover of him the whole amount committed to him for collection, which, after deducting the expense of recovery, shall be applied and accounted for by the commissioners as if it had been collected and paid over by the collector, pursuant to his warrant.

SEC. 51. The collector shall be allowed such compensation for his services as may be agreed upon between him and the commissioners; and the commissioners shall be allowed such compensation as may be ordered by the court.

SEC. 52. The commissioners shall, as soon as may be after the completion of the business, make a return to court of their doings under the commission, including an account of all money assessed and collected by their order, and of the disbursement thereof.

SEC. 53. When it appears to the commissioners, that part of the land is held by a tenant for life, or years, they shall determine how much of the sum apportioned on that part of the premises shall be paid by such tenant, and how much by the landlord or reversioner; and shall assess the same accordingly, unless the parties concerned agree to an apportionment; and every such tenant, landlord and reversioner shall be considered a proprietor.

SEC. 54. If any part of the land is mortgaged, the mortgagor or mortgagee, in possession, shall be considered the proprietor; and all sums paid by the mortgagee by order of the commissioners, shall be allowed to him, as like sums paid by him for improvements.

SEC. 55. When the commissioners find it necessary or expedient to reduce or raise the water, for the purpose of obtaining a view of the premises, or for more convenient or expeditious removal of obstructions, they may open the flood-gates of a mill, or make other needful passages through or around the dam thereof, or erect a temporary dam on the land of any

person not a party to the proceedings, and may maintain such dam or passages for the water so long as may be necessary for the purposes aforesaid.

SEC. 56. All damages thus occasioned shall be estimated and determined by the commissioners, unless agreed upon between them and the parties concerned; and shall be paid by the commissioners out of the money to be assessed and collected by them as before provided.

SEC. 57. Any person, whether a party to the proceedings or otherwise interested therein or affected thereby, aggrieved by the doings of the commissioners, may appeal to the court at any time after their appointment, and before the end of the term following that at which the return is made.

SEC. 58. The court, upon such appeal, may affirm, reverse or alter any adjudication or order of the commissioners, and make such order therein as law and justice require. All questions of fact arising upon the hearing of the appeal, shall, on motion of either party, be tried by a jury in such manner as the court directs.

SEC. 59. The commissioners, before proceeding to open flood-gates, or to make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him seasonable notice in writing of their intention, to enable him to appear before them and object thereto; and if he appeals from their determination, and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal is determined; *provided*, that the appeal is entered at the court held next after the expiration of seven days from the time of claiming the same.

SEC. 60. Any person aggrieved by any opinion, direction or judgment of the court in any matter of law, may allege exceptions thereto, which shall be reduced to writing; and when found to be true and not deemed frivolous, shall be signed by the presiding judge, and thereupon the questions of law arising therein shall be determined, as in other actions.

SEC. 61. After dams, dikes and removal of obstructions have been completed in pursuance of the eighteen preceding sections, repairs thereon may be made on petition to the court, and the proceedings shall be similar to those required for the construction of the original improvements, but such repairs shall be made at the expense of such proprietors only as occupy their lands, take crops therefrom, and are actually benefited by such improvements.

SEC. 62. In addition to the foregoing provisions for repairing dikes and dams, contained in section forty-three and the eighteen following sections, the proprietors of any meadow, swamp, marsh, beach or other low lands, after the completion of the dams, dikes, and removal of obstructions as hereinbefore provided, may hold regular meetings when they adjudge proper, make such rules for the maintenance and preservation of such dikes and dams as their common interest require.

SEC. 63. Upon written application of any three or more of said proprietors to any justice of the peace, he shall issue his warrant to one of the applicants requiring him to call a meeting of the proprietors, expressing in said warrant the time, place and purposes thereof.

SEC. 64. Notice of said meeting shall be served at least fourteen days previous to the time appointed therefor, when all the proprietors reside in the town where the land lies, by reading the warrant to each proprietor, or giving him a copy in hand, or by leaving a copy at his usual place of abode; and in case one or more of the proprietors reside without the town or plantation, notice of such meeting shall be given them by publishing a copy of such warrant in some newspaper printed in the county, or in the state paper three weeks successively, the last publication to be at least fourteen days before the time appointed for said meeting.

SEC. 65. At such meeting and all other meetings of said proprietors, each shall have one vote for every acre owned by him and one vote for a

Damages for such entry, how determined, and paid.  
R. S., c. 22, § 56.

Appeal.  
R. S., c. 22, § 57.

Court may affirm, reverse, or alter commissioners' order.  
R. S., c. 22, § 58.  
—jury.

When notice is required before entering upon premises of a third party.  
R. S., c. 22, § 59.  
—appeal to supreme court.  
—when to be entered.

Exceptions.  
R. S., c. 22, § 60.

After completion of improvements, how repairs may be made at expense of occupying proprietors.  
R. S., c. 22, § 61.

Proprietors of low lands, may hold meetings, and make rules for maintenance of dikes.  
1891, c. 117, § 1.

Meetings, how called.  
1891, c. 117, § 2.

Notice of meetings, how given.  
1891, c. 117, § 3.

Votes each proprietor may have.  
1891, c. 117, § 4.

fraction of an acre greater than one-half. Absent proprietors may vote by written proxy.

Officers, election and qualification.  
1891, c. 117, § 5.

SEC. 66. At such meeting said proprietors may by ballot elect a clerk, three or five assessors, a collector and such other officers and committees as may be deemed needful, and may adopt such needful by-laws and standing regulations as are not inconsistent with law; and may determine the manner of calling and notifying future meetings. The clerk, assessors and collector shall each be sworn. The clerk may be sworn by the moderator presiding at the meeting of his election. Officers, elected at the annual or other meetings shall continue in office until others are chosen and qualified in their stead.

Record of proprietors, and number of acres owned by each.  
1891, c. 117, § 6.  
Committee may be chosen to ascertain what repairs are needed, etc.  
1891, c. 117, § 7.

SEC. 67. At or immediately after the first meeting the clerk shall enter in a suitable book, the names of the several proprietors and the number of acres owned by each, and the subsequent transfer of interest shall also be entered by him, within three months after it is made, if known to him.

SEC. 68. At any meeting called for the purpose, a committee of not less than three may be chosen to investigate the condition of such dikes and dams, to ascertain what repairs are needful, and report at an adjourned meeting, at which meeting the same or any other committee chosen therefor may be authorized to make needful repairs, and report the expense thereof at an adjourned or other meeting.

Proprietors may raise money and assess same.  
1891, c. 117, § 8.

SEC. 69. At any meeting called for that purpose, said proprietors may raise money for defraying common charges and for the payment of cost and expenses of such repairs as may have been incurred under the preceding section, which shall be assessed upon the proprietors by the assessors in proportion to their several interests, and which they shall commit to the collector for collection by an appropriate warrant for its collection, directing him to pay it over to the clerk or other proper officer designated by vote of the proprietors, and the collector shall have the same power and shall collect the same as collectors of towns are authorized to collect town taxes.

Proprietor, declining to use land, shall be exempt from payment of taxes.  
1891, c. 117, § 9.

SEC. 70. If any proprietor declines to cultivate, use or take profit from his portion of such lands, and gives written notice of his intention so to do, to the clerk of the proprietors he shall not be regarded as liable to pay any tax or assessment on account of his portion thereof, while he neglects to cultivate, use and take profit therefrom, nor shall he be entitled to vote at the meetings of said proprietors.

Two-thirds of proprietors, by vote may discontinue association.  
1891, c. 117, § 10.

SEC. 71. A two-thirds part in interest of the proprietors entitled to vote at any legal meeting called for that purpose, may discontinue their association, but not to take effect until six months after the vote for that purpose.

# CHAPTER 23.

## POUNDS AND IMPOUNDING BEASTS.

SEC. 1. Each town except the town of Whitefield, in the county of Lincoln, shall constantly keep and maintain in such place as the inhabitants direct, one or more sufficient pounds for the reception of beasts liable by law to be impounded; and for six months' neglect so to do, forfeits not less than fifty dollars, to be expended by an agent appointed by the court to build or maintain such pounds.

Each town to keep a pound. —forfeiture for neglect, how expended. R. S., c. 23, § 1. 1889, c. 301. 63 Me., 88.

SEC. 2. For every horse, horse kind, ass, mule, swine or neat beast found at large without a keeper in the highways, town ways, or commons of the town, the owner forfeits seventy-five cents, twenty-five cents for each goat, and ten cents for each sheep so found, recoverable in an action of debt; or the beasts may be impounded until such forfeiture, with the charges of impounding and keeping them, and all fees, are paid by the owner or claimant.

Penalty for beasts going at large.

—may be impounded. R. S., c. 23, § 2. 17 Me., 189. 63 Me., 155, 468.

SEC. 3. If such horse is an ungelded male one year old or upwards, his owner forfeits a further sum of four dollars. If any ram or he-goat is found going at large out of the owner's enclosure, between the tenth day of August and the twentieth day of November, his owner forfeits a further sum of five dollars.

Penalty for ungelded horses and rams going at large. R. S., c. 23, § 3.

SEC. 4. Any person injured in his land by sheep, swine, horses, asses, mules, goats, or neat cattle, in a common or general field, or in a close by itself, may recover his damages by distraining any of the beasts doing it, and proceeding as hereinafter directed, or in an action of trespass against the person owning or having possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond to the judgment as in other cases, whether owned by the defendant or only in his possession. But if the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor. (a)

Damages, how recovered by sufferers.

—beasts may be distrained. R. S., c. 23, § 4. —lien.

SEC. 5. Each town shall annually choose a pound-keeper for each pound therein, who shall be sworn, and before he acts, shall give bond with sureties satisfactory to the municipal officers, for the faithful discharge of his duties; and the town shall be responsible for all his illegal doings or defaults, to the party injured, in an action on the case.

Pound-keepers. R. S., c. 23, § 5. 38 Me., 588. 46 Me., 543. 63 Me., 88.

SEC. 6. Each pound-keeper, in a book provided by the town, shall record at length all certificates received from persons committing beasts to the pound, or finding stray beasts, and a single copy of all advertisements by him posted or published; and shall note therein when a beast was impounded, and when and by whom taken away, and all his proceedings in the impounding and sale specified in section thirteen, the price for which said beast was sold, the name of the purchaser, and the disposal of the proceeds of sale; a copy of said record attested by him or his successor shall be evidence for the purchaser of his title to said beast, and of the truth of all the facts thus recorded; for making such record, and for each copy thereof, the pound-keeper shall receive twenty-five cents; and said book shall be delivered to his successor in office, and be open to the inspection of all persons interested.

Pound-keeper to keep book of records. R. S., c. 23, § 6.

SEC. 7. The pound-keeper shall restrain the beasts impounded in the town pound, or after the first day, in such other place as is more comfortable, or safe, and more convenient for food and drink; which shall be furnished them by him at the expense of the impounder. Unless payment

To restrain beasts impounded. R. S., c. 23, § 7.

(a) 2 Me., 74, 409; 5 Me., 360; 13 Me., 376; 14 Me., 420; 15 Me., 241; 29 Me., 286; 35 Me., 28; 48 Me., 375; 59 Me., 456; 63 Me., 89, 155; 86 Me., 342.

is made in advance, or sufficient security therefor rendered, he need not receive such beasts into pound.

Impounder to furnish certificate of the cause of impounding.  
R. S., c. 23, § 8.

SEC. 8. Before the pound-keeper receives any beast into pound, the impounder shall furnish him with a certificate under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed, and charges of impounding then accrued, of the following purport:

"To the pound-keeper of———:

—form of certificate.  
17 Me., 242.  
18 Me., 248.  
28 Me., 490.

The undersigned, A. B. of C., herewith commits to pound a horse" (or cow, as the case may be, with a short description of the beast), "taken up in the highway" (or enclosure of said A. B., as the case may be), "in C., and the said A. B. demands —— dollars and —— cents, for damages" (or forfeiture as the case may be), "and the unpaid charges for impounding the same.

Witness my hand at C., this —— day of ——, 19—.

A. B."

Beasts not to be delivered until damages and costs are paid.  
R. S., c. 23, § 9.

SEC. 9. The pound-keeper shall not be liable to an action for receiving or detaining any beast so committed, until the sums claimed by such certificate, and all other due expenses, costs and fees are paid to him, except as provided in the next section.

Proceedings, if claimant objects to amount demanded.  
R. S., c. 23, § 10.  
—form of warrant.

SEC. 10. If the claimant of such beast objects to the amount stated as damages, or if no claimant appears, the pound-keeper shall, within ten days and not afterwards, issue under his hand, to two disinterested persons of said county, a warrant of the following purport:

"D., ss: To E. F. and G. H., two disinterested persons of said county:

Greeting:

You are hereby appointed to view and estimate, upon oath, according to your best judgment, the damages done to A. B. by the horse" (or oxen as the case may be), "owned or claimed by I. K.," (or, by owner unknown), "and to make due return to me within twenty-four hours, with your doings therein; first giving said A. B. reasonable notice of the time when you will view the place where the damages were done.

Given under my hand at C., this —— day of ——, 19—.

L. M., Pound-keeper."

#### *Return of the Appraisers.*

—form of return.

"Pursuant to this warrant, the undersigned, being first sworn to the faithful performance of the trust to which we were appointed, and having given said A. B. reasonable notice as required, hereby certify that we have viewed and estimate said damages at —— dollars and —— cents, and no more.

E. F.

G. H.

C., —— ——, 19—."

Appraisers.

—notice.

And said persons, being first sworn, shall give reasonable notice to the impounder, and to the owner of such beast, if known and resident in the town, of the time appointed for the view, and proceed to estimate damages accordingly; and make return to the pound-keeper of their doings in writing under their hands. The oath may be administered by said pound-keeper, or by a justice of the peace, and must be certified on the warrant.

—oath.

Proceedings, when beasts are taken up as estrays.  
R. S., c. 23, § 11.  
59 Me., 456.  
63 Me., 89, 156.

SEC. 11. Whoever takes up, as an estray, in any public way or commons, or in his enclosure or possession, any such beast, shall within ten days, if no owner calls for him, commit him, with a certificate as described in section eight, to the pound-keeper of his town, who shall carefully keep him until called for by his owner, and until all due charges are paid, or he shall be disposed of as hereinafter provided; and whoever does not so commit such beast shall lose the expense of his keeping, and forfeit one per cent on his value for each week, after the ten days, until he so commits him, or the forfeiture amounts to his value.

—penalty for not delivering estray to pound-keeper.

SEC. 12. When a pound-keeper has so received any beast, he shall forthwith post and keep posted for three days at his dwelling-house, and in two other public places in his town, advertisements by him signed, stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast, and shall notify the owner to pay lawful damages and charges, and take the beast away; and shall give like public notice by the town crier, if there is any in the town. If the value of the beast exceeds ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county.

Pound-keeper to advertise.  
R. S., c. 23, § 12.  
17 Me., 242.

SEC. 13. When a beast is lawfully impounded as aforesaid, if the forfeiture, damages, and costs are not paid, or the beast replevied, in ten days after the notice, provided in the preceding section, is given, the pound-keeper shall, without other process, sell the beast at public auction, after having posted in two public places in his town, at least forty-eight hours before the time of sale, notices of the time, place, and cause of sale, with a brief description of the beast; and for posting such notices and making such sale, he shall have the same fees as constables for similar services.

If owner does not redeem, and beasts are not replevied in ten days, pound-keeper to sell.  
R. S., c. 23, § 13.

SEC. 14. If the pound-keeper is informed, or has reason to believe, that the beast impounded has strayed from a drove, or does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and publish notice thereof in such papers as in his opinion may give information to the owner, and shall be allowed a reasonable sum therefor; and the proceeds of such sale shall be disposed of as hereinafter provided.

Sale postponed and advertised, if owner does not live in town, or the beasts have strayed from a drove.  
R. S., c. 23, § 14.

SEC. 15. The pound-keeper, before making such sale, shall cause the damages, if any are claimed, to be appraised as in section ten, within ten days after giving the notice required by section twelve.

When damages are claimed, appraisal.  
R. S., c. 23, § 15.  
Disposal of proceeds of sale.  
R. S., c. 23, § 16.

SEC. 16. The pound-keeper shall retain his lawful charges and fees, and pay to others their lawful dues, and the balance to the treasurer of his county within thirty days. Such treasurer or his successor shall pay it over at any time within six years, on the written request of any person who proves that he was the owner of the property at the time of sale; and if he refuses so to do, the claimant may appeal to the county commissioners, whose decision thereon shall be final. If such balance is not claimed in six years, it shall belong to the county.

SEC. 17. The owner of such beast, at any stage of the proceedings before sale, may redeem it on payment of all lawful claims thereon up to the time of his demand to redeem.

Owner may redeem before sale.  
R. S., c. 23, § 17.  
Replevin of beasts impounded.  
R. S., c. 23, § 18.  
17 Me., 183.  
See c. 36, §§ 1-7.

SEC. 18. An action to replevy such beasts shall be brought against the impounder or finder, and not against the pound-keeper, but a copy of it shall be served on both; and in other respects the process shall be regulated by chapter ninety-six. If such action is brought after notice of sale and before sale, the sale shall be postponed until it is decided, and no such action can be sustained unless the writ is served before sale.

SEC. 19. Whoever, in order to prevent the impounding of any beast lawfully in possession of another, and taken for the causes herein mentioned, rescues him, or directly or indirectly causes his escape, forfeits not less than five, nor more than twenty dollars, and is liable in an action on the case to the party injured for the full damages, with charges and costs, which he might receive by impounding the beast.

Rescue and punishment thereof.  
R. S., c. 23, § 19.  
34 Me., 13.

SEC. 20. Whoever breaks a pound, or otherwise directly or indirectly delivers a beast from the place of his lawful restraint, forfeits to the town not less than ten, nor more than fifty dollars; and is liable to the party injured or the impounder, in an action on the case, for double the damage or forfeiture, which he might have received by impounding the beast; and when such acts are committed by a minor, or an apprentice, legally bound by deed, such action may be brought against the minor or apprentice, or against his parent or guardian, under whose care he then was.

Pound breach and punishment thereof.  
R. S., c. 23, § 20.

SEC. 21. In an action for rescuing beasts distrained or impounded, the insufficiency of the fences, or other fact to show the distress or

Restrictions as to defense



in such cases.  
R. S., c. 23, § 21.  
See § 18.

Limitation of  
actions for  
forfeitures.  
R. S., c. 23, § 22.

Pound-keep-  
er's fees.  
R. S., c. 23, § 23.

Compensation  
to impounder.  
R. S., c. 23, § 24.

Expenses of  
keeping beasts  
impounded,  
regulated.  
R. S., c. 23, § 25.

impounding illegal, shall not be given in defense; but to avail himself of such illegalities, the party relying thereon must proceed in replevin.

SEC. 22. Forfeitures mentioned in this chapter may be recovered by the prosecutor in actions of debt, unless otherwise provided; and civil actions therefor must be commenced within ninety days after the forfeiture accrued, unless otherwise limited.

SEC. 23. The pound-keeper's fees shall be twenty-five cents for impounding one or more beasts at one time; twelve cents for recording each certificate or advertisement; and the same for posting or publishing each advertisement, with four cents a mile for necessary travel.

SEC. 24. The pound-keeper shall allow the impounder a reasonable sum for his trouble, not exceeding half the respective forfeitures mentioned in sections two and three, besides the forfeitures to which he is entitled under those sections.

SEC. 25. The pound-keeper's price for keeping and feeding the beasts committed to pound or to his custody as aforesaid, shall be fixed by the municipal officers, and recorded on the town books by the town clerk, and be binding until altered by said officers.

Note. The provisions of chapter twenty-three, relating to the election of pound-keepers and the maintenance of pounds, are so generally disregarded that the commissioner recommends the repeal of the entire chapter.

The commissioner has suggested certain amendments to chapter 98, relating to lost goods, which will adapt the provisions of that chapter to stray beasts.

## CHAPTER 24.

### PAUPERS, THEIR SETTLEMENT AND SUPPORT.

SEC. I. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows:

I. A married woman has the settlement of her husband, if he has any in the state; if he has not, her own settlement is not affected by her marriage. When, in a suit between towns involving the settlement of a pauper, it appears that a marriage was procured to change it by the agency or collusion of the officers of either town, or of any person having charge of such pauper under authority of either town, the settlement is not affected by such marriage. And no derivative settlement is acquired or changed by a marriage so procured, but the children of such marriage and their descendants have the settlement which they would have had if no such marriage had taken place. And the same rule applies in all controversies touching the settlement of paupers between the town by whose officers a marriage is thus procured and any other town, whether the person whose marriage is thus procured is a pauper at the time of the marriage or becomes so afterwards.

II. Legitimate children have the settlement of their father, if he has any in the state; if he has not, they have the settlement of their mother within it; but they do not have the settlement of either, acquired after they are of age and have capacity to acquire one. (a)

III. Children, legitimate or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth, but when the parents of such children born after March twenty-four, eighteen hundred and sixty-four, intermarry, they are deemed legitimate and have the settlement of the father. (a)

(a) 2 Me., 197; 3 Me., 390; 4 Me., 50, 295; 7 Me., 90, 272; 10 Me., 412; 11 Me., 456; 18 Me., 378; 19 Me., 446; 24 Me., 282; 32 Me., 62; 35 Me., 412; 36 Me., 392; 41 Me., 551; 48 Me., 566; 55 Me., 56, 471; 58 Me., 355; 60 Me., 117; 66 Me., 83; 70 Me., 353, 490; 72 Me., 511; 73 Me., 110; 74 Me., 46; 75 Me., 210; 85 Me., 135; 86 Me., 309; 88 Me., 251, 401; 89 Me., 44, 532; 95 Me., 57.

Settlement,  
how acquired.  
R. S., c. 24, § 1.

Married  
women.  
4 Me., 296.  
41 Me., 466, 485.  
48 Me., 207.  
52 Me., 219.  
53 Me., 58.  
56 Me., 23.  
63 Me., 501.  
64 Me., 85.  
67 Me., 531.  
68 Me., 147.  
70 Me., 490.  
71 Me., 538.  
73 Me., 584, 586.  
95 Me., 55.

Legitimate  
children.

Illegitimate  
children.

IV. Upon division of a town, a person having a settlement therein and being absent at the time, has his settlement in that town which includes his last dwelling-place in the town divided. When part of a town is set off and annexed to another, the settlement of a person absent at the time of such annexation is not affected thereby. When a new town, composed in part of one or more existing towns, is incorporated, persons settled in such existing town or towns, (or) who have begun to acquire a settlement therein, and whose homes were in such new town at the time of its incorporation, have the same rights incipient and absolute respecting settlement, as they would have had in the town where their homes formerly were. (a)

Division of towns.

See note by Kent, J.  
51 Me., 446.

V. A minor who serves as an apprentice in a town for four years, and within one year thereafter sets up such trade therein, being then of age, has a settlement therein.

Apprenticeship.  
10 Me., 358.

VI. A person of age, having his home in a town for five successive years without receiving supplies as a pauper, directly or indirectly, has a settlement therein. (b)

Residence, five years.  
See c. 142, § 23.

VII. A person having his home in a town, March twenty-one, eighteen hundred and twenty-one, without having received supplies as a pauper within one year before that date, acquired a settlement therein. (b)

Residence, March 21, 1821.

VIII. A person having his home in an unincorporated place for five years without receiving supplies as a pauper, and having continued his home there until the time of its incorporation, acquires a settlement therein. Those having homes in such places for less than five years, before incorporation, and continuing to have them there afterwards, until five years are completed, acquire settlements therein.

Incorporation of towns.  
11 Me., 457.  
21 Me., 61, 269.  
30 Me., 453.  
33 Me., 580.  
55 Me., 119.  
66 Me., 572.  
89 Me., 531.

SEC. 2. To constitute pauper supplies, they must be applied for in case of adult persons of sound mind, by such persons themselves, or by some person by them duly authorized; or such supplies must be received by such persons, or by some person authorized by them, with a full knowledge that they are such supplies; and all care, whether medical or otherwise, furnished to said persons is subject to the same rule. (c)

Pauper supplies, how constituted.  
R. S., c. 24, § 2.

—care and medical attendance.

SEC. 3. Settlements acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones. Whenever a person having a pauper settlement in a town, has lived, or shall live, for five years in any unincorporated place or places in the state, he and those who derive their settlement from him lose their settlement in such town, and whenever a person having a pauper settlement in any town in the state shall after April twenty-nine, eighteen hundred and ninety three, live for five consecutive years beyond the limits of the state without receiving pauper supplies from any source within the state, he and those who derive their settlement from him lose their settlement in such town.

Settlements remain.  
R. S., c. 24, § 3.  
1893, c. 289.  
55 Me., 119.  
58 Me., 355.  
71 Me., 456.  
77 Me., 594.  
85 Me., 127.

—living beyond limits of state causes loss of settlement.

(a) 1 Me., 131; 13 Me., 301; 19 Me., 390; 20 Me., 343; 21 Me., 337; 23 Me., 474; 31 Me., 468; 35 Me., 187; 37 Me., 41; 38 Me., 476; 39 Me., 369; 42 Me., 314, 548; 43 Me., 317; 44 Me., 359; 47 Me., 131; 49 Me., 553; 51 Me., 446, 448; 53 Me., 524; 54 Me., 254; 56 Me., 321; 66 Me., 572; 69 Me., 317; 71 Me., 456; 89 Me., 531.

(b) 10 Me., 98; 13 Me., 327; 15 Me., 481; 17 Me., 122; 18 Me., 94, 417; 21 Me., 361; 23 Me., 411; 24 Me., 114; 34 Me., 314; 39 Me., 334; 47 Me., 100, 183; 48 Me., 335, 566; 49 Me., 106; 50 Me., 478; 51 Me., 541; 52 Me., 219; 53 Me., 129, 445; 55 Me., 56, 95; 58 Me., 210; 59 Me., 558; 61 Me., 560; 62 Me., 232; 64 Me., 84, 415; 68 Me., 304, 581; 69 Me., 69-71, 507; 70 Me., 443; 72 Me., 256; 73 Me., 109, 111, 231; 74 Me., 155, 234; 85 Me., 135; 87 Me., 41; 89 Me., 531; 95 Me., 56.

(c) 64 Me., 246; 67 Me., 492; 68 Me., 369; 69 Me., 226; 70 Me., 116; 75 Me., 128; 78 Me., 423.

Towns relieving persons, who lose settlement under provision of sec. 3, to be reimbursed by state.  
1885, c. 374.

Bridge-tender or toll-keeper.  
R. S., c. 24, § 4.

Inmates of the National Home at Togus, settlement of.  
R. S., c. 24, § 5.  
See c. 4, § 177.  
95 Me., 56.

Towns relieving former inmates, to be reimbursed by state.  
R. S., c. 24, § 6.

Orphan asylum at Bath.  
R. S., c. 24, § 7.

Soldiers and sailors not to be considered paupers.  
R. S., c. 24, § 8.  
1901, c. 250.  
See c. 3,  
§§ 66-68.  
71 Me., 574.  
80 Me., 124.  
92 Me., 443.

—definition of the word "family."

—shall not be supported in the poor house.

—penalty for violation.

—may be removed to town of settlement.

Revision of laws does not affect settlements.  
R. S., c. 24, § 9.  
Towns to relieve poor.  
R. S., c. 24, § 10.

SEC. 4. Whenever a person having a pauper settlement in a town loses such settlement by virtue of the provisions of section three, relief shall be furnished, and towns furnishing such relief shall be reimbursed by the state as provided in section thirty of this chapter, in case of paupers having no legal settlement in the state, *and not having lived five years in the town furnishing such relief.*

[The clause in italics is not found in sec. 30 in its present form.]

SEC. 5. No person acquires a pauper settlement in a town by reason of his residing in said town as tender of a draw-bridge, or as toll-keeper of a bridge owned by another town, and living in a toll-house owned by such other town.

SEC. 6. Inmates of the National Home for Disabled Volunteer Soldiers at Togus, in the county of Kennebec, and persons subject to the rules and regulations thereof, or receiving rations therefrom, have their settlement in the respective towns in which they had a legal settlement when their connection with said National Home commenced, so long as such connection continues therewith.

SEC. 7. If a town furnishes relief to any such person, who becomes a pauper after his connection with said National Home has ceased, having no legal settlement in the state, or to his family, the State shall reimburse such town for the relief furnished, to such an amount as the governor and council adjudge to have been necessarily expended therefor.

SEC. 8. No child acquires a pauper settlement in the city of Bath, by reason of being an inmate of the Bath Military and Naval Orphan Asylum.

SEC. 9. No soldier or sailor who served by enlistment in the army or navy of the United States, in the war of eighteen hundred and sixty-one, and who has received an honorable discharge from all enlistments in said service, whether in his own proper name or an assumed name, and who has or may become dependent upon any town, shall be considered a pauper, or be subject to disfranchisement for that cause; but the time during which said soldier or sailor is so dependent, shall not be included in the period of residence necessary to change his settlement; and overseers of the poor shall not have authority to remove to, or support in, the poor house, any such dependent soldier or sailor or his family; the word "family" here used shall be held to include the soldier or sailor, his wife, his unmarried minor children living with him and dependent upon him for support, and such other unmarried children of his dependent upon him for support, who by reason of mental incapacity or physical disability are unable to provide for themselves; but the town of his settlement shall support them at his own home in the town of his settlement or residence, or in such suitable place other than the poor house, as the overseers of the town of his settlement may deem right and proper. In case of a violation of this section the overseers of the poor shall be subject to a fine of twenty-five dollars. And for every day they allow them to remain in such poor house, after reasonable notice, they shall be subject to a further fine of five dollars a day, to be recovered by complaint or indictment. This section shall not be so construed as to deprive overseers of the poor of any right to remove and support such dependent soldier or sailor and his family in the town of his settlement, as herein provided.

SEC. 10. Persons who have begun to acquire settlements under existing laws, are not affected by a repeal of them, and a re-enactment of their provisions in substance.

SEC. 11. Towns shall relieve persons having a settlement therein, when, on account of poverty, they need relief. They may raise money therefor as for other town charges; and may at their annual meeting choose not exceeding *twelve* (seven) legal voters therein to be overseers of the poor. (a)

(a) See c. 3, §§ 12, 72; 83 Me., 221; 91 Me., 21.

SEC. 12. Overseers shall have the care of persons chargeable to their town, and cause them to be relieved and employed at the expense of the town, and the town may direct their employment. (a)

Overseers' duties.  
R. S., c. 24, § 11.

SEC. 13. Whenever the governor has knowledge that, under the provisions of an act of Congress approved August three, eighteen hundred and eighty-two, officers are necessary in any town to take charge of the local affairs of immigration and to provide for the support and relief of immigrants falling into distress, he shall designate for such duty the board of overseers of the poor and their successors in such town, or any member or members of such board.

When overseers of poor are to be designated by governor to take charge of local immigration.  
R. S., c. 24, § 12.

SEC. 14. Persons chargeable shall not be set up and bid off at auction either for support or service; but towns at their annual meetings, under a warrant for the purpose, may contract for the support of their poor for a term not exceeding five years.

Poor not sold at auction.—towns may contract for support.  
R. S., c. 24, § 13.

SEC. 15. Towns may unite in the purchase of a farm, or in the erection of buildings, to be used for the support of the poor; and in procuring all necessary furniture and apparatus therefor. For these purposes, each town may choose the number of commissioners agreed upon, to constitute a joint commission to cause the agreement of the towns to be carried into effect.

Towns may unite to purchase a farm.  
R. S., c. 24, § 14.

SEC. 16. The overseers of such towns constitute a joint board of overseers of such farm and buildings. They may at a full meeting establish rules for the management thereof, appoint a superintendent, prescribe his powers and duties, and cause all the paupers of such towns to be supported there. They may receive and support there, paupers of other towns. Towns may raise money for the purposes named in this and the preceding sections.

Joint board of overseers; duties.  
R. S., c. 24, § 15.

SEC. 17. The father, mother, grandfather, grandmother, children, and grandchildren, by consanguinity, living within the state and of sufficient ability, shall support persons chargeable, in proportion to their respective ability. (b)

Kindred liable.  
R. S., c. 21, § 16.  
See c. 140, § 14.

SEC. 18. A town or any kindred, who have incurred expense for the relief of a pauper, may complain to the supreme judicial court in the county where any of them resides; and the court may cause such kindred to be summoned, and upon a hearing or default, may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and may enforce payment thereof by warrant of distress. Such assessment shall not be made to pay any expense for relief afforded more than six months before the complaint was filed.

Court on complaint may assess kindred.  
R. S., c. 24, § 17.  
5 Me., 325.  
64 Me., 203.  
66 Me., 539.  
85 Me., 282.

SEC. 19. Such complaint may be filed with the clerk of the court, who shall issue a summons thereon, returnable and to be served as writs of summons are; and on suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner, and be proceeded against as if originally named.

Complaint filed, may be amended.  
R. S., c. 24, § 18.  
See c. 81, §§ 17, 18.  
85 Me., 282.

SEC. 20. The court may assess and apportion upon such kindred a sum sufficient for the future support of such pauper, to be paid quarterly, until further order; and may direct with whom of such kindred consenting thereto, and for what time, he may dwell, having regard to his comfort and their convenience. On application of the town or person to whom payment was ordered, the clerk may issue or renew a warrant of distress returnable to the next term of the court, to collect what may be due for any preceding quarter.

Assessment for future support; court may order with whom pauper is to live.  
R. S., c. 24, § 19.  
64 Me., 203.  
85 Me., 282.

(a) 64 Me., 415; 70 Me., 115; 93 Me., 184.

(b) 23 Me., 427; 45 Me., 370; 51 Me., 415; 53 Me., 61; 64 Me., 202, 203; 66 Me., 539; 79 Me., 44; 85 Me., 282.

Court may alter assessment.  
R. S., c. 24, § 20.  
64 Me., 203.

Children may be bound; terms and time.  
R. S., c. 24, § 21.  
10 Me., 358.  
18 Me., 417.  
93 Me., 184.

Overseers to inquire, and may complain of master.  
R. S., c. 24, § 22.

—court may discharge child, who may be bound again.

Suits on bonds.  
R. S., c. 24, § 23.

—damages to be for benefit of child.

Child becoming of age, may sue master for damages.  
R. S., c. 24, § 24.

When child departs, he may be arrested and returned; those enticing or harboring, liable.  
R. S., c. 24, § 25.

Child may be discharged on complaint of master.  
R. S., c. 24, § 26.

Person of age, may be bound for one year.  
R. S., c. 24, § 27.  
See c. 21, § 1.  
93 Me., 184.

SEC. 21. The court may, from time to time, make any further order on complaint of a party interested, and after notice given, alter such assessment or apportionment. On failure to sustain a complaint, the respondents recover costs.

SEC. 22. The minor children of parents chargeable, or of parents unable in the opinion of the overseers to maintain them, and minor children chargeable themselves, may, without their consent, be bound by the overseers, by deed of indenture, as apprentices or as servants to any citizen of the state, to continue until the males are twenty-one, and the females eighteen years of age or are married, unless sooner discharged by the death of their master. Provision shall be made in such deed for the instruction of *males to read, write, and cipher, and for females to read and write* (such children in reading, writing, and arithmetic); and for such further instruction and benefit within or at the end of the term, as the overseers think reasonable.

SEC. 23. The overseers shall inquire into the treatment of such children, and protect and defend them in the enjoyment of their rights in reference to their masters and others. They may complain to the supreme judicial court in the county, where their town is, or where the master resides, against such master for abuse, ill-treatment, or neglect of a child bound to him. The court shall cause him to be notified, and upon a hearing of the parties or on default, may, for sufficient cause proved, discharge the child with costs; or dismiss the complaint, with or without costs at discretion. Any child so discharged, or whose master has died, may be bound anew for the remainder of the time.

SEC. 24. The overseers, by a suit on the deed of indenture, may recover damages for breaches of its covenants. The amount so recovered, deducting reasonable charges, shall be placed in the treasury of the town, to be applied by the overseers for the benefit of the child during his term, or be paid to him at its expiration. The court, on trial for sufficient cause exhibited, may discharge the child. Such suit is not abated by the death of overseers or by the expiration of their term; but shall proceed in their names, or in the names of the survivors.

SEC. 25. Such child, within two years after the expiration of his term, may commence an action of trespass or case, or a suit on the deed, to recover damages for a breach of its covenants, or for injuries, other than such as have been tried in a suit between the overseers and master. He is for this purpose entitled to the custody of the deed of indenture when necessary, or to a copy of it, and he may sue upon it as assignee without an assignment of it.

SEC. 26. When a child so bound departs from service without leave, his master or a person in his behalf may complain on oath to a trial justice in the county, where he resides, or where the child is found, who shall issue a warrant and cause such child to be brought before him, and when the complaint is supported, he shall order the child to be returned to his master, though he resides in another county, or commit him to a jail or house of correction, to remain not exceeding twenty days, unless sooner discharged by his master. A person, who entices such a child to leave his master, or harbors him knowing that he has so departed, is liable to the master for all his damages.

SEC. 27. A master may complain to the court in the county, where he resides, or where the overseers making the indenture resided, for gross misbehavior of the child, and the court, after notice to the child, and to the overseers of the town binding, may discharge the child.

SEC. 28. Overseers may set to work, or by deed bind to service upon reasonable terms, for a time not exceeding one year, persons having settlements in their town or having none in the state, married or unmarried, able-bodied, upwards of twenty-one years of age, having no apparent means of support and living idly; and all persons liable to be sent to the house of correction.

SEC. 29. A person so bound may complain to the court, in the county where he or the overseers reside, and the court, after notice to the overseers and master, may, upon a hearing, dismiss such complaint, or discharge him from the master and overseers, and award costs to either party or against the town at discretion.

Person bound may complain to court.  
R. S., c. 24, § 28.

SEC. 30. Persons found in places not incorporated and needing relief, are under the care of the overseers of the oldest incorporated adjoining town, or the nearest incorporated town where there are none adjoining, who shall furnish relief to such persons, as if they were found in such towns; and such overseers may bind to service the children of such persons as they may those of paupers of their own town, and may bind out persons described in section twenty-eight in manner therein provided, residing in such unincorporated place, as if in their own town, and such persons shall be entitled to a like remedy and relief. When relief is so provided, the towns so furnishing it have the same remedies against the towns of their settlement as if they resided in the town so furnishing relief. And when such paupers have no legal settlement in the state, the state shall reimburse said town for the relief furnished, to such an amount as the governor and council adjudge to have been necessarily expended therefor. And the reasonable expenses and services of said overseers relative to such paupers, shall be included in the amount to be so reimbursed by the state.

Persons in unincorporated places needing relief, are under care of overseers of oldest or nearest adjoining town.  
R. S., c. 24, § 29, 1897, c. 303.

—they and their children may be bound out.

—remedy of towns, so relieving state paupers.  
16 Me., 139.  
55 Me., 96.  
60 Me., 155.  
65 Me., 598.  
68 Me., 593.  
90 Me., 515.

SEC. 31. When persons residing in an unincorporated place, and having no pauper settlement in the state, remove from such place to any town, and there need relief, and the same is furnished to them by such town, the state shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as to the amount reimbursed, as provided in the preceding section.

Towns relieving persons removing from unincorporated place, to be reimbursed by state.  
R. S., c. 24, § 30, 1887, c. 31, § 2.

SEC. 32. Whenever towns that are compelled to care for and furnish relief to state paupers in unincorporated places, for reasons of economy desire to remove the same into their own town, their overseers of the poor may make a written request, stating their reasons to the governor and council, who shall examine the same, and if in their judgment such state paupers would thereby be supported with less expense to the State, may permit in writing such transfer to be made. Whenever state paupers are thus transferred and maintained in a town for such purposes, they do not become paupers of such town by reason of residence therein, while so maintained.

On request of relieving town, governor and council may permit removal.  
R. S., c. 24, § 31.

—removed paupers gain no residence.

SEC. 33. Whenever persons who have no legal settlement within the state, are found in unincorporated places, and needing immediate relief, and are brought into any adjoining town obliged by law to care for and furnish relief to such persons, and relief is so furnished, the state shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as provided in section thirty, although the overseers of the poor of said town have no permit in writing from the governor and council to remove the same into their town.

State shall also reimburse towns furnishing relief to persons removed without permit, in certain cases.  
1887, c. 101.

SEC. 34. Plantations having a population of two hundred or more, and a valuation of at least one hundred thousand dollars, shall hereafter support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the State.

Certain larger plantations to maintain their paupers.  
R. S., c. 24, § 32.

SEC. 35. Persons found in plantations having a population of more than two hundred, to be determined by the returns of the county commissioners, as provided by section one hundred and ten of chapter three, and a state valuation of forty thousand dollars, and needing relief, are under the care of the assessors of such plantations; and the duties and powers of such assessors relative to such persons, are the same in every respect as overseers of the poor in towns have in like cases; and such plantations shall assess and raise all moneys necessary to defray the expense incurred in the care of such persons; and plantations so furnishing relief, have

Persons needing relief in certain plantations, under care of assessors.  
R. S., c. 24, § 33, 90 Me., 514.

—plantations to relieve them, the same as towns.

—state paupers not affected.

Individuals may relieve the sick in such places, and bury the dead.  
R. S., c. 24, § 34.  
65 Me., 598.

Overseers to relieve persons having settlement in other towns.  
R. S., c. 24, § 35.

See § 18.

Recovery, effect of.  
R. S., c. 24, § 36.  
35 Me., 181, 354.  
53 Me., 130.  
Overseers' notice and request to town liable.  
R. S., c. 24, § 37.  
See c. 140, § 6.

Answer to be returned within two months.  
R. S., c. 24, § 38.

Notice and answer by mail sufficient.  
R. S., c. 24, § 39.

Overseers' complaint if pauper refuses to be removed to town of settlement.  
R. S., c. 24, § 40.  
76 Me., 130.

the same remedies against the towns of their settlement, that towns have in like cases. But this section does not extend to, or affect the laws concerning so-called state paupers or paupers' settlements.

SEC. 36. A person residing in a place not incorporated, may provide relief and medical aid for any other sick, wounded, or injured resident, and in case of his death may cause him to be buried, and may recover the amount necessarily expended, of the town where such person had a settlement, if, within sixty days thereafter, he has delivered into a post office, postage paid, a written notice signed by him informing the overseers of such town of the name of the person relieved, the nature of his sickness or injury, if known, and the amount expended. Towns paying such expenses or costs may recover the amount, with interest, of the person relieved, or of any one liable for his support.

SEC. 37. Overseers shall relieve persons destitute, found in their towns and having no settlement therein, and in case of death, decently bury them, or dispose of their bodies according to section three of chapter thirteen; the expenses whereof and of their removal incurred within three months before notice given to the town chargeable, may be recovered of the town liable, by the town incurring them, in an action commenced within two years after the cause of action accrued, and not otherwise; and may be recovered of their kindred in the manner before provided in this chapter. (a)

SEC. 38. A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering, in any future action brought for the support of the same pauper.

SEC. 39. Overseers shall send a written notice, signed by one or more of them, stating the facts respecting a person chargeable in their town, to the overseers of the town where his settlement is alleged to be, requesting them to remove him, which they may do by a written order directed to a person named therein, who is authorized to execute it. (b)

SEC. 40. Overseers receiving such notice shall within two months, if the pauper is not removed, return a written answer signed by one or more of them, stating their objections to his removal; and if they fail to do so, the overseers requesting his removal may cause him to be removed to that town in the manner provided in section thirty-nine; and the overseers of the town to which he is sent shall receive him and provide for his support; and their town is estopped to deny his settlement therein, in an action brought to recover for the expenses incurred for his previous support and for his removal. (c)

SEC. 41. When a written notice or answer provided for in this chapter is sent by mail, postage paid, and it arrives at the post office where the overseers to whom it is directed reside, it is sufficient. (d)

SEC. 42. When the removal of a pauper to the town of his alleged settlement is sought, under section thirty-nine, and the person to whom the order of the overseers is directed, requests him to go with him in obedience thereto, and he refuses to go, or resists the service of such order,

(a) 3 Me., 454; 15 Me., 365; 16 Me., 385; 26 Me., 463; 27 Me., 493; 28 Me., 296; 29 Me., 316; 33 Me., 453; 38 Me., 476; 40 Me., 288; 41 Me., 484; 42 Me., 568; 43 Me., 318; 46 Me., 560; 48 Me., 356, 420; 49 Me., 385, 554; 50 Me., 518; 51 Me., 603; 53 Me., 42, 445; 55 Me., 119; 62 Me., 247; 64 Me., 415; 67 Me., 533; 71 Me., 576; 83 Me., 78; 85 Me., 282; 93 Me., 184.

(b) 1 Me., 229, 331; 3 Me., 198; 4 Me., 478; 15 Me., 172; 21 Me., 303, 445; 26 Me., 66; 31 Me., 126; 41 Me., 600; 45 Me., 408; 46 Me., 460, 560; 48 Me., 356, 420; 53 Me., 38, 42; 56 Me., 12; 59 Me., 295; 62 Me., 233; 63 Me., 580, 583; 72 Me., 204; 76 Me., 130.

(c) 3 Me., 454; 4 Me., 302; 5 Me., 34; 30 Me., 213; 48 Me., 422; 53 Me., 43; 63 Me., 582; 72 Me., 204; 75 Me., 209.

(d) 21 Me., 303, 445; 48 Me., 422.

the person to whom it is directed may make complaint in writing, by him signed, of the facts aforesaid, to any judge of a police or municipal court or trial justice within the county where said pauper is then domiciled. Said magistrate shall thereupon, by proper order or process, cause said pauper to be brought forthwith before him by any officer to whom the same is directed, to answer said complaint and show cause why he should not be so removed. The complaint may be amended at any time before judgment thereon, according to the facts. The complainant and the pauper shall both be heard, and if upon such hearing the magistrate finds that the town to which it is proposed to remove such pauper is liable for his maintenance and support, he shall issue his order, under his hand and seal, commanding the person to whom it is directed to take said pauper and transport him to the town aforesaid, and deliver him to the custody of the overseers of the poor thereof. The person to whom said last named order is directed shall have all the authority to execute the same according to the precept thereof, that the sheriff or his deputy has in executing warrants in criminal proceedings. In the foregoing proceedings, the fees and costs shall be the same as for like services in criminal cases, and shall be paid by the town seeking to remove such pauper.

SEC. 43. A person removed, as provided in this chapter, to the place of his settlement, who voluntarily returns to the town from which he was removed, without the consent of the overseers, may be sent to the house of correction as a vagabond.

SEC. 44. On complaint of overseers, that a pauper chargeable to their town has no settlement in the state, any (judge of a municipal or police court, or) trial justice, may, by his warrant directed to a person named therein, cause such pauper to be conveyed, at the expense of such town, beyond the limits of the state to the place where he belongs; but this section does not apply to the families of volunteers enlisted in the state, who may have been mustered into the service of the United States.

SEC. 45. Towns shall pay expenses necessarily incurred for the relief of paupers by an inhabitant not liable for their support, after notice and request to the overseers, until provision is made for them. (a)

SEC. 46. When a person in their town, notoriously subject to habits of intemperance, is in need of relief, the overseers shall make complaint to a (judge of a municipal or police court, or) trial justice in the county, who shall issue a warrant and cause such person to be brought before him, and upon a hearing and proof of such habits, he shall order him to be committed to the house of correction, to be there supported by the town where he has a settlement, and if there is no such town, at the expense of the county, until discharged by the overseers of the town in which the house of correction is situated, or by two justices of the peace and quorum.

SEC. 47. A town, which has incurred expense for the support of a pauper, whether he has a settlement in that town or not, may recover it of him, his executors, or administrators, in an action of assumpsit. (b)

SEC. 48. Upon the death of a pauper then chargeable, the overseers may take into their custody all his personal property, and if no administration on his estate is taken within thirty days, they may sell so much thereof, as is necessary to repay the expenses incurred. They have the same remedy to recover any property of such pauper, not delivered to them, as his administrator would have.

(a) 20 Me., 445; 36 Me., 378; 37 Me., 10; 48 Me., 561; 49 Me., 33; 53 Me., 61; 63 Me., 492; 65 Me., 597; 67 Me., 552; 70 Me., 501; 84 Me., 418; 93 Me., 71.

(b) 4 Me., 262; 22 Me., 448; 41 Me., 600; 66 Me., 62; 78 Me., 217; 94 Me., 474.

—pauper to be brought before magistrate to answer complaint.

—proceedings.

—person executing order of magistrate has same power as sheriff in executing criminal warrants.

—fees and costs.

Persons removed, returning, may be sent to house of correction. R. S., c. 24, § 41. Foreign paupers may be removed. R. S., c. 24, § 42.

—not to apply to families of volunteers.

Towns liable to individuals relieving. R. S., c. 24, § 43.

Overseers to complain of intemperate paupers. R. S., c. 24, § 44. 11 Me., 212. 61 Me., 460. See c. 21, § 12.

Towns may recover of paupers. R. S., c. 24, § 45.

Overseers to take possession of property of paupers deceased. R. S., c. 24, § 46. 8 Me., 318.



May prosecute and defend.  
R. S., c. 24, § 47.

Plantations may raise money.  
R. S., c. 24, § 48.  
7 Me., 125, 133.  
61 Me., 449.  
Penalty for bringing paupers into a town.  
1891, c. 9.

SEC. 49. For all purposes provided for in this chapter, its overseers, or any person appointed by them in writing, may prosecute and defend a town.

SEC. 50. Any plantation, at a legal meeting called for the purpose, may raise and expend money for the support of the poor, to be applied by its assessors.

SEC. 51. Whoever brings into and leaves in a town where he has no settlement, any poor, indigent or insane person, having no visible means of support, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or insane as aforesaid, with intent to charge such town in this state with the support of such person, shall be fined not exceeding three hundred dollars, or imprisoned not exceeding one year. And shall be further liable to any town or to the state for such sums of money as are expended by such town or by the state for the support and maintenance of such person which may be recovered in an action of the case.

Note. Burial of honorably discharged soldiers and sailors, c. 3, §§ 66-68. Duties of overseers of poor as to notice in case of paupers committed to house of correction, c. 140, § 6.

## CHAPTER 25.

### KEEPING WATCH AND WARD IN TOWNS, AND OF DISORDERS IN STREETS AND PUBLIC PLACES.

Who are liable to keep watch and ward.  
R. S., c. 25, § 1.

SEC. 1. Every male person except ministers of the gospel, twenty-one years of age or upwards, who is able-bodied or has estate sufficient to hire a substitute, when duly warned, is liable to watch and ward in his town, either in person or by a sufficient substitute; unless he resides more than two miles from the place where the watch or ward is kept.

Power of selectmen and justices to order watch and ward to be kept, and proceedings.  
R. S., c. 25, § 2.  
15 Me., 156.

SEC. 2. The justices of the peace and municipal officers resident in any town may, from time to time, direct and order suitable watches to be kept nightly therein from such hour in the evening as they appoint until sunrise; and wards to be kept in the day-time and evening, when they think it necessary. They may designate the time, place, and number of persons to be so employed; and give written orders accordingly, signed by a majority of them, directed to any constable of the town, requiring him to warn such watch or ward, and to see that all persons so warned attend and perform their duty as required; and in the warning, to take care that some able householders, or other sufficient persons are joined in each watch or ward.

Charge of constable, and powers of watch.  
R. S., c. 25, § 3.

SEC. 3. Such constable shall charge the watch to see that all disturbances at night are prevented or suppressed; and for that purpose the watch may examine all persons found walking abroad after ten o'clock at night, and suspected of any unlawful intention, as to their business and where they are going; enter houses of ill-fame, to suppress any disturbance or riot therein; and arrest any person there found engaged in such riot or disturbance; and all suspicious persons thus abroad, who do not give a satisfactory account of themselves; and all persons so arrested shall be secured until morning, and then be carried before one of the nearest trial justices for trial.

Duties of watch.  
R. S., c. 25, § 4.

SEC. 4. The watchmen shall walk in and about the streets, wharves, lanes, and principal inhabited parts of each town, to prevent fires and see that good order is kept; and shall suitably observe the charge given them as aforesaid.

SEC. 5. Each constable, when attending watch or ward, shall carry with him the usual badge of his office; and the watchmen shall carry a suitable badge, provided by the municipal officers of their town.

Badges of constable and watch.  
R. S., c. 25, § 5.

SEC. 6. When the inhabitants of a town determine to keep a watch in any other manner than is provided herein, the expense thereof shall be defrayed as other town charges.

Expense of watch otherwise kept, how defrayed.  
R. S., c. 25, § 6.  
Proceedings in such case.  
R. S., c. 25, § 7.

SEC. 7. When a watch is established under the preceding section, the town shall determine the number and qualifications of the persons to be employed for that purpose, and the municipal officers shall appoint a suitable person to be captain of the watch. Every watchman shall be equipped as the municipal officers determine; and the powers and duties of the captain and watchmen shall be the same as prescribed in the case of a constable's watch.

SEC. 8. If any person liable to watch and ward, when duly warned by such captain or constable, or by any person appointed by either, refuses or neglects to appear and perform his duty, by himself or a sufficient substitute, without just and reasonable excuse, he forfeits, for each offense, not less than one dollar, nor more than ten dollars to the town.

Penalty for neglect of duty by a watch.  
R. S., c. 25, § 8.

SEC. 9. If a constable or captain of the watch neglects or refuses to obey the orders given him, he forfeits not less than ten dollars to the town.

Penalty for neglect of officer.  
R. S., c. 25, § 9.

SEC. 10. When said justices and municipal officers think fit to walk by night to inspect the order of their town, or depute any portion of their number for the purpose, such constables and watchmen as are required shall attend them or said deputation, and obey their lawful commands.

Constable and watchmen to attend justices when walking the rounds.  
R. S., c. 25, § 10.

SEC. 11. Whoever rides in the highways or in any lanes, streets, or alleys with a naked scythe, sharpened and hung in a snath, forfeits two dollars for each offense.

Penalty for riding with a naked scythe.  
R. S., c. 25, § 11.

SEC. 12. If three or more persons, between sunset and sunrise, assemble in any street or lane in a town and have any imagery or pageantry for a public show, whether armed or disguised, or requiring or receiving money, or other valuable things or not, on account thereof; and if any person sets fire to a pile of combustible stuff, or is concerned in making or causing a bonfire in any street, lane or other part of the town within ten rods of any building, all such offenders shall forfeit eight dollars, or be imprisoned not more than one month for each offense.

Certain pageantry prohibited in streets in the night.  
R. S., c. 25, § 12.

—bonfires in streets and towns prohibited.

SEC. 13. One half of the fines provided for in this chapter shall be for the town where the offense is committed, and the other half for the prosecutor.

Fines, how recovered and appropriated.  
R. S., c. 25, § 13.

SEC. 14. Masters are liable to pay all fines mentioned in this chapter for the offenses of their servants or apprentices, if legally bound to them, at the election of the prosecutor; and parents are liable at the like election for the offenses of minor children, unless such children are bound to other persons as servants or apprentices.

Masters and parents liable for minors.  
R. S., c. 25, § 14.

[This chapter is believed to be obsolete and the commissioner recommends its repeal. If it is thought desirable to retain sections 11 and 12, they may be incorporated in c. 126 after § 20.

By c. 3, § 93 policemen, having the powers of constables, may be appointed in towns.]

## CHAPTER 26.

## ENGINE MEN, FIRES, AND THE PREVENTION OF FIRES.

## ENGINE MEN AND FIRES.

SEC. 1. Any town, corporation or individuals providing fire engines, hose, ladders, or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances, or by-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether engine men or other persons, and for the appointment of officers to govern them when on duty and to take charge of such apparatus, and may prescribe their style, rank, powers and duties.

SEC. 2. The engineers, or other officers chosen by any town under any ordinance or by-law, shall in addition to the powers thereby conferred, exercise all the powers and duties of fire wards as prescribed in this chapter, unless restricted by the ordinance or by-law under which they are chosen; and such towns are responsible for the acts of their said officers, as for the acts or orders of fire wards in similar cases; and such firemen and engine men, so employed, have all the powers and privileges, and are subject to all the duties and liabilities of engine men, as prescribed in this chapter.

SEC. 3. Such engine men shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as are approved by said municipal officers and not repugnant to law, and affix penalties to be recovered by their clerk, not exceeding six dollars for any one offense.

SEC. 4. Companies of engine men shall meet once every month, and oftener if necessary, to examine the state of their engines and the appendages thereof; and by night or by day without delay, under the direction of the fire wards, they shall use their best endeavors to extinguish all fires in the town, or in its immediate vicinity.

SEC. 5. On proof of negligence, the municipal officers may discharge any engine man or member of a company organized under special laws from the company, and appoint some other person in his stead; and they may select from the engine men any number for each engine in their town, who shall, under the direction of the fire wards, attend fires therein with axes, fire hooks, fire sails, and ladders, and perform such further duty as said officers from time to time prescribe.

SEC. 6. Each town, at its annual meeting, may elect as many fire wards as it deems necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused, the town shall elect another in his place.

SEC. 7. When a fire breaks out in any town, the fire wards shall immediately attend at the place with their badges of office; and when there, any three of them may direct any building to be pulled down or demolished, if they judge it necessary to prevent the spread of the fire; but in their absence the major part of the municipal, or any two civil or military officers present, in the order in which they are named, have the same power.

SEC. 8. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same and to aid

Towns may prescribe rules for care and management of engines and apparatus.  
R. S., c. 26, § 1.

—employment of men.  
—appointment of officers.  
78 Me., 119.

Such officers have powers of fire wards.  
R. S., c. 26, § 2.

—towns liable for acts of.

—powers, privileges and duties of men so employed.

Engine men excused from serving as jurors.  
R. S., c. 26, § 3.  
71 Me., 348.

Duty of engine companies.  
R. S., c. 26, § 4.

Discharge of negligent engine men, and selection of engine men for other duties at fires.  
R. S., c. 26, § 5.

Election of fire wards.  
—penalty for not promptly accepting or refusing office.  
R. S., c. 26, § 6.

Duty of fire wards, and other officers at fires.  
R. S., c. 26, § 7.  
40 Me., 391.

Powers of fire wards at fires.  
R. S., c. 26, § 8.  
63 Me., 47.

in pulling down or demolishing buildings and suppressing disorder and tumult; and generally may direct all operations to prevent further destruction or damage; any person refusing to obey their orders forfeits ten dollars.

SEC. 9. The chief engineer, engineers, fire wards, and other officers appointed for particular localities under special laws, have the same power as fire wards to pull down or demolish buildings in order to prevent the spreading of fires, and to do other things for the extinguishment thereof; and the town to which they belong is liable to pay such compensation for damages consequent upon their acts, as other towns are for similar damages; and the members of the fire department in such localities shall enjoy all the privileges, and be liable to all the duties of other firemen; but nothing herein shall be construed to control the manner of their election.

SEC. 10. If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town, in a special action on the case.

SEC. 11. Whoever steals, carries away, or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards, shall be deemed guilty of larceny and punished accordingly.

—penalty for refusing to obey them.

Officers appointed under special laws have the same powers as fire wards.  
R. S., c. 26, § 9.  
63 Me., 47.

Compensation for building demolished.  
R. S., c. 26, § 10.  
63 Me., 47.

Plundering at fires declared larceny.  
R. S., c. 26, § 11.  
See c. 119, § 3.

#### PREVENTION OF FIRES.

SEC. 12. No person shall occupy any tenement in a maritime town for sail-making, rigging, or as a livery-stable, except where the municipal officers direct; whoever violates this section, forfeits ten dollars a month during the continuance of such occupancy.

SEC. 13. On complaint of any citizen that a chimney, stove, stove pipe, oven, furnace, boiler or appurtenance is defective, out of repair, or so placed in any building as to endanger it or any other building, the municipal officers, (of any town of not more than two thousand inhabitants,) if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he forfeits not less than ten, nor more than one hundred dollars.

[The commissioner suggests that in cities and towns of more than two thousand inhabitants, § 13 is probably superseded by §§ 28, 29, 32, giving jurisdiction in the first instance to inspectors of buildings; § 13 should therefore be amended by restricting it to places of two thousand inhabitants or less; and the penalties in § 13 and § 32 should be made uniform.]

SEC. 14. No person shall enter any mill, (mill yard,) factory, machine shop, ship yard, covered bridge, stable or other building, with a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars, if a notice in plain legible characters that no smoking is allowed therein, is kept in a conspicuous position over or near each principal entrance to such building or place; and whoever defaces, removes, or destroys such notice, forfeits ten dollars.

SEC. 15. Whoever kindles a fire on land not his own, without consent of the owner, forfeits ten dollars; if such fire spreads and damages the property of others, he forfeits not less than ten, nor more than five hundred dollars, and in either case he shall stand committed until fine and costs are paid, or he shall be imprisoned not more than three years.

SEC. 16. Whoever with intent to injure another, causes a fire to be kindled on his own or another's land, whereby the property of any other person is injured or destroyed, shall be fined not less than twenty, nor more than one thousand dollars, or imprisoned not less than three months, nor more than three years.

SEC. 17. Whoever for a lawful purpose kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner; and

Certain occupations in maritime towns regulated.  
R. S., c. 26, § 12.

Municipal officers to direct defective chimneys and other fire apparatus to be removed or repaired, under a penalty.  
R. S., c. 26, § 13.

Penalty for lighting or smoking pipe or cigar in mills, ship-yards, etc., contrary to notice.  
R. S., c. 26, § 14.

Penalty for kindling fire on land, without consent of owner.  
R. S., c. 26, § 15.  
1885, c. 337.

Penalty for kindling fire with intent to injure another.  
R. S., c. 26, § 16.

When lawful fires may be kindled.

R. S., c. 26, § 17.  
54 Me., 253.  
62 Me., 290.  
87 Me., 410.  
Lumber  
drivers may  
kindle neces-  
sary fires.  
R. S., c. 26, § 18.

Common law  
remedy not  
taken away.  
R. S., c. 26, § 19.

—exception.

Municipal offi-  
cers to make  
regulations  
respecting  
gunpowder,  
explosive oils,  
and other  
dangerous  
substances.  
R. S., c. 26, § 20.  
See c. 17, § 9.  
c. 39, § 28.  
—penalty for  
violation.  
—seizure.

Of whom  
sufferers by  
explosion  
may recover  
damages.  
R. S., c. 26, § 21.

Town officers  
may search  
for powder.  
R. S., c. 26, § 22.

Regulations  
not in force  
until pub-  
lished.  
R. S., c. 26, § 23.

Penalties,  
how recovered  
and appro-  
priated.  
R. S., c. 26, § 24.

Appointment  
of inspector  
of buildings.  
1895, c. 101, §§  
1, 12.

—jurisdiction.

Duty to in-  
spect new  
buildings, in  
process of  
construction.  
1895, c. 101, § 2.

Shall inspect  
buildings  
while being

is liable, in an action on the case, to any person injured by his failure to comply with this provision.

SEC. 18. Persons engaged in driving lumber may kindle fires when necessary, but shall use the utmost caution to prevent them from spreading and doing damage, and if they fail so to do, they are subject to all the fore-going liabilities and penalties, as if said privilege had not been allowed.

SEC. 19. The common law right to an action for damages done by fires, is not taken away or diminished, and it may be pursued notwithstanding the penalties herein set forth, but any person availing himself of section seventeen is barred of his action at common law for the damage so sued for. And no action shall be brought at common law for kindling fires in the manner described in section eighteen; but if such fire spreads and does damage, the person who kindled it, and any persons present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, are liable, in an action on the case, for such damage.

SEC. 20. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all other explosive and illuminating substances which such officers adjudge dangerous to the lives or safety of citizens; and no person shall keep any such article in any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty, nor more than one hundred dollars for each offense; all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure, may be libeled according to law.

SEC. 21. A person injured by the explosion of such articles in the possession of any person contrary to such regulations, has an action for damages against such possessor, or against the owner if conusant of such neglect.

SEC. 22. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be unlawfully concealed there.

SEC. 23. Rules and regulations, established in any town according to section twenty, shall not be in force until they have been published for three weeks successively in a newspaper in the county, or by posting attested copies of them in three public places in such town.

SEC. 24. Penalties provided in *this chapter* (the preceding sections) may be recovered by complaint, indictment, or action of debt, half to the town where the offense is committed, and half to the prosecutor.

#### INSPECTION OF BUILDINGS.

SEC. 25. In every town and city of more than two thousand inhabitants, the municipal officers shall annually in the month of April appoint an inspector of buildings, who shall be a man skilled in the construction of buildings, and shall determine his compensation. The municipal officers shall define the limits within which the inspector of buildings shall have jurisdiction, which shall include the thickly settled portion of each such city, and of each village in each such city or town.

SEC. 26. Such inspector shall inspect each new building during the process of construction, so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe, and that proper cut-offs are placed between the timbers in the walls and floorings where fire would be likely to spread; and may give such directions in writing to the owner or contractor as he deems necessary, concerning the construction of such building so as to render the same safe from the catching and spreading of fire.

SEC. 27. He shall inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catch-

ing and spreading of fire, and that the chimneys and flues are made safe; and he may give such directions in writing to the owner as he deems necessary concerning such repairs, as to render such building safe from the catching and spreading of fire.

repaired.  
1895, c. 101, § 3.

SEC. 28. He shall at least once in three years, and oftener when required by the municipal officers, inspect chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus in all the buildings within his jurisdiction, in which fire is kept or used, to ascertain if the same are safe against fire. He may give such directions in writing as he may deem necessary to the owner of said building to make changes in the construction or situation of such chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating apparatus, so as to make the same safe as aforesaid. And the municipal officers may require such inspection of any particular building at any time.

Shall inspect chimneys, flues, funnels, etc., when required.  
1895, c. 101, § 4.

SEC. 29. An inspector of buildings in the performance of his official duty may enter any building for the purposes of making the inspection required by this chapter.

May enter any building.  
1895, c. 101, § 5.

SEC. 30. An appeal in writing may be taken from any order or direction of the inspector of buildings to the municipal officers, whose order thereon shall be final.

Appeal.  
1895, c. 101, § 6.

SEC. 31. No new building shall be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with the provisions of section twenty-six, and so as to be safe from fire; if the owner permits it to be so occupied without such certificate, he shall be liable to a fine of ten dollars for each week he permits such building to be so occupied, to be recovered by complaint or indictment. In case the inspector of buildings for any cause declines to give his certificate *where* (and) the builder has in his own judgment complied with the provisions of section twenty-six, an appeal may be taken to the municipal officers and if on such appeal, it shall be decided by them that the provisions of said section have been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector.

New building shall not be occupied unless inspector certifies as to safety from fire.  
1895, c. 101, § 7.

—penalty.

—appeal.

SEC. 32. If the owner of any building neglects or refuses for more than thirty days to comply with any direction of the inspector of buildings given as aforesaid, concerning the repairs on any building, as provided in section twenty-seven, or to make such changes in the construction or situation of chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus, as may be required by such inspector of buildings, under the provisions of section twenty-eight, or as may be confirmed by the municipal officers on appeal, he shall be liable to a fine of ten dollars for each week he so neglects or refuses, to be recovered by complaint or indictment.

Penalty, if owner neglects or refuses to comply with orders of inspector.  
1895, c. 101, § 8.

SEC. 33. Any owner or occupant of a building, who refuses to permit an inspector of buildings to enter his buildings, or wilfully obstructs him in the inspection of such building as required by this chapter, shall be liable to a fine of not less than one, nor more than twenty dollars, to be recovered by complaint or indictment.

Penalty, if owner refuses inspector admission to building.  
1895, c. 101, § 9.

SEC. 34. The inspector of buildings and the municipal officers of any city or town may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdiction. Whenever any of said officers shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such buildings or premises they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said buildings or premises; *provided, however*, that if the said owner or occupant shall deem himself aggrieved by such order when made by the inspector of buildings he may, within twenty-four hours, appeal to the municipal officers, and the cause of the complaint shall be at once investigated by the direction of the latter, and unless by their authority the order above named is revoked, such order shall remain in

Inspector and municipal officers shall have right to enter building in their jurisdiction.  
1897, c. 253.

—may order combustible material removed.  
See c. 17, §§ 26-30.

—appeal.

—shall make investigation upon complaint that combustible materials are kept in any building.

Jurisdiction of offenses.  
1895, c. 101, § 10.

Towns may make by-laws.  
1895, c. 101, § 11.

force and be forthwith complied with by said owner or occupant. The inspector of buildings or the municipal officers shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in said buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, shall be punished by a fine of not less than five dollars for each day's neglect.

SEC. 35. Municipal and police courts and trial justices shall have jurisdiction of the offenses named in the four preceding sections.

SEC. 36. Towns and cities may make by-laws not inconsistent with this chapter, defining more particularly the duties of such inspector of buildings, and the rules and regulations by which he is to be governed.

#### PROTECTION OF LIFE IN BUILDINGS USED FOR PUBLIC PURPOSES.

Inner doors of public buildings shall open outwards.  
R. S., c. 26, § 25.  
1885, c. 344.

SEC. 37. Every building intended temporarily or permanently for public use, and every school-house of more than one story in height, and every school-room therein, shall have all inner doors, intended for egress, open outwards. The outer doors of all such buildings shall be kept open when the same are used by the public, unless they open outwards; but fly-doors opening both ways may be kept closed.

Suitable fire escapes to be provided for hotels, factories, etc.  
R. S., c. 26, § 26.  
1891, c. 89.  
See c. 48, § 30.

SEC. 38. Every public house where guests are lodged, and every building in which any trade, manufacture, or business is carried on, requiring the presence of workmen above the first story, and all rooms used for public assembly or amusement, and all tenement houses three stories in height where only one stairway or means of egress from the upper stories out of the building is provided, and all tenement houses of four or more stories in height, intended to be occupied by families, boarders or lodgers, above the third story, shall at all times be provided with suitable and sufficient fire escapes, outside stairs, or ladders from each story or gallery above the level of the ground, easily accessible to all inmates in case of fire or of an alarm of fire; the sufficiency thereof to be determined as provided in the following section.

Town officers and fire engineers shall inspect safeguards and order repairs.  
R. S., c. 26, § 27.

SEC. 39. In towns or parts of towns having no organized fire department, the municipal officers shall annually make careful inspection of the precautions and safeguards provided in compliance with the foregoing requirements, and pass upon their sufficiency as to arrangement and number, and upon their state of repair; and direct such alterations, additions and repairs as they judge necessary. In towns, cities and villages having an organized fire department, the duties aforesaid shall be discharged by the board of fire engineers.

Same officers shall give written notice of sufficiency of safeguards.  
R. S., c. 26, § 28.

SEC. 40. Such municipal officers or fire engineers shall give written notice to the occupant of such building, also to the owner thereof, if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order.

Penalty, if owner fails to comply with orders for safeguards.  
R. S., c. 26, § 29.

SEC. 41. Any owner or occupant who neglects to comply with such order, within the time so allowed, forfeits fifty dollars, besides five dollars for every day's continuance of such neglect; and the building or part of a building so occupied shall be deemed a common nuisance, without any other evidence than proof of its use; and the keeper shall be punished accordingly. Said officers may forbid the use of such building for any public purpose until their order has been complied with. And if the owner or occupant of said building lets or uses the same in violation of such order, he forfeits not less than twenty, nor more than fifty dollars for each offense.

—use of such buildings, may be forbidden.

—penalty.

SEC. 42. Whenever the municipal officers or engineers upon inspection, find that proper safeguards and precautions for escape in case of fire, or of alarm, have been provided, they shall give to the occupant of such building a certificate, under their hands, of such fact; which shall be valid for one year only from its date; and a reasonable compensation for such inspection shall be paid by the city or town in which any such building is located, by an order drawn upon its treasurer. Such officers shall return to the clerk's office of their town, monthly, a list of such certificates by them issued, which the clerk shall record on a suitable book.

Town officers and fire engineers, shall give occupant certificate of sufficiency of safeguards.  
R. S., c. 26, § 30.  
1887, c. 126, § 1.  
—compensation  
—return  
to town clerks.

SEC. 43. Every person receiving such certificate shall keep the same posted in such building. Such annual certificate, so posted, is prima facie evidence of the inspection of such building, and of the presence of such suitable safe guards and precaution. Every occupant of such building who neglects or refuses to procure such certificate, or to post the same as aforesaid, forfeits ten dollars for every week that he so neglects and refuses.

Certificate posted in building, evidence.  
R. S., c. 26, § 31.  
1887, c. 126, § 2.

SEC. 44. Every municipal officer or fire engineer who refuses or neglects to perform the duties imposed upon him by the seven preceding sections forfeits fifty dollars.

Penalty for town officers' neglect.  
R. S., c. 26, § 32.  
Fines, how recovered.  
R. S., c. 26, § 33.

SEC. 45. All fines and forfeitures imposed by the four preceding sections may be recovered by the town where the building is located, by an action on the case, or by indictment.

#### INVESTIGATION OF CAUSES OF FIRES.

SEC. 46. When property is destroyed or damaged by fire the municipal officers in cities and towns shall immediately notify the insurance commissioner of the same, and shall investigate, *or cause to be investigated*, the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The investigation shall be commenced within three days after the occurrence of the fire, not including the Lord's day, and the insurance commissioner may supervise and direct such investigation whenever he deems it expedient or necessary.

Municipal officers shall investigate origin of fires; insurance commissioner shall be notified.  
1897, c. 267, § 1.  
—commissioner may direct investigation.

SEC. 47. When the municipal officers have completed their investigation, which shall be within two weeks after the occurrence of the fire, they shall immediately file with the insurance commissioner a written statement of all the facts relating to the cause, circumstances and origin of the fire; the kind, value and ownership of the property destroyed or damaged, and such other information as may be required by said commissioner. The insurance commissioner shall make a record of all fires investigated under sections forty-six to fifty-three inclusive, together with all facts, statistics and circumstances connected therewith. Such record shall at all times be open to public inspection, and such portions of it as the commissioner deems expedient shall be published in his annual report to the governor and council.

Municipal officers shall file with commissioner, statement of facts relating to cause of fire.  
1897, c. 267, § 2.

—commissioner shall make record, which shall be open to the public.

SEC. 48. The insurance commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances and origin of all fires occurring in the cities and towns within the state, of which he has knowledge, by which property is damaged or destroyed, and may specially examine and decide whether the same was the result of carelessness or design. The insurance commissioner shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which such examination is made, and may cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offense, and shall furnish to the proper county attorney all such evidence, together with

Commissioner may examine into cause and origin of all fires.  
1897, c. 267, § 3.

—shall take testimony on oath.

—if evidence is sufficient, he shall cause arrest of person charged with the crime of arson.



the names of witnesses and all information obtained by him, including a copy of all pertinent and material testimony in the case.

Witnesses  
may be com-  
pelled to at-  
tend hearing.  
1897, c. 267, § 4.

—and give  
testimony  
under oath.

—commis-  
sioner may  
enter any  
building when  
fire is in  
progress.

—investiga-  
tions may be  
private.

SEC. 49. The insurance commissioner, the deputy insurance commissioner and the municipal officers of cities and towns shall each have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses before them or either of them, to testify in relation to any matter which is by the provisions of the three preceding sections a subject of inquiry and investigation. Said insurance commissioner, deputy insurance commissioner and municipal officers may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Said insurance commissioner and his subordinates shall have authority, at all times of the day or night, in the performance of the duties imposed by this chapter, to enter upon and examine any building or premises where a fire is in progress or has occurred, and other buildings or premises adjoining or near the same. All investigations held by or under the direction of the insurance commissioner, deputy insurance commissioner or the municipal officers may in their discretion be private, and persons other than those required to be present by the provisions hereof may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined.

Insurance  
companies  
shall report  
to commis-  
sioner, adjust-  
ment of all  
losses.  
1897, c. 267, § 5.

Appropriation  
to carry out  
provisions of  
§§ 46-53.  
1897, c. 267, § 6.

Municipal offi-  
cers shall  
keep record of  
returns.  
1897, c. 267, § 7.  
Penalty for  
neglect.  
1897, c. 267, § 8.

SEC. 50. Every fire insurance company or association transacting business in the state shall report to the insurance commissioner, within ten days after the adjustment of every loss, the amount of all policies issued by said company on the property destroyed or damaged, the amount paid or payable on account of such loss, and such other information relating to the matter as the commissioner may require.

SEC. 51. The insurance commissioner may employ such clerks and assistants, provide such blanks, and incur such expenses as may be necessary to carry out the provisions of sections forty-six to fifty-three inclusive, not to exceed two thousand dollars in any year, and all bills and expenses incurred shall be audited by the governor and council.

SEC. 52. Municipal officers shall record or cause to be recorded, in a book provided by the insurance commissioner, all returns made under the provisions of the six preceding sections.

SEC. 53. Any city or town officer, or any insurance company neglecting or refusing to perform any duty required by the provisions of the seven preceding sections shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each offense.

#### INQUESTS IN CASES OF SUSPECTED INCENDIARISM.

Fires in cities  
and towns,  
when town  
officers are to  
inquire into.  
R. S., c. 26, § 34.

—sheriff's  
jury of three.

SEC. 54. Whenever any building, or vessel in port, or their contents are wholly or partially destroyed by fire, originating on the premises, unless the cause thereof is clearly accidental, the mayor of the city or the municipal authorities of the town or plantation where the fire occurs shall give notice thereof at once to the sheriff or his deputy, and said officer shall thereupon immediately summon three good and lawful men to appear at the place of the fire at a time to be fixed as soon as possible, to inquire when, how and by what means the fire originated, and in case of the non-appearance of any person so summoned, said officer shall appoint some other person to complete said number, and all persons so summoned shall appear and act under such summons unless excused for reasonable cause.

Jury, organi-  
zation of.  
R. S., c. 26, § 35.

SEC. 55. When the persons thus summoned, appear, or the number is made complete, said officer shall call their names, and then in view of the land on which such property was destroyed, shall administer the fol-

lowing oath: "You solemnly swear that you will diligently inquire and true presentment make, in behalf of the State, when, how, and by what means, the fire which has here occurred was caused; and that you will return a true inquest according to your best knowledge and such evidence as shall be laid before you."

SEC. 56. Said officer shall issue subpoenas for witnesses, returnable forthwith, at such time and place as he therein directs. Such witnesses shall be allowed the same fees, and their attendance shall be enforced in the same manner as if they had been served with a subpoena in behalf of the State to attend a magistrate's court. They shall be sworn and their testimony shall be reduced to writing by the officer presiding, or by some person under his direction, and be by them subscribed.

SEC. 57. The jury after hearing the testimony and making all needful inquiries, shall draw up and deliver to such officer, their inquisition under their hands, in which they shall find and certify, when, how, and by what means, such fire was caused. Said inquisition and testimony, thus subscribed, shall be filed by said officer with the clerk of the courts for said county, within one week thereafter.

SEC. 58. The fees of the officer shall be the same as prescribed for the coroner in cases of inquest upon dead bodies, and the fees of the jurors shall be two dollars for each juror for every day necessarily employed in said inquest, with the same traveling fees as witnesses in court; and the amount thereof shall be added to the county tax of the town where the fire occurred, and be collected and paid as other county taxes.

[The last five sections of this chapter may well be repealed. The provisions of §§ 46-53 afford all necessary means for the investigation of fires.]

—juror's oath.

Witnesses, summoned.  
R. S., c. 26, § 36.

—attendance, how enforced.

—testimony.

Duty of jury after hearing.  
R. S., c. 26, § 37.

—papers to be filed with clerk of courts.

Fees of officer and jurors regulated.  
R. S., c. 26, § 38.  
See c. 115, §§ 7, 13.

## CHAPTER 27.

### INNOLDERS AND VICTUALERS. INTOXICATING LIQUORS.

SEC. 1. The municipal officers, treasurer, and clerk of every town shall meet annually on the first Monday of May, or on the day succeeding, or both, and at such time and place in said town as they appoint, by posting notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next year, in such house or other building, as the license specifies. And at any meeting so notified and held, they may revoke licenses so granted, if in their opinion there is sufficient cause.

SEC. 2. No person shall receive his license until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties in the penal sum of three hundred dollars, in substance as follows, namely:

"Know all men that we ———, as principal, and ———, and ———, as sureties, are held and stand firmly bound to ———, treasurer of the town" (or city) "of ———, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the ——— day of ———, in the year nineteen hundred and ———.

The condition of this obligation is such that, whereas the above bounden ——— has been duly licensed as a ——— within said town" (or city)

Licenses to innholders and victualers, when and by whom granted.  
R. S., c. 27, § 1.  
24 Me., 442.  
93 Me., 485.

—license may be revoked.

Bond, \$300.  
R. S., c. 27, § 2.  
93 Me., 483.

—form.

"until the day succeeding the first Monday of May next; now if in all respects he shall conform to the provisions of law relating to the business for which he is licensed, and to the rules and regulations as provided by the licensing board in reference thereto, and shall not violate any law of the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force."

Licenses may be granted for a part of the year.  
R. S., c. 27, § 3.

License fee and record.  
R. S., c. 27, § 4.

Duty of innholders to provide entertainment.  
R. S., c. 27, § 5.  
71 Me., 19, 316.  
76 Me., 542.

Liability in case of fire.  
R. S., c. 27, § 6.  
74 Me., 229, 262.

Liability of innholders for guests' losses.  
R. S., c. 27, § 7.

Losses by negligence of guests.  
R. S., c. 27, § 8.  
74 Me., 229, 262.

Duties of victualers.  
R. S., c. 27, § 9.  
10 Me., 439.  
16 Me., 122.  
Inn holders and victualers to keep up signs.  
R. S., c. 27, § 10.

Innholders and victualers to allow no gambling on their premises.  
R. S., c. 27, § 11.

—penalty.

Nor reveling, drunkenness, etc.  
R. S., c. 27, § 12.

Penalty for neglecting a license.  
R. S., c. 27, § 13.  
Licensing board, to

SEC. 3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on like conditions; but all such licenses expire on the day aforesaid.

SEC. 4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted.

SEC. 5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay, and provender for their horses and cattle; and with pasturing, if it is required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travelers, and others.

SEC. 6. In case of loss by fire, innholders are answerable to their guests only for ordinary and reasonable care in the custody of their baggage or other property.

SEC. 7. Innholders are not liable for losses sustained by their guests, except for wearing apparel, articles worn or carried upon the person to a reasonable amount, personal baggage, and money necessary for traveling expenses and personal use, unless upon delivery or offer of delivery, by such guests, of their money, jewelry, or other property, to the innholder, his agent or servants, for safe custody. (a)

SEC. 8. An innholder against whom a claim is made for loss sustained by a guest, may in all cases show that such loss is attributable to the negligence of the guest, or to his non-compliance with the regulations of the inn; *provided*, that such regulations are reasonable and proper, and are shown to have been brought to the notice of the guest.

SEC. 9. Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innholder, except furnishing lodging for travelers, and stable room, hay, or provender for cattle.

SEC. 10. *Every innholder and victualer shall, at all times, have a board or sign affixed to his house, shop, cellar, or store, or in some conspicuous place near it, with his name at large thereon, and the employment for which he is licensed.*

[This section is considered obsolete.]

SEC. 11. No innholder or victualer shall have or keep for gambling purposes about his house, shop, or other buildings, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes any of said games, or any other unlawful game or sport therein; and every person who uses or exercises any such game or sport for gambling purposes in any place herein prohibited, forfeits five dollars.

SEC. 12. No innholder or victualer shall suffer any reveling, or riotous or disorderly conduct in his house, shop, or other dependencies; nor any drunkenness or excess therein.

SEC. 13. No person shall be a common innholder or victualer without a license, under a penalty of not more than fifty dollars. (b)

SEC. 14. The licensing board shall prosecute for any violations of the foregoing sections that come to their knowledge, by complaint, indictment or action of debt; and all penalties recovered shall inure to the town

(a) 72 Me., 274; 74 Me., 229, 262; 77 Me., 360; 91 Me., 279.

(b) 65 Me., 363; 76 Me., 543; 89 Me., 445.

where the offense is committed. Any citizen of the state may prosecute for any violation of the preceding sections in the same manner as the licensing board may prosecute.

prosecute.  
R. S., c. 27, § 14.  
1891, c. 132, § 1.  
—any citizen  
may prose-  
cute.  
12 Me., 204.  
65 Me., 363.  
93 Me., 484.

#### STATE AGENCY FOR SALE OF INTOXICATING LIQUORS.

SEC. 15. The governor with the advice and consent of the council, shall appoint a commissioner to furnish municipal officers of towns and cities in the state, with pure, unadulterated, intoxicating liquors, to be kept and sold for medicinal, mechanical and manufacturing purposes. Said commissioner shall reside in this state and shall have his place of business *in this state* (therein), at such place as shall be approved by the governor and council, and shall hold his office for the term of four years, unless sooner removed by the governor with the advice and consent of the council, and until another is appointed in his stead. He shall be allowed reasonable expenses of office, and present his account, under oath, with vouchers therefor to the governor and council, annually in December, to the last day of the preceding month, who shall audit the same and direct payment from the state treasury. He shall also be entitled to interest on the average capital actually invested by him in his stock of liquors, to be determined by the governor and council.

State liquor  
commissioner.

—how appoint-  
ed.  
R. S., c. 27, § 15.  
1895, c. 160, § 1.  
68 Me., 189.

—term of  
office.

—expenses of  
office.

SEC. 16. The commissioner shall keep in stock, at all times at his said place of business in this state, a sufficient stock of liquors to supply the demands of all duly authorized town and city agencies of this state for not exceeding two months, and all such agencies shall be supplied from said stock so kept at his said place of business in this state, and from no other source and in no other manner. If the governor and council are of opinion that said commissioner is carrying a larger amount of stock than is necessary to comply with the provisions of this section, they may direct him to discontinue purchases until said stock is reduced to such an amount as they may order. All alcohol, whiskey, brandy, rum and gin hereafter purchased by such commissioner, otherwise than in bottles, as hereinafter provided, shall be analyzed at the commissioner's place of business in this state by a competent assayer, appointed by the governor and council. But the governor and council may authorize the purchase, by the commissioner, of any of said kinds of liquors, in bottles, if deemed expedient, and in such case may cause the same to be inspected and tested in such manner as they may determine. All other intoxicating liquors purchased by the commissioner shall be inspected, tested or analyzed, by a competent assayer, at said place of business, in such manner as the governor and council may direct. All intoxicating liquors shall be purchased subject to such analysis, test or inspection, to be reshipped to the seller at the seller's expense, if found to be impure. The commissioner shall not sell such liquors, nor deliver them to the authorized agencies of cities and towns, unless so analyzed, tested or inspected as aforesaid, at the place of business of said commissioner and found to be pure. The compensation of such assayers shall be fixed by the governor and council, and with their reasonable expenses, shall be paid out of the state treasury.

Towns shall be  
furnished by  
commissioner,  
and from no  
other source.  
1895, c. 160, § 2.  
See §§ 24, 25, 27.

—amount of  
stock to be  
carried.

—analysis of  
liquors.

—liquors shall  
be inspected.

—liquors shall  
be purchased,  
subject to  
analysis.

—no liquors  
shall be sold  
unless in-  
spected.

—compensa-  
tion of  
assayers.

SEC. 17. On the back of each invoice of liquors sold as aforesaid, to towns and cities, shall be written or printed a copy of the assayer's analysis, or certificate of inspection, certified to by said commissioner, and the agents of such cities and towns shall preserve such invoices and certificates for public inspection, for one year after receiving the same. Each invoice shall state both the price actually paid by the commissioner for the liquors, and the price at which they are sold to the city or town.

Each invoice  
of liquors sold  
shall contain  
copy of assay-  
er's certificate.  
1895, c. 160, § 3.

SEC. 18. The commissioner is prohibited from borrowing money of any party or parties of whom he may purchase liquors. He shall not sell to municipal officers of this state any intoxicating liquors, except such as have been inspected or tested and found to be pure, in the manner afore-

Liquor com-  
missioner pro-  
hibited from  
borrowing  
money.

1895, c. 160, § 4.  
1897, c. 190.

said, under a penalty of not less than one hundred, or more than five hundred dollars, to be recovered by indictment. He shall take of such officers for such pure, unadulterated liquors, and for all malt liquors sold to them, ten per cent above the cost thereof at the place where they were by him purchased, and after the commissioner's accounts shall have been audited and allowed by the governor and council, he shall pay any and all balance of such ten per cent so received by him, to the treasurer of state, on or before the first day of January, annually.

Report shall be made monthly, to governor and council.  
1895, c. 160, § 5.

SEC. 19. The commissioner shall, on or before the last day of each month, report to the governor and council the names of the towns to which liquors have been sold, of the persons buying for said towns, the kind and quantity sold to each, and the price paid for the same. He shall also, at the same time, make report to the governor and council of all liquors purchased by him, enumerating the different kinds and the quantity of each kind, price paid and the terms of payment, also the names of parties of whom the liquors were purchased, and their place of business and date of purchase.

Bond.  
1895, c. 160, § 6.

SEC. 20. The commissioner shall before entering upon the duties of his office, give a bond to the treasurer of state, in the penal sum of not less than ten thousand dollars, for the benefit of the state as well as for the benefit of such towns as may be injured by a breach of the conditions, and for the faithful performance of his duties and compliance with such regulations and conditions as the governor and council prescribe. In case of his resignation, removal from office or death, and the appointment of a successor, the stock of liquors remaining on hand at the time of his resignation, removal or death, shall be taken at cost by the new commissioner, after the same shall have been analyzed or tested by an assayer, to be appointed by the governor and council, and found to be pure; and he shall, before entering upon his office, pay for the same in cash, or settle therefor to the satisfaction of his predecessor or his legal representatives.

—how liquors shall be disposed of, in case of vacancy.

How liquors in town shall be disposed of, when agency is abolished.  
1895, c. 160, § 7.

SEC. 21. Whenever any town or city agency shall be abolished, the commissioner shall receive back all such liquors purchased of the liquor commissioner as may remain on hand, after the same shall have been analyzed or tested, and found to be pure and unadulterated, under such conditions and regulations as the governor and council may prescribe.

Shall keep samples of liquor, analyzed.  
1895, c. 160, § 8.

SEC. 22. The commissioner shall keep a sample of all spirituous liquors analyzed, labeling the same, and marking them by number or otherwise, to conform with the assayer's certificate, and shall keep such samples during his term of office. The governor and council may cause the commissioner's stock to be inspected at any time by a competent assayer. A committee of the executive council shall visit the commissioner's place of business as often as once every six months, and make a careful and complete examination of the records of the office, including all the bills of purchases and accounts of sales. The governor and council shall correct any and all abuses, if any exist; and refusal on the part of said commissioner to comply with their order or directions relative thereto, shall be good and sufficient cause for immediate removal from office.

—stock may be inspected any time.

—committee of council shall visit commissioner, once in six months.

Distribution of reports.  
1895, c. 160, § 12.

SEC. 23. The governor and council shall annually cause the reports of the commissioner and assayers made to them to be printed, and one copy sent to the municipal officers of each town, maintaining an agency.

Notice of appointment, etc., to town officers.  
R. S., c. 27, § 16.  
68 Me., 189.  
—liquors, of whom to be bought.  
See §§ 16, 34.  
Municipal agents to keep record of

SEC. 24. Immediately after appointing such commissioner, the governor shall issue to the municipal officers of towns, a notice of his name and place of business, and such officers shall buy such intoxicating liquors as they may keep on sale for the purpose specified herein, of such commissioner or of such other municipal officers as have bought such liquors of him, and of no other person.

SEC. 25. Agents of towns authorized to sell intoxicating liquors, shall keep a record in a suitable book, of the amount of intoxicating liquors purchased by them, specifying the kind and quantity of each, (and) the

price paid, and of whom purchased; and they shall also keep a record of the kind and quantity of liquors sold by them, the date of sale and the price, the name of the purchaser and the price for which it was sold; *specifying in case such sale is made to the municipal officers of any other town, the name of such town*, which record shall be open to inspection. And if such agent fails to keep such record, he forfeits to his town for every such offense not less than ten, or more than twenty dollars, to be recovered on complaint or indictment. Whoever knowingly misrepresents to said agent the purposes for which he purchases such liquors, forfeits to his town twenty dollars, to be recovered on complaint or indictment.

SEC. 26. No contracts made under this chapter shall pledge the credit of the State for the payment of any sum to said commissioner, or for the payment of any liquors purchased by him.

sales.  
R. S., c. 27, § 19.

—to be open for inspection.  
See §§ 16, 34.

—failure or neglect.

—false representation to agent.

—penalty.

State credit not pledged to pay for liquors.  
R. S., c. 27, § 20.

#### CITY AND TOWN AGENCIES.

SEC. 27. The selectmen of any town, and mayor and aldermen of any city, may, on the first Monday of May, annually, or as soon thereafter as convenient, buy such quantity of intoxicating liquors as is necessary to be sold under this chapter, and may appoint some suitable person, agent of said town or city who shall not be one of the municipal officers of said town or city, to sell the same at some convenient place therein, to be used for medicinal, mechanical and manufacturing purposes, and no other; such agent shall receive such compensation for his services and in the sale of such liquors, shall conform to such regulations not inconsistent with law, as the board appointing him prescribes, and shall hold his office for one year, unless sooner removed by them, or their successors. Vacancies occurring during the year, shall be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors or in the profits of the sale thereof. *He may sell intoxicating liquors to such municipal officers, to be by them disposed of, in accordance with this chapter.* (a)

Municipal officers to purchase.  
R. S., c. 27, § 21.  
1887, c. 140, § 11.  
See § 24.

—agents to be appointed to sell for certain purposes.

—their pay and duty.

—term.

—vacancies, how filled.

—not to be interested.  
See §§ 16, 34.

SEC. 28. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes only; but it shall not be delivered to such agent until he has executed and delivered to said board a bond, with two sufficient sureties, in the sum of six hundred dollars, in substance, as follows:

Agent must have a certificate.  
R. S., c. 27, § 22.  
40 Me., 310.  
—give bond.  
50 Me., 79.  
67 Me., 61.  
—amount.  
—form.

"Know all men, that we, ———, as principal, and ——— and ———, as sureties, are held and stand firmly bound to the inhabitants of the town of ———," (or city as the case may be) "in the sum of six hundred dollars, to be paid to them, to which payment we bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this ——— day of ———, 19—.

The condition of this obligation is such, that whereas the above bounden ——— has been duly appointed an agent for said town" (or city) "to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes and no other, until the ——— of ———, 19—, unless removed from said agency: now if said ——— shall in all respects conform to the provisions of law relating to the business for which he is appointed, and to such regulations as are or shall be from time to time established by the board making the appointment, then this obligation shall be void; otherwise shall remain in full force."

—condition of bond.

SEC. 29. No person authorized as aforesaid to sell intoxicating liquors, shall sell the same to any minor without the written direction of his parent, master or guardian, to any Indian, soldier, drunkard, intoxicated person, or to any person described in section four of chapter sixty-seven

Agents not to sell to minors, Indians, soldiers,

drunkards,  
etc.  
R. S., c. 27, § 23.

—notice by  
town officers,  
sufficient evi-  
dence.

—by relatives,  
presumptive.

Town officers  
to give notice  
to agents, on  
information.  
R. S., c. 27, § 24.

Commissioner,  
or agents vio-  
lating law,  
how punished.  
R. S., c. 27, § 25.

—liable also  
on bond.

—duty of town  
officers, to sue  
bond.

—chancery  
powers of  
court.  
—authority to  
sell, to be  
revoked on  
conviction or  
violation.  
See § 36.

Governor and  
council shall  
cause inspec-  
tion of stock  
held by towns,  
annually.  
1895, c. 160, § 9.

Town agency  
conducted in  
violation of  
law, may be  
closed.  
1895, c. 160, § 10.

Municipal offi-  
cers shall not  
purchase of  
any other per-  
son than com-  
missioner, nor  
shall they sell  
impure  
liquors.  
1895, c. 160, § 11.

as being liable to guardianship, knowing either of them to be of the condition herein prescribed; nor to any intemperate person, of whose habits he has been notified by his relatives, or by the aldermen, selectmen or assessors, of any city, town or plantation. And proof of notice so given by said officers or by their authority, is conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter; and notice so given by the relatives of such person is presumptive evidence of such habits.

SEC. 30. Whenever such municipal officers are informed by the relatives of any person that he is of intemperate habits, and are satisfied that such is the fact, they shall forthwith give notice thereof, to all persons authorized to sell intoxicating liquors within their respective towns, and in such adjoining places as they deem expedient.

SEC. 31. Any person, authorized as aforesaid, who violates section forty-one shall be *finéd twenty dollars for every such offense*, (punished as provided in section forty-two), and shall also be liable, notwithstanding such punishment, to a suit upon his bond; and the aldermen, selectmen or assessors, of the city, town or plantation to which such bond was given, shall cause the same to be sued and prosecuted to judgment and satisfaction in behalf of the city, town or plantation. The court by which judgment is rendered upon any bond required by this chapter, has such chancery powers therein, as the supreme judicial court has in cases of forfeiture of penalties to the State. Whenever such a conviction is obtained or judgment recovered as aforesaid, the authority of such person to sell intoxicating liquors is vacated; and such aldermen, selectmen or assessors, shall revoke such authority whenever they are satisfied of the violation of any of its conditions.

SEC. 32. The governor and council shall cause an inspection of the stock in each town or city agency, at least once in each year in towns, and twice in each year in cities, and for that purpose they may employ competent assayers, and empower them to enter at such times as they may be directed by the governor and council, and without notice, any city or town agency in this state, to test the purity of all of the intoxicating liquors kept therein. And the governor and council may also authorize such examination on complaint of the municipal officers in a town and at the expense of such town. Any assayer making any examination provided for by this section, shall examine the invoices of the liquors purchased, and compare his analysis with that written or printed on such invoices. He shall report immediately the result of his examination to the municipal officers, and also to the governor and council.

SEC. 33. Upon petition and representation, in writing, to any single justice of the supreme judicial court, in term time or vacation, of ten or more well known tax payers of any city or town in which a liquor agency is established that said agency is being conducted in violation or evasion of the law creating the same, specifying in said petition the violation complained of, such justice, after reasonable notice to said city or town, if, upon hearing, it is shown that said agency is not being conducted in accordance with the law authorizing the establishment of the same, may order said agency closed, and the liquors found therein forfeited to the state.

SEC. 34. If a municipal officer buys any intoxicating liquors, to be sold according to law, of any other person than the commissioner, or knowingly obtains them from any other source than the commissioner's stock at his place of business, or if any duly authorized town or city agent, or any person in his employment or by his direction, sells or furnishes for sale, any such liquors as have been decreed to be forfeited, or found to be impure as aforesaid, or causes any intoxicating or malt liquors which he or they keep for sale to be adulterated, by mixing the same with any coloring matter, drug or ingredient, or mixes the same with other liquors

of different kind or quality, or with water, or sells or exposes for sale such liquors as are adulterated, he shall be punished as provided in section forty-three. (Such prosecution shall be by indictment.)

SEC. 35. No such liquors owned by any city, town or plantation, or kept by any agent thereof, as provided by law, are protected against seizure and forfeiture, under the provisions hereof, by reason of such ownership, unless all casks and vessels in which they are contained are at all times conspicuously marked with the name of such municipality, and of its agent. When such liquors are seized, bearing such marks as are herein required, if such liquors are in fact not owned by any such municipality, such false and fraudulent marking is *conclusive* (presumptive) evidence that the same are kept or deposited for unlawful sale, and renders them liable to forfeiture under this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious; and they shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if they have knowledge that the same are adulterated or factitious.

SEC. 36. If an agent appointed under section twenty-seven to sell intoxicating liquors is convicted of a violation of this chapter, he is forever thereafter disqualified from holding such office.

#### MANUFACTURE OF INTOXICATING LIQUORS FOR SALE.

SEC. 37. Whoever manufactures for sale any intoxicating liquor, except cider, and whoever sells any intoxicating liquor manufactured by him in this state, except cider, shall be imprisoned two months and fined one thousand dollars.

SEC. 38. This chapter does not apply to the sale of unadulterated cider, unless the same is sold to be used as a beverage or for tippling purposes. (a)

#### LIQUOR PEDDLING AND LIQUORS IN TRANSIT.

SEC. 39. No person shall travel from town to town, or from place to place, in any city, town or plantation, on foot or by public or private conveyance, either by land or water, carrying for sale or offering for sale, or obtaining or offering to obtain, orders for the sale or delivery of any intoxicating or fermented liquors, in any quantity, under a penalty of not less than twenty, nor more than five hundred dollars and costs, for each offer to take an order, and for each order taken, and for each sale so made, to be recovered on complaint or by indictment; half to the complainant and half to the county in which the offense is committed; and in default of payment thereof, said person shall be imprisoned for a term of not less than two, nor more than six months. (b)

SEC. 40. No person shall *knowingly bring into the state* or knowingly transport from place to place in the state, any intoxicating liquors, with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, under a penalty of not less than fifty, nor more than one hundred dollars, and sixty days imprisonment. Any servant, agent or employee of any railroad corporation, or of any express company doing business in this state, who shall remove any intoxicating liquors from any railroad car at any place other than the usual and established stations, depots or places of business of such railroad corporation, or who shall aid in or consent to such removal, shall be subject to a penalty of fifty dollars for every such offense; *provided*, that said penalty shall not apply to any liquor in transit when changed from car to car to facilitate transportation. All such

—penalty.  
See § 61.

Liquors owned by towns or kept by agents, casks, and vessels to be marked.  
R. S., c. 27, § 26, 68 Me., 190.  
—not so owned may be seized, although marked.  
—false marks conclusive, and liquors forfeited.  
See 80 Me., 57, 61.  
—adulterated or factitious, not protected.

Unfaithful agents forever disqualified.  
R. S., c. 27, § 27.  
See § 31.

Manufacturing for sale.  
R. S., c. 27, § 28.  
—and sale, punished.  
See § 61.  
69 Me., 134.  
Sale of pure cider, regulated.  
R. S., c. 27, § 29.  
1887, c. 140, § 2.

Traveling liquor pedlers and dealers, punished.  
R. S., c. 27, § 30.  
1885, c. 366, § 1.

—penalty.

—how recovered.

—to whom accrues.  
—alternative penalty.

Intoxicating liquors intended for unlawful sale, not to be transported.  
R. S., c. 27, § 31.  
1893, c. 307.

—removal of, by any employee of railroad or express company from car at any place other than usual station, prohibited.  
—penalty.

(a) 62 Me., 262; 69 Me., 134.

(b) 61 Me., 388; 64 Me., 425; 65 Me., 136; 68 Me., 420; 70 Me., 107.



—may be seized in transit.

—penalty if any steamboat, railroad or express company brings such liquor into state.  
See 94 Me., 335.

liquors intended for unlawful sale in the state, may be seized while in transit and proceeded against the same as if they were unlawfully kept, and deposited in any place. (a) *And any steamboat, railroad or express company knowingly transporting or bringing such liquors into the state shall be punished, upon conviction, by a fine not exceeding two hundred dollars and costs for each offense. Knowledge on the part of any authorized agent of such company shall be deemed knowledge of the corporation.*

#### UNLAWFUL SALE OF LIQUORS. COMMON SELLERS. DRINKING HOUSES AND TIPPLING SHOPS. SEARCH AND SEIZURE. DRUNKENNESS.

Sale of intoxicating liquors, prohibited.  
R. S., c. 27, § 33.  
1887, c. 140, § 4.

—Intoxicants defined.  
See c. 17, § 1.

Penalties for selling liquors in violation of law.  
R. S., c. 27, § 34.  
1887, c. 140, § 5.  
See c. 134, § 1.  
—subsequent convictions.

—clerk, servant or agent, assisting in violations, subject to same penalties.

Common sellers.  
R. S., c. 27, § 35.  
1887, c. 140, § 6.  
79 Me., 107.  
94 Me., 61.  
See § 61; c. 134, § 1.

Who not common sellers.  
R. S., c. 27, § 36.  
79 Me., 107.  
Drinking houses, prohibited.  
R. S., c. 27, § 37.  
1891, c. 132, § 3.

—defined.  
—penalty.  
See § 61; c. 134, § 1.

Penalty for advertising

SEC. 41. No person shall at any time, by himself, his clerk, servant or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin, except as hereinbefore provided; wine, ale, porter, strong beer, lager beer, and all other malt liquors, and cider when kept or deposited with intent to sell the same for tippling purposes, or as a beverage, as well as all distilled spirits, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating. (b)

SEC. 42. Whoever by himself, clerk, servant or agent, sells any intoxicating liquors in this state, in violation of law, shall pay a fine of not less than fifty dollars and costs, and in addition thereto be imprisoned thirty days. In default of said payment he shall be imprisoned thirty days additional, and on each subsequent conviction he shall be punished by a fine of two hundred dollars and costs, and in addition thereto be imprisoned six months, and in default of payment of said fine and costs, he shall be imprisoned six months additional. Any clerk, servant, agent or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties. (c)

SEC. 43. No person shall be a common seller of intoxicating liquors. Whoever violates this section shall be fined one hundred dollars and imprisoned thirty days, or instead of such fine he may be imprisoned sixty days additional. On a second and every subsequent conviction, he shall be fined two hundred dollars and imprisoned four months, and in default of payment of fine and costs, he shall be punished, by four months additional imprisonment.

SEC. 44. Persons selling by authority of and according to sections fifteen and twenty-seven are not common sellers.

SEC. 45. No person shall keep a drinking house and tippling shop. Whoever sells intoxicating liquors in any building, vessel or boat, contrary to law, and the same are there drank, is guilty of keeping a drinking house and tippling shop, and upon conviction thereof shall be fined one hundred dollars and costs, and in addition thereto be imprisoned sixty days. In default of payment of said fine and costs, the party shall suffer an additional imprisonment of sixty days. (d)

SEC. 46. Whoever advertises or gives notice of the sale or keeping for sale of intoxicating liquors, or knowingly publishes any newspaper

(a) 74 Me., 563; 79 Me., 107, 542; 84 Me., 25, 489; 94 Me., 338; 95 Me., 140.

(b) 6 Me., 413; 33 Me., 496, 561; 37 Me., 161; 54 Me., 502; 55 Me., 356, 430; 62 Me., 262; 63 Me., 224; 64 Me., 537; 67 Me., 243; 69 Me., 134; 70 Me., 257; 75 Me., 124; 79 Me., 107; 80 Me., 118; 81 Me., 389.

(c) 28 Me., 67; 33 Me., 497; 34 Me., 219; 45 Me., 321; 53 Me., 539; 54 Me., 383; 55 Me., 92; 65 Me., 239, 247; 68 Me., 204; 70 Me., 455; 72 Me., 426; 74 Me., 220; 79 Me., 107; 80 Me., 118; 83 Me., 418.

(d) 45 Me., 436; 48 Me., 217; 53 Me., 539; 69 Me., 135; 79 Me., 107; 82 Me., 213; 94 Me., 61.

in which such notices are given, shall be fined for such offense the sum of twenty dollars and costs, to be recovered by complaint. One-half of said fine to complainant and other one-half to the town in which said notice is published.

SEC. 47. Whoever gives, *sells* or delivers to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any spirituous or intoxicating liquor, or has in possession, within the precincts of any jail, house of correction, or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement of said prisoner, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the jail or house of correction not exceeding thirty days.

SEC. 48. No person shall deposit or have in his possession intoxicating liquors with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid or assist any person in such sale. (a)

SEC. 49. Intoxicating liquors kept and deposited in the state, intended for unlawful sale in the state, and the vessels in which they are contained, are contraband and forfeited to the *cities, towns and plantations* (county) in which they are so kept at the time when they are seized under this chapter. And in all cases where an officer may seize intoxicating liquors or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant. (b)

SEC. 50. If any person competent to be a witness in civil suits, makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that intoxicating liquors are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale within the state in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said liquors are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return on said warrant. The name of the person so keeping said liquors as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said liquors or has reason to believe that such person has concealed them about his person to search the said person, and if such liquors are found upon his premises or person to arrest him and hold him to answer as keeping said liquors intended for unlawful sale. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, intoxicating liquors, may be searched in the same manner and by the same process as is provided for the search of places and if liquors are found upon his person, may be held to answer as though such liquors were found upon the person in the premises described in this section. If fluids are poured out or otherwise destroyed by the tenant, assistant or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, said fluids may be held to have been intoxicating and intended for unlawful sale, and the penalties shall be the same as if said liquors had been seized. If the name

sale of liquors.  
1885, c. 366, § 8.  
—to whom it  
accrues.

Penalty for  
furnishing in-  
toxicating  
liquors to  
persons in con-  
finement.  
1889, c. 157, § 1.  
See § 42.

—exception.

See c. 134, § 1.

Possession or  
deposit with  
intent to sell  
prohibited.  
R. S., c. 27, § 38.

Liquors for  
unlawful sale,  
forfeited.  
R. S., c. 27, § 39.  
See § 54.

Warrants of  
search and  
seizure may  
be granted on  
complaint.  
R. S., c. 27, § 40.  
1891, c. 132, § 4.

See § 61; c. 134, § 1.  
33 Me., 530,  
561, 569.  
38 Me., 288.  
42 Me., 305.  
46 Me., 526.  
47 Me., 360,  
392, 429.  
48 Me., 581.  
49 Me., 256.  
53 Me., 173.  
54 Me., 36.  
56 Me., 92.  
59 Me., 384.  
62 Me., 262, 422.  
63 Me., 217.  
64 Me., 431, 537.  
66 Me., 130.  
67 Me., 250, 425.  
68 Me., 410,  
411, 421.  
70 Me., 201.  
71 Me., 454.  
78 Me., 38, 403.  
79 Me., 54, 99,  
104.  
80 Me., 57, 93.  
85 Me., 307, 463.  
86 Me., 427, 529.  
90 Me., 451.  
95 Me., 198.

—persons may  
be searched.

(a) 47 Me., 427; 48 Me., 581; 50 Me., 514; 56 Me., 91; 59 Me., 384; 63 Me., 214; 79 Me., 107.

(b) 33 Me., 561; 47 Me., 427; 54 Me., 37; 55 Me., 424; 56 Me., 91, 92; 59 Me., 384; 63 Me., 217; 65 Me., 102, 557; 68 Me., 420; 71 Me., 357; 78 Me., 403; 79 Me., 108; 86 Me., 527.

—fluids poured out to prevent seizure, may be held to have been intended for unlawful sale.

—name of person.  
See § 55.

—penalty.  
—payment of U. S. special tax as liquor seller, shall be prima facie evidence, the person paying such tax is a common seller.  
80 Me., 57.

Duty of officer on seizure.  
R. S., c. 27, § 41.

—libel, what to set forth.

—proceedings of magistrate in case of libel.

—notice of hearing.

In case no claimant appears.  
R. S., c. 27, § 42.  
48 Me., 583.  
—claimant how to proceed.  
61 Me., 523.  
62 Me., 422.  
69 Me., 525.  
73 Me., 279.  
83 Me., 161.

—claimant to be admitted as a party.

—trial.

—duty of magistrate if claimant is entitled.

—otherwise, judgment for costs and liquors forfeited.  
See § 54.

—appeal.

of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If upon trial, the court is of the opinion that the liquor was so aforesaid kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and sentenced to a fine of one hundred dollars and costs and in addition thereto be imprisoned sixty days. In default of payment of fine and costs the party shall be imprisoned sixty days additional. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort, indicating that intoxicating liquors are there sold, kept or given away unlawfully, shall be held to be prima facie evidence that the person or persons paying said tax, and the party or parties displaying said notices, are common sellers of intoxicating liquors, and the premises so kept by them common nuisances.

SEC. 51. When liquors and vessels are seized as provided in the preceding section, the officer who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale within the state in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable. (a)

SEC. 52. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the *city, town or plantation* (county) in which they were seized. If any person appears and claims such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure, and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellant or claimant. If the magistrate is, upon the hearing, satisfied that said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to no part of said liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the *city, town or plantation* (county) where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

(a) 33 Me., 561, 573; 47 Me., 400; 48 Me., 188, 581; 53 Me., 172; 54 Me., 37; 61 Me., 523; 62 Me., 265; 80 Me., 93, 207.

SEC. 53. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made, is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, intended for sale in the state, in violation of law. (a)

Dwelling house not to be searched, except in certain cases.  
R. S., c. 27, § 43.

SEC. 54. All spirituous and distilled liquors and all other liquors, declared forfeited by any court under this chapter, which shall have been found by said court to contain more than twenty per cent of alcohol, shall, by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor; said sheriff shall mingle said liquors together, and as soon as he has accumulated a quantity equal to five barrels, he shall ship the same to some responsible rectifying distiller, outside of this state, and have the alcohol re-distilled therefrom, as is hereinafter provided. Said sheriffs shall annually contract with some responsible rectifying distiller, outside the limits of this state to take such liquors and distill the alcohol therefrom, and to account for and pay over to the treasurer of the county from which said liquors are received, in cash, at an agreed price for each gallon of one hundred degrees strength, determined by the United States internal revenue inspector at place of rectification. Before delivering any liquor under the aforesaid contract, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from said rectifying distiller to the treasurer of his county, in the penal sum of one thousand dollars, conditioned that all of said liquors so received under said contract, shall be rectified and the alcohol distilled therefrom, and that the contractor will account for and pay over to the treasurer of said county from which said liquors are received, in cash, the amount due under said contract. In all suits upon bonds given under this section, the damages shall be the full penal sum of said bond. For all services in connection herewith, the said sheriff shall receive from the county treasurer five per cent of the net amount received from said contractor. All other liquors declared forfeited by any court under this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court. Such liquors shall be destroyed by pouring them upon the ground. A record of vessels forfeited shall be kept by each officer, and returned to the county commissioners once in each three months, and once in six months, or oftener, if they deem it advisable, the commissioners shall order such officers to sell the vessels at public or private sale, and pay the proceeds thereof into the county treasury.

Liquors forfeited by order of court.  
R. S., c. 27, § 44.  
1897, c. 212.

—officer shall send out of the state, and have alcohol re-distilled therefrom.

—officer shall contract with distiller, outside of state, to distill liquors and sell same for cash.

—shall take bond of distiller.

—frees of officer.

—all other forfeited liquors shall be destroyed.

—vessels may be sold.

SEC. 55. If complaint is made upon oath to any magistrate against any claimant under this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as is provided in section fifty.

Warrant to be issued against claimant upon oath of complainant.  
R. S., c. 27, § 45.  
1891, c. 132, § 5.  
See c. 134, § 1.  
—arrest.

—trial.  
—punishment.

SEC. 56. If an officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors, and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate,

Seizure prevented by destruction of liquors.  
R. S., c. 27, § 46.  
1885, c. 366, § 5.  
65 Me., 102.

—arrest of alleged owner.

—how to make returns in such cases.  
47 Me., 360.

—trial of owner.

—penalty.

—dumps and appliances for preventing seizure or identification of liquors, shall be taken and presented to grand jury for consideration.

Deputy sheriff dying, etc.  
R. S., c. 27, § 47.

—other officer dying, duty of magistrate.

Person drunk in streets shall be punished.  
R. S., c. 27, § 48.  
1893, c. 149.  
1897, c. 278.

—person drunk in his own house, and disturbing the peace, shall be punished.  
47 Me., 464.  
78 Me., 421.

—formal arrest and trial.

Responsibility for injuries by drunken persons.  
R. S., c. 27, § 49.  
66 Me., 472.  
67 Me., 519.  
69 Me., 81, 84.  
76 Me., 213.  
95 Me., 559.  
—damages.  
—owner or lessee of building.

—proof of relationship.

and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising or destroying liquors, so that the same cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making said search or seizure, so far as the same is practicable, together with all bottles and drinking glasses or vessels found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said seizure and search is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising or destroying liquors, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

SEC. 57. If any deputy sheriff, after having executed such warrant by a seizure dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

SEC. 58. Any person found intoxicated in any street, highway or other public place, shall be punished for the first offense by a fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and upon any subsequent conviction by imprisonment not exceeding ninety days. Any person found intoxicated in his own house, or in any other building or place, who is disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer or watchman, and committed to the watch house or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried.\*

SEC. 59. Every wife, child, parent, guardian, husband, or other person who is injured in person, property, means of support or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by selling or giving any intoxicating liquors, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee, or person renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein, are liable, severally or jointly with the person selling or giving intoxicating liquors as aforesaid. And in actions by a wife, husband, parent or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property.

\* Penalty for intoxication on part of engineer, conductor, brakeman or switchman on railroad, c. 51, § 89.

## SPECIAL PROVISIONS FOR THE ENFORCEMENT OF THE LAW.

SEC. 60. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

SEC. 61. Prosecutions for manufacturing liquors in violation of law, for keeping drinking houses and tippling shops, and for being common sellers of intoxicating liquors, shall be by indictment; but in all other prosecutions under this chapter, (except when otherwise expressly provided,) judges of municipal and police courts and trial justices have by complaint, jurisdiction, original, and concurrent with the supreme judicial and superior courts. All prosecutions in the supreme judicial and superior courts shall be by indictment. Said magistrates, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before such magistrate, shall be in a sum less than two hundred dollars; nor in the supreme judicial or superior court in less than five hundred dollars.

SEC. 62. Every trial justice, recorder, clerk, and judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon; and, after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk, or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney general in behalf of the state.

SEC. 63. When a person has been convicted in the supreme judicial or superior court, of a violation of this chapter, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court, the case is continued for sentence one term, but no longer.

SEC. 64. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the State. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under so much of this chapter as relates to intoxicating liquors shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section fifty-two, shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them. (a)

SEC. 65. Custom house certificates of importation, and proofs of marks on the casks and packages corresponding thereto, shall not, in proceedings

Liquors and vessels seized, not repleviable, pending proceedings.

R. S., c. 27, § 50.

62 Me., 535.

—final judgment, effect.

91 Me., 479.

Prosecutions, how commenced and conducted.

R. S., c. 27, § 51.

See §§ 18, 34,

62, 67.

§ Me., 113.

54 Me., 566.

60 Me., 107.

84 Me., 28.

—penalties of recognizances.

(a) 33 Me., 573; 37 Me., 161; 48 Me., 581; 49 Me., 286; 60 Me., 105; 61 Me., 117; 93 Me., 43.

Custom house certificates and

marks, not evidence.  
R. S., c. 27, § 55.  
49 Me., 287.

Action not maintainable for liquors sold or kept in violation of law.  
R. S., c. 27, § 56.  
—exception.

Delivery, evidence of sale.  
R. S., c. 27, § 57.

—partner liable.  
—who may be included in complaint.  
—town officers, may commence suit on bond.

—duty to prosecute for violation.

—penalty for municipal officers neglecting to prosecute.

—officer, neglecting to execute process, is liable.

—judgment.

—assessors.

—plantations. See c. 1, § 6, § xviii.

—allegation of previous conviction sufficient.

—any process may be amended as to form.

*under this chapter, be received as evidence that the identical liquors contained in said casks and packages were actually imported in said casks and packages.*

[This section is considered obsolete and should be repealed.]

SEC. 66. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation thereof; but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract. (a)

SEC. 67. Whenever an unlawful sale is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling of his copartner, done in the copartnership business, or by any other person, in any shop, store, or other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk, and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen or assessors, may cause a suit to be commenced on any bond or recognizance given under this chapter in which his city, town or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor and aldermen, selectmen, assessors and constables, in every city, town and plantation, shall make complaint and prosecute all violations of this chapter, and promptly enforce the laws against drinking houses. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty, nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal suit instituted under this chapter, is placed in the hands of any proper officer to be by him executed, and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the county, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty, nor more than five hundred dollars. Selectmen of towns herein mentioned include assessors of plantations, *and the word town includes plantations.* In suits, complaints, indictments, or other proceedings for a violation of any provision of this chapter relating to intoxicating liquors, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly, that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended, without terms, and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment. (b)

(a) 44 Me., 54; 46 Me., 527; 47 Me., 60, 126, 473; 48 Me., 188, 552; 50 Me., 79; 51 Me., 255; 55 Me., 356, 431, 541; 57 Me., 180, 359; 59 Me., 443; 63 Me., 31; 66 Me., 141; 70 Me., 257; 72 Me., 279; 87 Me., 518; 89 Me., 140; 92 Me., 388, 421; 93 Me., 299; 94 Me., 444; 95 Me., 536.

(b) 54 Me., 563; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 78 Me., 40; 79 Me., 104; 80 Me., 118; 92 Me., 427.

SEC. 68. No person engaged in the unlawful traffic in intoxicating liquors is competent to sit as a juror in any case arising under this chapter; and when information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the juror of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this chapter; but if he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a juror.

Persons engaged in unlawful traffic not to sit upon jury.  
R. S., c. 27, § 58.  
See c. 106, § 3.

SEC. 69. The offenses described in this chapter fall within section fifteen of chapter one hundred and thirty, and no such offense is barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

Proceedings under this chapter not barred within six years.  
R. S., c. 27, § 69.  
—absence deducted.  
Law applies to importations in original package.  
1891, c. 45.

SEC. 70. All the provisions of this chapter, chapter seventeen, section twenty-three of chapter one hundred and thirty-two, and section one of chapter one hundred and thirty-four, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package.

SEC. 71. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings *against* (in case of) violations or supposed violations of law, and particularly the law against the illegal sale of intoxicating liquors, and the keeping of drinking houses and tippling shops, gambling houses or places, and houses of ill fame, either by promptly entering a complaint before a magistrate and executing the warrants issued thereon, or by furnishing the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. For services under this section, sheriffs, and their deputies acting under their directions, shall receive the same per diem compensation, as for attendance on the supreme judicial court, the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said sheriffs or their deputies for any day for which said sheriffs or their deputies are entitled to fees or compensation for attendance at or service in any court. The provisions of (this section as to compensation of sheriffs and their deputies, and the provisions of) section five of chapter one hundred and fifteen shall not apply to the sheriff of Cumberland county, and his deputies acting under the provisions of this section; *but the county commissioners of the county of Cumberland may allow said sheriff and his deputies such additional compensation as seems to them advisable, in addition to the compensation given by this section.*

Special duty of sheriffs, deputies and county attorneys, to enforce provisions of this chapter.  
R. S., c. 27, § 60.  
1897, c. 317.

—per diem pay allowed for services.  
91 Me., 316.

See c. 80, §§ 28-31 as to officers in Cumberland Co.

—provisions of sec. 71 and of c. 115, § 5, shall not apply to sheriff of Cumberland county.  
See c. 80, § 28.

SEC. 72. County attorneys shall cause to be summoned promptly before the grand jury, all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in the preceding section, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts. *Whenever the governor is, after investigation and hearing of the parties, satisfied that any county attorney has wilfully refused or neglected to discharge the duties imposed upon him by this section, he shall remove him from office, and fill his place by appointment.*

Similar duty of county attorneys.  
R. S., c. 27, § 61.

—governor, after hearing, may remove delinquent county attorneys.  
85 Me., 545.

SEC. 73. The clerk of courts, shall within thirty days after the adjournment of any superior or supreme judicial court, publish in some newspaper of the county, the disposition of each appealed case and indictment for violations of the laws regulating the use and sale of intoxicating liquors.

Clerk of courts shall publish disposition of appealed cases and indictments.  
1887, c. 44.



What forms  
are sufficient.  
R. S., c. 27, § 63.  
—costs, tax-  
able.

SEC. 74. The forms herein set forth, with such changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents. (a)

*Form of indictment in case of common seller.*

STATE OF MAINE.

—form of  
indictment.  
80 Me., 118.

"—, ss. — At the supreme judicial or superior court begun and held at —, within and for the county of —, on the — Tuesday of —, in the year of our Lord one thousand nine hundred and —:

The jurors for said State upon their oath present, that A. B., of —, in said county, at —, in said county of —, on the — day of —, in the year of our Lord one thousand nine hundred and —, and on divers other days and times between said — day of — aforesaid and the day of the finding of this indictment, without lawful authority, license or permission, was a common seller of intoxicating liquors, against the peace of said State, and contrary to the form of the statute in such case made and provided;" (in case of a former conviction add,) "and the jurors aforesaid, upon their oaths aforesaid, further present, that said —, has been — *before convicted as a common seller under the laws for the suppression of drinking houses and tippling shops in the said county of —*: A true bill:

—, *County Attorney.*

—, *Foreman."*

[It is thought that the following form of allegation of a former conviction is sufficient: "and the jurors aforesaid, upon their oaths aforesaid, do further present that said — has been — before convicted of being a common seller of intoxicating liquors, under the laws of the State of Maine regulating the sale of intoxicating liquors, to wit:—at a term of the Supreme Judicial Court, begun and held at A. — within and for the County of B. on the third Tuesday of — in the year of our Lord one thousand nine hundred and —." See 65 Me., 234; 92 Me., 422; 94 Me., 60.]

See 92 Me., 422.

*Form of complaint for single sale.*

STATE OF MAINE.

—form of  
complaint for  
single sale.  
65 Me., 247.

"—, ss.—To — —, esquire, a trial justice within and for the county of —.

A. B., of —, in said county, on the — day of —, in the year of our Lord one thousand nine hundred and —, in behalf of said State, on oath — complains, that — —, of —, in said county, on the — day of —, 19—, at said —, in said county of —, without lawful authority, license or permission therefor, did then and there sell a quantity of intoxicating liquors, to wit: one — of intoxicating liquor to one — —," (or if the individual is unknown, "to some person to said complainant unknown,") "against the peace of said State, and contrary to the form of the statute in such case made and provided."

A. B.

On the — day of —, 19—, said — — makes oath, that the above complaint, by — subscribed, is true.

Before me,

— —, *Trial Justice."*

(a) 59 Me., 384; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 80 Me., 94; 86 Me., 527.

*Form of warrant upon the same.*

## STATE OF MAINE.

"—, ss.—To the sheriff of our said county of —, or either of his deputies, or either of the constables of the town of —, or of either of the towns in said county.

—form of  
warrant for  
single sale.

GREETING.

[L. s.] Whereas, A. B., of —, on the — day of —, in the year of our Lord one thousand nine hundred and —, in behalf of said State, on oath — complained to me, the subscriber, one of the trial justices within and for said county of —, that —, of —, in said county, on the — day of —, 19—, at said —, in said county of —, without lawful authority, license or permission therefor, did sell a quantity of intoxicating liquors, to wit: one — of intoxicating liquor to one —, against the peace of said State and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the State of Maine, you are commanded forthwith to apprehend said —, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said State upon the complaint aforesaid.

Witness, my hand and seal at — aforesaid, this — day of —, in the year of our Lord nineteen hundred and —.

—, Trial Justice."

*Form of recognizance in case of a single sale.*

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of —, at my office in —, in said county, on the — day of —, in the year of our Lord one thousand nine hundred and —, personally appeared —, —, and —, and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of  
recognizance  
for single sale.

The said —, as principal, in the sum of — dollars, and the said — and —, as sureties, in the sum of — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the State, if default is made in the condition following:

The condition of this recognizance is such, that whereas said — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath — of —, charging him, said —, with having sold at said —, one — of intoxicating liquor to one —, without lawful authority, license or permission therefor, against the peace of said State, and contrary to the form of the statute in such case made and provided. And said —, having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to —; and said — having appealed from said sentence to the supreme judicial" (or superior) "court, next to be held at —, within and for the said county of —, on the — Tuesday of —, in the year of our Lord nineteen hundred and —.

Now therefore, if said — shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void; otherwise shall remain in full force and virtue.

Witness,

—, Trial Justice."

*Form of mittimus.*

## STATE OF MAINE.

—form of  
mittimus.

"County of —, ss. — To the sheriff of the county of —, or his deputies, or the constables of the town of —, and to the keeper of the jail in —, in our said county,

GREETING.

[L. s.] Whereas E. F., of —, in our county of —, now stands convicted before me, A. B., esquire, one of the trial justices in and for the said county of —, on complaint of — —, who, on his oath — complains that" — (here insert the substance of the complaint) "against the peace of the State, and contrary to the form of the statute in such case made and provided, for which offense, he, said E. F., is sentenced to pay a fine to the State, of — dollars, and costs of prosecution, taxed at — dollars and — cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefore, in the name of the State of Maine, to command you, the said sheriff, deputies and constables, and each of you, forthwith to convey said E. F. to the common jail in —, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in — aforesaid, are hereby in like manner commanded, in the name of the State of Maine, to receive said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this — day of —, A. D. —.

A. B., *Trial Justice.*"*Form of complaint in case of seizure.*

## STATE OF MAINE.

—form of com-  
plaint, in case  
of seizure.  
47 Me., 431.  
63 Me., 214.  
64 Me., 532.  
95 Me., 199.

"—, ss.—To A. B., esquire, one of the trial justices within and for the county of —.

A. B., of —, in said county, competent to be a witness in civil suits, on the — day of —, in the year nineteen hundred and —, in behalf of said State, on oath complains, that he believes, that on the — day of —, 19—, at said —, intoxicating liquors were, and still are kept and deposited by — —, of —, in said county, in —" (here describe with precision the place to be searched,) "said — — not being then and there authorized by law to sell said liquors within said —; and that said liquors then and there were, and now are intended by said — — for sale in the state in violation of law, against the peace of the State and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said — — be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

A. B.

—, ss.—On the — day of —, 19—, said A. B. made oath that the above complaint by him signed is true.

—oath.

Before me,

— —, *Trial Justice.*"

*Form of warrant in case of seizure.*

## STATE OF MAINE.

"—, ss.—To the sheriff of our said county of —, or either of his deputies, or the constables of the town of —, or of either of the towns within said county.

—form of  
warrant, in  
case of  
seizure.  
66 Me., 478.

[L. s.] Whereas A. B., of —, is said county, competent to be a witness in civil suits, on the — day of —, in the year nineteen hundred and —, in behalf of said State, on oath complained to the subscriber, one of the trial justices within and for said county, that he believes, that on the — day of —, 19—, at said —, intoxicating liquors were and still are deposited and kept by — —, of —, in said county, in —" (here follows a precise description of the place to be searched,) "and that said — — then and there intended and now intends to sell the same in the state, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said — — be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the State, to enter the — before named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said — — forthwith, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, — —, esquire, at — aforesaid, this — day of —, in the year of our Lord nineteen hundred and —.

— —, Trial Justice."

*Form of recognizance in case of seizure.*

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of —, at my office in said —, on the — day of —, in the year of our Lord nineteen hundred and —, personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of rec-  
ognizance, in  
case of  
seizure.

The said — —, as principal, in the sum of — dollars, and the said — — and — —, as sureties, in the sum of — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the State, if default is made in the condition following:

The condition of this recognizance is such, that whereas said — — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of —, a competent witness in civil suits, charging him, said — —, with having at —, in the said county of —, on the — day of —, 19—, kept and deposited certain intoxicating liquors in —" (here describe the place where the same are deposited) "with intent to sell the same in said —, in violation of law; said — — not being then and there authorized

or appointed to sell the same in said —, and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said — arrested thereon; and said — having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to —. And said —, having appealed from said sentence to the supreme judicial or superior court, next to be held at —, within and for said county of —, on the — Tuesday of —, in the year of our Lord nineteen hundred and —:

Now therefore, if said — shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

—, *Trial Justice.*"

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*Form of libel.*

STATE OF MAINE.

—form of  
libel.

"County of —, ss.—To A. B., a trial justice, in and for said county: The libel of C. D., of —, shows that he has, by virtue of a warrant duly issued by —, esquire, a trial justice in and for said county, seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: —" (here follows a description of the liquors,) "because the same were kept and deposited at —" (describing the place) "in the said county of —, and were intended for sale within the state, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at —, in said county, this — day of —, in the year of our Lord nineteen hundred and —.

(Signed.)

—, —."

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*Form of monition and notice.*

STATE OF MAINE.

—form of  
monition and  
notice.

"County of —, ss. [L. s.] To all persons interested in —" (here insert the description of the liquors, as in the libel),

"The libel of C. D., hereunto annexed, this day filed with me, A. B., esquire, a trial justice in and for said county, shows that he has seized said liquors and vessels, because" (insert as in the libel), "and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, at —, in said county, on the — day of —, 19—, and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at —, on the — day of —, in the year of our Lord nineteen hundred and —.

—, *Trial Justice.*"

## CHAPTER 28.

## APOTHECARIES, AND THE SALE OF POISONS.

SEC. 1. No person shall within the limits of the state conduct the business of an apothecary or any part thereof, or display any drugs, medicine, drug store fittings or furnishings or any sign recognized as peculiar to a drug store to give the appearance of any apothecary store, or claim to be or represent himself to be an apothecary, except as hereinafter provided.

Business of apothecaries regulated. 1899, c. 96, § 1.

SEC. 2. A board of commissioners of pharmacy consisting of three suitable persons, shall be appointed, and may be removed for cause, by the governor with the advice and consent of the council. The terms of office of said commissioners shall be so arranged that one member of said board shall be appointed annually for a term of three years from the first day of December in each year. Vacancies caused by death, resignation, removal, or inability to perform the duties of the office shall be filled by appointment for the unexpired term. *Before entering upon the duties of their office, the commissioners shall be sworn to the faithful and impartial discharge of the same, and a record shall be made thereof on their commission.*

Commissioners of pharmacy, appointment of. 1899, c. 96, § 2.

—tenure.

—vacancies, how filled.

—to be sworn. See Const. of Me. Art. ix, § 1.

SEC. 3. The members of said board shall meet on the second Wednesday of December in each year at such time and place as they may determine, and shall *immediately proceed to* organize by electing from their number a president and secretary, who shall hold their respective offices for the term of one year, and shall give to the treasurer of state a bond with sufficient sureties, to be approved by the governor and council, for the faithful discharge of the duties (there) of *his office*. The said board shall hold three regular meetings in each year, one on the second Wednesday of December, one on the second Wednesday of April and one on the second Wednesday of August, and such additional meetings at such times and places as they shall determine.

Meetings. 1899, c. 96, § 3.

—election of president and secretary.

—bond to state treasurer.

—regular meetings, when held.

SEC. 4. The board shall keep a record of the names of all persons examined and registered hereunder, and a record of all moneys received and disbursed by said board, a duplicate of which records shall always be open to inspection in the office of the secretary of state. Said board shall make to the governor and council on or before the first day of January in each year a report stating the condition of pharmacy in the state, with a full and complete record of all its official acts during the year, and the receipts and disbursements of the board. *The governor and council are hereby authorized to have published as many copies of said report as may be deemed necessary.*

Shall keep record of persons examined and money received. 1899, c. 96, § 4.

—report annually.

See c. 2, § 110.

SEC. 5. Said board shall hear all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made in writing under oath, shall set out the offense alleged, and shall be made within sixty days after the act complained of has been committed. The person against whom complaint is made, shall be notified of the charge made against him and of the time and place when and where the matter will be heard, at least fourteen days before the date fixed for the hearing. He may then and there appear before the board with his witnesses and be heard by counsel. Either member of the board may administer oaths to the witnesses at such hearings, and any person so sworn who wilfully swears or affirms falsely respecting any matter upon which his testimony is required shall be deemed guilty of perjury. Said board may send for persons and compel the attendance of witnesses at said hearings by process duly served.

Complaints against registered apothecaries. 1899, c. 96, § 5.

—notice and hearing.

—oaths may be administered by any member.

Penalty if person complained of, is guilty.  
1899, c. 96, § 6.

Shall examine apothecaries entering business, and issue certificate.  
1899, c. 96, § 7.  
77 Me., 462.

—If applicant is rejected, may be again examined.

—certificates shall be displayed in shop.

Certificate of two grades may be issued.  
1899, c. 96, § 8.

—applicant must not be less than 18 years of age.

Shall pay an annual registration fee.  
1899, c. 96, § 9.

—penalty for failure to renew registration.

—fees, how disposed of.

No registered apothecary shall permit use of his name.  
1899, c. 96, § 10.  
Unlawful to keep for sale, or to compound physi-

SEC. 6. If the full board sitting at such hearing shall find that the person complained against is guilty of the acts charged against him, said board may suspend his registration as a pharmacist and his certificate thereof, for such term as the board in their judgment, after due consideration of the facts, may deem for the best interest of the public, or may revoke it altogether, but the certificate of registration of a registered pharmacist shall not be suspended or revoked for a cause punishable by law until after conviction by a court of competent jurisdiction.

SEC. 7. Every person not *now* (already) registered, entering on the business of an apothecary, *by* (upon) the payment of the fee of ten dollars, to the secretary of said board, except as hereinafter provided, shall be examined by said commissioners, and shall present to them satisfactory evidence that he has been an apprentice, or employed in an apothecary store where physicians' prescriptions are compounded, at least three years; or has graduated from some regularly incorporated medical college or college of pharmacy, and is competent for the business; the commissioners may give him a certificate of that fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two commissioners. In case the result of the examination is unsatisfactory, and no certificate is granted, the applicant shall have the right to another examination without charge, after an interval of two months, and within twelve months after the date of his first examination. Only one of the partners in a firm need be a registered druggist, *provided*, the partner who compounds medicines be registered. All certificates issued under the provisions of this chapter shall be constantly displayed, in a conspicuous place, in the store or shop of the persons to whom the same were issued.

SEC. 8. Certificates of two grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than eighteen years of age and who have passed the junior year in a college of pharmacy or in a department of pharmacy in any incorporated college, or served two full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary, and the fee for such assistant's examination shall be five dollars.

SEC. 9. Every registered apothecary or qualified assistant who desires to continue the business of an apothecary shall annually thereafter, during the time he shall continue such business on such date as said board may determine, pay to the secretary of said board a registration fee to be fixed by said board, but which shall in no case exceed, if a registered apothecary, one dollar, if a qualified assistant, fifty cents for which he shall receive a renewal of said registration; and he shall not continue in such business after the date set by said board for said renewal unless he shall have complied with the requirements of this section. Any registered apothecary or qualified assistant, who shall fail to obtain a renewal of registration as herein provided within three years after the date set by said board for said renewal, shall forfeit the right thereto. The fees paid to said board by virtue of this section may be used by said board for the detection and prosecution of violations of this chapter.

SEC. 10. No registered apothecary shall suffer or permit the use of his name or certificate of registration in the conduct of business of pharmacy when he himself is not actively engaged in such business in the store where his certificate is displayed.

SEC. 11. No store shall be kept open for the sale of medicines or poisons, or for compounding physicians' prescriptions, nor shall drugs or medicines be exposed or displayed for sale in any store, except as other-

wise provided herein, unless the same is placed and kept under the personal control and supervision of a registered apothecary or qualified assistant, but such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary.

SEC. 12. Whoever engages in or is found in charge of or carrying on a business, or displays any drugs, medicines, drug store fittings or furnishings, or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claims to be or represents himself to be an apothecary, contrary to the provisions of this chapter, shall be subject to a penalty of fifty dollars a month for the first offense, and one hundred dollars a month for each and every subsequent offense, whether for continuance in said business or for engaging anew therein in violation of the provisions of this chapter. The county attorney in each county upon complaint made by any one of said commissioners shall prosecute all violations of the provisions of this chapter.

SEC. 13. The provisions of this chapter shall apply to women who enter upon and carry on the business of apothecaries. This chapter shall not apply to physicians who prepare and dispense their own medicines, nor to the sale of non-poisonous domestic remedies and patent or proprietary preparations usually sold by grocers and others.

SEC. 14. Any person may enter upon the business of an apothecary without the certificate required by this chapter; *provided*, he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up and dispensing medicines and drugs under the provisions hereof.

SEC. 15. Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be fined not less than five dollars, nor more than one hundred dollars.

SEC. 16. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicine shall be forfeited, and destroyed under the direction of the court.

SEC. 17. Whoever sells arsenic, arsenious acid, atropia or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, laudanum, McMunn's elixir, morphia or any of its salts, sugar of lead, oil of savin, oil of tansy, opium, Parson's vermin exterminator, phosphorus, prussic acid, rough on rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, crystals of carbolic acid or a strong solution of carbolic acid, without the written prescription of a physician, shall keep a record of such sale, the name and quantity of the article sold, and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article is delivered, and shall at all times be open to inspection by the police authorities and officers of cities and towns; but no sale of cocaine or its salts shall be made except to dentists or on the prescription of a physician. Whoever neglects to keep or refuses to show to said officers such record shall be punished by fine not exceeding fifty dollars. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper, upon which shall be printed in large letters the word "poison," and also the word "antidote," and the name and place of business of the vender. The name of an antidote, if there be any, for the poison sold, shall also be

cians' prescriptions, unless by registered apothecary.  
1899, c. 96, § 11.

Penalty for falsely claiming to be an apothecary.  
1899, c. 96, § 12.

Chapter shall apply to women.  
—shall not apply to physicians who dispense their own medicines.  
1899, c. 96, § 13.  
Any person may conduct the business, by employing registered apothecary.  
1899, c. 96, § 14.  
Penalty for using drugs not named in physicians' prescription.  
1899, c. 96, § 15.

Penalty for adulterating drugs and selling the same.  
1899, c. 96, § 16.

Sale of poisonous drugs without prescription from a physician, regulated.  
1899, c. 96, § 17.

—shall keep record of such sales.

—penalty for not keeping record.

—label on poisonous articles, without prescription, must show the word "poison" and the antidote.



—penalty for neglect to affix label.

—§ 17 does not apply to wholesale dealers, chemists, or firm selling in unbroken packages, Paris green, London purple, etc.  
—word poison, shall appear on every package.  
—penalty.

Registered apothecaries, their duties and restrictions.  
R. S., c. 28, § 5.  
—no liquors to be sold.

Sale of opium restricted.  
1887, c. 124.

—penalty.

Poisons not to be deposited near highways or improved lands.  
R. S., c. 28, § 8.  
—penalty.

upon the label. Every neglect to affix such label to such poisonous article sold before the delivery thereof to the purchaser shall be punished by a fine not exceeding fifty dollars. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vender shall be punished by fine not exceeding fifty dollars. But nothing in this section shall be construed to apply to wholesale dealers or to manufacturing chemists in their sales to retail trade, nor to the general merchant, nor to a firm or corporation in trade, who may sell in unbroken packages prepared by the manufacturers, Paris green, London purple or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars or worms. Upon each and every package so sold shall be printed in large letters the word "poison." Every neglect to affix such label with the word poison thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by fine not exceeding fifty dollars.

SEC. 18. Apothecaries registered as herein provided, may keep, under such restrictions as the legislature may impose, all medicines and poisons authorized by the United States Dispensatory and Pharmacopœia as of recognized medicinal utility; *provided*, that nothing herein contained authorizes the sale of intoxicating liquors.

SEC. 19. No person except a registered apothecary, or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine or laudanum. Whoever violates this section shall be punished by a fine of not less than five, nor more than fifty dollars for each offense, to be recovered by complaint or indictment.

SEC. 20. Whoever for the purpose of killing wolves, foxes, dogs or other animals, and not for the destruction of insects or vermin in a building, leaves or deposits any arsenic, corrosive sublimate, nux vomica, strychnine, or prussic acid within two hundred rods of a highway, pasture, field or other improved land, shall be fined not less than twenty, nor more than fifty dollars; or be imprisoned not less than thirty, nor more than sixty days.

## CHAPTER 29.

## PUBLIC EXHIBITIONS AND AMUSEMENTS.

## PUBLIC EXHIBITIONS.

SEC. 1. Whoever, for money or other valuable article, exhibits any images, pageantry, sleight of hand tricks, puppet show, circus, feats of balancing, wire dancing, personal agility, dexterity, or theatrical performances, without a license therefor as hereinafter provided, forfeits, for every offense, not more than one hundred, nor less than ten dollars; but this prohibition does not extend to any permanently established museum.

Penalty for pageantry, etc., without a license.  
R. S., c. 29, § 1.

SEC. 2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving for their town such sum as they deem proper; twenty-four hours being allowed for each exhibition or performance; and they shall prosecute, by *action of debt, in the name and* (complaint) for the use of their town, all violators of the preceding section.

Licenses, how granted; fee.  
R. S., c. 29, § 2.

## BOWLING ALLEYS AND BILLIARD ROOMS.

SEC. 3. Whoever keeps a bowling alley, pool, bagatelle, or billiard room without a license, forfeits *to the prosecutor* ten dollars for each day that such alley or room is so kept, *to be recovered upon complaint or by indictment.*

Penalty for keeping unlicensed alleys and billiard rooms.  
R. S., c. 29, § 3.  
30 Me., 74.  
Town officers may license alleys and billiard rooms.  
R. S., c. 29, § 4.

SEC. 4. Municipal officers of towns may license suitable persons to keep bowling alleys, pool, bagatelle, and billiard rooms therein, in any place where it will not disturb the peace and quiet of a family, for which the person licensed shall pay ten dollars to such town; such licenses expire on the first day of May after they are granted, unless sooner revoked.

SEC. 5. Every person so licensed shall at the time he receives his license, give bond to the town with two good and sufficient sureties, in not less than one hundred dollars, conditioned that he will not permit gambling or drinking of intoxicating liquors in or about his premises; or any minor to play or roll therein without the written consent of his parent, guardian or master; or his alley, pool, bagatelle, or billiard room to be opened or used between ten o'clock in the evening and sunrise.

Keepers of alleys, etc., to give bond.  
R. S., c. 29, § 5.  
—conditions.

SEC. 6. On proof that any person, so licensed, has violated any condition of his bond, said officers shall revoke his license and enforce payment of his bond to their town; and no such person shall afterwards be licensed therein for such purpose.

Bond violated, license to be revoked, etc.  
R. S., c. 29, § 6.

SEC. 7. The keeper of any bowling alley, pool, bagatelle, or billiard room, who violates *section five*, (any condition of his bond,) forfeits ten dollars for the first offense, and twenty dollars for each subsequent offense; and any marshal, sheriff, police or other officer may at any time enter said alley, pool, bagatelle, or billiard room or rooms connected therewith, to enforce this or any other law; and whoever obstructs his entrance forfeits not less than five, nor more than twenty dollars. *The penalties provided in this section may be recovered by complaint, indictment or action of debt to the use of the prosecutor.*

Penalties.  
R. S., c. 29, § 7.  
30 Me., 78.

—officer may enter at any time.

—penalty for obstructing officer's entrance.

SEC. 8. Any person licensed to own, keep and operate a bowling alley or bowling alleys, under the provisions of this chapter, may be granted permission by the municipal officers of the town or city where such alley or alleys are situated, to keep the same open to the public until midnight, when in the opinion of such municipal officers no person or persons residing in the immediate neighborhood will be disturbed thereby. (In such case the condition of the bond required by section five shall be varied accordingly.)

Licensed bowling alleys may be kept open until midnight.  
1901, c. 194.

## ROLLER SKATING RINKS.

Keepers of skating rinks shall obtain license from municipal officers.  
1885, c. 338, § 1.  
—fees.  
—penalty.

Hours for closing rinks, fixed.  
1885, c. 338, § 2.  
—penalty.

SEC. 9. Every person who keeps a roller skating rink or room, shall obtain a license from the municipal officers of the city or town where such rink is located and shall pay therefor such sum as said municipal officers may deem proper. Any person keeping a roller skating rink without such license, shall be fined ten dollars for each day it is so kept, *to be recovered by complaint, indictment, or action of debt, to the use of the prosecutor.*

SEC. 10. Every person so licensed shall keep such rink closed between ten o'clock in the evening, and sunrise, unless express permission in writing, to keep it open a longer time, is obtained from the municipal officers of the city or town where such rink is located. Any person violating this section, shall be fined ten dollars for every such offense, *to be recovered as provided in the preceding section.*

## STEAM RIDING GALLERIES.

License required for operating merry-go-round, etc.  
1899, c. 59, § 1.

Penalty for operating without license.  
1899, c. 59, § 2.

Jurisdiction of offenses.  
1899, c. 59, § 3.

SEC. 11. Any person intending to operate or run a merry-go-round or steam riding gallery, in any town, shall first procure a license therefor from the municipal officers of such town, who may grant such license if they see fit, upon payment therefor of a sum not exceeding fifty dollars.

SEC. 12. Whoever operates or runs a merry-go-round or steam riding gallery in any town without such license shall be fined five dollars for each and every day that he so operates or runs such merry-go-round or steam riding gallery.

SEC. 13. Municipal and police courts and trial justices, in their respective counties, shall have jurisdiction of all offenses arising under *the two preceding sections*. (this chapter. And all penalties herein provided shall be recovered by complaint for the use of the town where incurred.)

Note. Exhibitions of reproduction of prize fights prohibited, c. 123, § 17.  
Immoral exhibitions prohibited, c. 123, §§ 18-19.

## CHAPTER 30.

## INLAND FISHERIES AND GAME.

## REGULATION OF INLAND FISHING.

Close time for landlocked salmon, trout and togue.  
1899, c. 42.  
87 Me., 493.

—waters excepted, St. Croix river.

—Kennebec county.  
75 Me., 290.  
84 Me., 444.  
—Franklin county.  
Special laws.  
1901, c. 326, § 3.

—close time for white perch.

—penalty.

SEC. 1. There shall be an annual close time for landlocked salmon, trout, togue, and white perch, as follows: for landlocked salmon, trout, and togue, from the first day of October until the ice is out of the pond, lake or river fished in the following spring of each year, except on the St. Croix river and its tributaries, and on all the waters in Kennebec county, in which the close time shall be from the fifteenth day of September until the ice is out of the ponds and lakes the following spring, and in Franklin county, in which the close time shall be from the first day of October till May first; but for white perch, the close time shall be from the first day of April to the first day of July. No person shall take, catch, kill, or fish for in any manner, any landlocked salmon, trout, togue, or white perch in any of the waters of this state in close time, under a penalty of not less than ten dollars nor more than thirty dollars, and a further fine of one dollar for each fish thus caught, taken, or killed; *provided, however*, that any person lawfully trolling for trout, landlocked salmon, or togue, in good faith, who shall accidentally hook or catch a white perch may lawfully keep the same; and *provided*, that during February, March

and April, citizens of the state may fish for and take landlocked salmon, trout and togue, with not more than five set lines for each family, when fishing through the ice in the day time, and when under the immediate personal superintendence of the person fishing, and may convey them to their own homes for consumption therein, but not otherwise; but no citizen of the state during this time shall be permitted to catch more than twenty pounds, or one fish, of landlocked salmon or trout, or more than forty pounds, or one fish, of togue in any one day.

The provisions of this section pertaining to fishing through the ice shall not apply, however, to any of the lakes or ponds lying wholly or in part in the counties of Oxford, Franklin, Kennebec, and Somerset, except the following named lakes and ponds situated wholly or partly in Oxford county, namely: North and Bird ponds in the town of Norway, the Five Kezar's, Moose, Bear, Long, Two Speck, Pappoose, and McWain ponds in the town of Waterford, Kneeland, Burnt Land, Songo, and Crooker ponds in the town of Albany, Proctor pond in the towns of Albany and Stoneham, Upper Stone, and Horse Shoe ponds in the town of Stoneham, Bradley, Dresser, Farrington, and Slab City ponds in the town of Lovell, Moose, Beaver, Long, Grandeur and Little Ponds in the town of Denmark, Lower Kezar, Lovewell's, Clay, Haley, Charles, Pleasant, Lower Kimball and Bog ponds lying wholly or partly in the town of Fryeburg, Rattle Snake and Burnt Meadow ponds in the town of Brownfield, Moose and Mud ponds in the town of Paris, Indian, Round and Twitchell ponds in the town of Greenwood, Hogan and Whitney ponds in Oxford, the two Clemons ponds, Middle, Barker and South East ponds in Hiram, Bungamuck pond in Hartford, Keyes and Stearns ponds in Sweden, Bickford, Long and Colcord ponds in Porter, and North pond in Greenwood and Woodstock; also excepting the following named lakes and ponds situated wholly or partly in Kennebec county, namely: all of the ponds and lakes situated wholly or partly in the town of Sidney, Cochnewagon pond in Monmouth, Dexter, Berry, Ford, Pickerel and Wayne ponds, situated wholly or partly in the town of Wayne, also all of the lakes or ponds situated in Readfield with the exception of Lake Maranocook, also all of the lakes and ponds situated wholly or partly in the town of Litchfield with the exception of Jimmy pond, so called, also all the lakes and ponds situated on the east side of the Kennebec river in Kennebec county with the exception of Three Mile pond, so called, in China, Windsor, and Vassalboro, in which last named pond it shall be lawful to catch pickerel on Saturdays only of each week, also Horseshoe pond in West Gardiner; but nothing herein shall be construed as permitting ice fishing at any time in Lake Cobbosseecontee, situated partly in Monmouth, Winthrop, Manchester, West Gardiner and Litchfield; also excepting the following named lakes and ponds lying wholly or partly in Somerset county, namely: Moosehead lake; Ellis, Round and Ten-thousand-acre ponds in township number one in the sixth range, west of Kennebec river of the Bingham's Kennebec Purchase, and known as the Ten-thousand-acre township, Rowell pond in Solon, Smith pond in Cornville, Pickerel pond in Flagstaff, Gilman pond in Lexington, Pierce pond in township number two, range four, Sibley pond in Canaan, Morrill pond in Hartland, Fahi and Sandy ponds in Embden, Wyman and Weeks' ponds in Brighton, Moose, Mud, Starbird and Stafford ponds in Hartland, Indian pond in Saint Albans, White and Douglass ponds in Palmyra, Hancock pond in Embden, Gammon pond situated partly in Franklin and partly in Somerset county; Cold stream pond in Enfield, Lincoln and Lowell in Penobscot county; Narraguagus pond in Beddington in Washington county; in all of which lakes and ponds so excepted, the citizens of the state may fish for through the ice, and take fish under the same restrictions and in the same manner, but not otherwise, as is above provided for fishing through

—regulation of ice fishing.  
1901, c. 146.

—exemption of certain waters from provisions as to ice fishing.

—special provision as to certain waters in Oxford county.

—special laws.  
1901, c. 326, § 1.

—special provision as to certain waters in Kennebec county.

—special laws.  
1901, c. 329.

—special provision as to certain waters in Somerset county.

—special laws.  
1901, c. 379, § 1.

—certain ponds in Androscoggin county.

—Cumberland county.

—Hancock county.

—special provision as to Green Lake, 1901, c. 289, § 2.

—Knox county.

—special provision as to certain waters in Piscataquis county.  
—special laws. 1901, c. 230, § 1.

—special provision as to Boyd lake.  
—special laws. 1901, c. 484.

—York county.  
—special laws. 1901, c. 447.  
1901, c. 236.

—Lincoln county.

—Penobscot county.

—penalty.

—certain ponds and streams closed to fishing.

—Androscoggin county.

—Aroostook county.

—Cumberland county.

the ice in lakes and ponds; nor to Allen pond, so called, in the town of Greene, to Lake Auburn in Auburn, or Brettun's pond in Livermore, all in Androscoggin county; nor to Sabbath Day pond, situated in New Gloucester, nor to Thomas pond, situated in the towns of Raymond and Casco, in the county of Cumberland; nor to Noyes' pond, Green lake, Eagle lake, Bubble pond, sometimes called Turtle lake, on the island of Mt. Desert, Crocker pond in township thirty-two, Middle Division, Jordan pond, Long pond, Pickerel pond, in township thirty-two, Middle Division, all in the county of Hancock, except that it shall be lawful to fish through the ice in Green lake during the months of February, March and April, on Fridays and Saturdays of each week of each year, in the manner provided in this section for fishing through the ice; nor to Crystal lake, in Washington, in the county of Knox, nor to any of the lakes or ponds lying wholly or partly in the county of Piscataquis, except the following named lakes and ponds, namely: Boyd lake, Seboeis lake, Cedar lake, Ebeeme ponds, Schoodic lake, North and South Twin lakes, Pamadumcook lake, Ambajeus lake, Debsconeag lake, Nahmakanta lake, Chesuncook lake, Sebec lake, First Buttermilk pond, Big Benson pond, Big Huston pond, Center pond in Sangerville, Moosehead lake, Jo Mary lake, Caribou lake, Lobster lake, Chamberlain lake, Telos lake, Webster lake, Eagle lake, Allegash lake, Munsungan lake, Millinockett lake, Caucongomoc lake, Churchill lake, Chemquassabanticook lake, Grand lake, Second lake, Ragged lake, Pepper pond, Whetstone pond, in all of which lakes and ponds so excepted, the citizens of the state may fish for, and take fish under the same restrictions and in the same manner as is above provided for fishing through the ice in lakes and ponds; and in Boyd lake, above named, any citizen of the state may fish through the ice for pickerel during the months of December and January, in addition to the time stated above; nor to Messabesic pond, called Shaker pond, and its outlet as far down the stream as the mill dam of Littlefield Brothers, nor to Middle Branch pond, in the towns of Alfred and Waterboro, nor to Littlefield's pond in Sanford, nor to Bonneg Beg pond, situated partly in North Berwick and partly in Sanford, nor to "L" pond, situated partly in Sanford and partly in Wells, all in the county of York; nor to Dyer's pond in the town of Jefferson, in the county of Lincoln; nor to Dexter pond in the town of Dexter, in Penobscot county; in all of said lakes and ponds to which the provisions of this section pertaining to fishing through the ice are not applicable, no person shall fish through the ice for any kind of fish at any time except as hereinafter provided, under a penalty of not less than ten dollars nor more than thirty dollars for each offense, and a further penalty of one dollar for each fish thus taken, caught or killed.

No person shall under the same penalty fish for, take, catch, or kill any fish at any time, except as hereinafter provided, in the tributaries of any of the following named ponds, lakes and streams, namely: the following named ponds, lakes and streams of Androscoggin county: Lake Auburn, or Wilson's pond, and all that part of the waters of said Lake Auburn and Townsend brook, so called, that lie north of the road leading from the Turner road, so called, to North Auburn village and crossing said Townsend brook, shall be considered as tributary waters of said Lake Auburn; Townsend brook within one hundred feet from the culvert at the mouth, during September of each year; Taylor pond in the city of Auburn; Brettun's pond in the town of Livermore; and Big Bear pond situated partly in Turner; the following named ponds, lakes and streams of Aroostook county: the inlet streams of Squaw Pan lake from Thibadeau's landing to the source of said stream, said stream being in township eleven, range four; and the tributaries to Madawaska lake in townships fifteen and sixteen, range four; the following named ponds, lakes and streams of Cumberland county: the tributaries to Sabbath Day pond, in the town of New Gloucester; the tributaries to Sebago lake, except Crooked and Northwest

rivers; the tributaries of Duck pond; the tributaries to Anonymous pond, in the town of Harrison; Royal river from Sabbath Day pond to Jordan's dam; the tributaries to Thomas pond in the towns of Raymond and Casco; Greely brook and tributaries in the towns of Oxford, Norway and Otisfield; and *Hancock pond in Sebago and Denmark, or any if its tributary brooks, for a period of two years*; the following ponds, lakes and streams of Franklin county: the tributaries to Webb's pond in the town of Weld, except Alder brook down as far as the mill dam at Hildreth's mills; the tributaries to Tufts and Dutton ponds in township two, range four, west of Bingham's Kennebec Purchase; the outlet of the same from Dutton pond to Reid's falls and from Tufts pond to Alder stream; the tributaries to Rangeley lake and Ross pond; Rangeley stream from the lower wharf at the outlet of Rangeley lake down to the dead water at the upper end of the eddy and from the upper end of the eddy to the mouth of Kennebago stream, from July first to May first; Kennebago stream between the foot of the first falls near its mouth to the upper falls at the outlet of the lake, between July first and May first; Cupsuptic stream, tributary to Cupsuptic lake, above the first falls near its mouth, between the first day of July and May; South Bog stream up to the first quick water, from July first to May first; the stream connecting Long pond and Rangeley lake, from July first to May first; Bemis stream, tributary to Mooselucmaguntic lake; Whetstone brook, which flows into Kennebago stream from the foot of the boulders, so called, in said stream, to the foot of the falls at the outlet of Kennebago lake; Metalluc and Mill brooks which flow into the Upper Richardson lake; the tributaries to Wilton pond in the town of Wilton; the tributaries of Varnum and North ponds in the towns of Temple and Wilton, and of Clearwater pond in the towns of Farmington and Industry; the tributaries of Long pond and Sandy river pond, lying wholly or in part in Sandy river plantation; Lufkin pond and its tributaries, in the town of Phillips; the tributaries to Four ponds in townships E and D; the tributaries to Tim and Mud ponds, in township two, range four, west of Bingham's Kennebec Purchase, and Webb's river above Goodwin Brothers' mill dam, in Carthage; the following named lakes, ponds and streams of Hancock county: the tributaries to Noyes' pond in Bluehill; Green lake in the towns of Dedham and Ellsworth; Eagle lake in the town of Eden; Bubble pond, sometimes called Turtle lake, on the island of Mt. Desert; Jordan pond; and Long pond; the following named lakes, ponds and streams in Kennebec and Somerset counties: the tributaries to all lakes and ponds lying wholly or partly in the towns of Winthrop, Monmouth, Litchfield, Manchester and Wayne; Three Mile pond in China, Windsor and Vassalboro; and McGraw, Ellis, East, North, Great, Long, Little and Snow ponds; the tributaries to Dyer's pond in the town of Jefferson in Lincoln county; the following named lakes, ponds and streams in Oxford county: the tributaries to Anasagunticook lake, or Whitney pond, in Canton and Hartford; Little Bear pond in Hartford and Turner; Howard's pond in Hanover; Magalloway river and its tributaries between the mouth of Little Magalloway river and the Berlin Mills Company's dam; Lake Pennesseewassee and Little Pennesseewassee; and any of the streams which are tributary to Pennesseewassee lake in Norway, or Great and Cold brooks, tributaries to Upper Kezar pond, in Lovell, and the tributaries to Great and Cold brooks, and the tributaries of Upper and Lower Stone ponds in Stoneham; the tributaries to Roxbury pond and Garland pond; Rapid river from the swing bridge at the Oxford Club House to Lake Umbagog; Songo pond in Albany; Sand and Pickerel ponds in Denmark; and upper Kezar pond in the towns of Stoneham and Lovell; the following named ponds, lakes and streams of Piscataquis county: Lake Hebron, otherwise known as Hebron pond; Twin Doughty pond (in Monson), Ship pond and Bear pond, in Elliottsville township; the brook that is the outlet of Garland

—special laws.  
1901, c. 315.

—Franklin  
county.

—Hancock  
county.

—Kennebec  
and Somerset  
counties.

—Lincoln  
county.

—Oxford  
county.

—special laws.  
1901, c. 325, § 2;  
c. 336.

—Piscataquis  
county.

—special laws.  
1901, c. 230, § 2.

—special laws.  
1901, c. 368.

—special laws.  
1901, c. 229.

—Penobscot  
county.

—Somerset  
county.

—special laws.  
1901, c. 379,  
§§ 2, 3, 4, 5.  
P.L. 1901, c. 288.

—Knox  
county.

—Washington  
county.

—York  
county.

Special pro-  
visions as to  
certain  
waters.

—special laws.  
1901, c. 291.

—number of  
catch limited.

—unlawful to  
fish for pick-  
erel in Three  
Mile pond,  
China, except  
on Saturday.  
—black bass  
and pickerel  
protection of,  
in certain  
waters in Ox-  
ford county.

pond in Sebec; the tributaries to Lake Onawa; Sebec lake and the tributaries to Moosehead lake, excepting Moose river, and the commissioners shall establish by metes and bounds the mouths of all the tributaries to Moosehead lake; Davis stream in Willimantic; Monson pond stream which is a tributary to Davis stream; Vaughn stream which is a tributary to Long pond stream; lower Wilson pond, upper Wilson pond, Prong pond and Horseshoe pond, being the upper waters of Wilson stream, and all the tributaries of said ponds, from October first to July first of each year for five years from March fifteen, nineteen hundred and one; Wilson river between Wilson pond and Toby Falls in Willimantic from the first day of October to the fifteenth day of the following May of each year; the tributaries to Dexter pond in the town of Dexter, in Penobscot county; the following named ponds, lakes and streams in Somerset county: the tributaries to Parlin, or Lang pond; Parlin, or Lang streams and their tributaries; or in the tributaries to lake George; or in Barret brook and its tributaries, in the town of Holeb in township six; or in Beaver brook in the town of Holeb; the brooks forming the outlet of Fish pond and Little Fish pond, and of Little Gulf stream and Big Gulf stream; Wood stream in Forsythe plantation, above its entrance into Big Wood pond; *the tributaries to Roxell pond in Solon and Smith pond in Cornville*, Hayden lake in the town of Madison; Mosquito stream an inlet of Moxie pond in the Forks plantation, and East Moxie and Bald Mountain townships, in Somerset county, to low water mark in said Moxie pond; Misery stream, an inlet of Brassua lake; Great Embden pond; and Moose pond in Hartland and Harmony, except Main stream; and west outlet of Moosehead lake; the following named ponds, lakes and streams in Knox county: the tributaries to Canaan lake; Lermond's and Alford's ponds; the tributaries to Norton pond; and the tributaries to Crystal lake; the tributaries to Lake Narraguagus and Lambert lake in Washington county, and the tributaries to Bonneg Beg pond in Sanford and North Berwick, in York county.

No person shall under the same penalty, fish for, catch, or kill any fish in Quimby pond in the town of Rangeley, except in the ordinary way of angling with rod and artificial flies, between sunrise and sunset of each day, from the fifteenth day of May to the first day of October; or fish for in any way, or catch any fish of any kind in the Seven ponds, so called, the Seven ponds stream, so called, Little Kennebagog lake, so called, and the stream flowing out of said Little Kennebagog lake to the dam at the head of Kennebagog falls, also the stream flowing out of Kennebagog lake, commencing four rods above the Berlin Mills Company's bridge and continuing down said stream to its junction with the stream flowing from Little Kennebagog lake, situated in the county of Franklin, except in the ordinary method of casting with artificial flies, or fly fishing; and no person shall take more than twelve fish in said Quimby pond in any one day, nor more than twenty-five fish in any one day in Four ponds in townships E and D, or fish, except with artificial flies, in South Bog stream and pool, so called, waters connected with Rangeley lake, or in Seven ponds, so called, or take, catch, or kill more than twenty-five trout from Tim and Mud ponds, in township two, range four, west of Bingham's Kennebec Purchase, or from Tufts and Dutton ponds in the same township in any one day, or take from the waters of Varnum or North pond in the towns of Temple and Wilton, and Clearwater pond in the towns of Farmington and Industry, more than three trout, togue, and land-locked salmon in all, in any one day. No persons shall fish for or catch pickerel in Three Mile pond in China, Windsor, and Vassalboro, except on Saturdays of each week, for consumption in the family of the person taking such fish; or take any black bass, pickerel, or any other fish from the lower Kezar pond and its tributaries, in the county of Oxford, for the purpose of selling the same, but any person may take twenty pounds of fish in one day from said lower

Kezar pond, but shall not transport the same, except in possession of the owner; or fish for, take, or catch any fish, from Ward's brook, Ward's pond, and Walker's pond, so called, in Oxford county, except between the first days of May and August of each year, or fish therein except with rod and single line and artificial flies; or fish for, catch, or kill any fish in Ellis river and its tributaries, situated in Andover, Andover West, North Surplus and Roxbury, in townships C and D, in Oxford and Franklin counties, except on Tuesdays, Thursdays, and Saturdays, during the months of May, June and July, and to the fifteenth day of August; or take, catch or kill, at any time any kind of fish, in any of the ponds lying on Saddleback mountain, or the outlet to the same flowing into Dead River pond or Rangeley lake, or in any of the tributaries emptying into said outlet or in Salmon lake, formerly known as Gull pond situated in Dallas plantation, in Franklin county, except in open season, and not in open season except in the ordinary method of casting with artificial flies; or in Ship Pond stream above Buck's falls; or in Little Huston pond, in Katahdin Iron Works township, except with artificial flies; or fish for, take, catch or kill any blue back trout in any of the waters of the state at any time; or fish for, take, catch, or kill any trout in any of the waters lying wholly or partly in the county of Hancock, for sale, or sell either directly or indirectly any trout in said county of Hancock; or catch any trout in Tufts, Dutton or Grindstone ponds, or their tributaries, in the town of Kingfield, Franklin county, for sale; or sell any trout taken from the above named ponds or their tributaries; or fish in Grassy pond in the towns of Hope and Rockport at any time within five years from March eight, eighteen hundred and ninety-nine.

No person shall fish for, take, catch or kill at any time, any kind of fish in Ross or Conroy lakes, in Littleton and Monticello, in Aroostook county, for a period of five years from April twenty-two, nineteen hundred and one; or fish in Great Watchic pond, and its tributaries, situated in the town of Standish, in Cumberland county, from the first day of October to the first day of the following May of each year; or in Little Sebago pond, in the towns of Gray and Windham, from the first day of October to the fifteenth day of the following June of each year; or in Sandy river or in any of its tributaries from Small's falls, so called, in Madrid, in Franklin county, to Sandy river pond, for a period of four years from June first, nineteen hundred and one; or in the following named tributaries of Sandy river below said Small's falls, for the same period, namely: The north branch, called the Chandler mill stream; the south branch, called the Crossman stream; the Bowen brook; Saddleback stream that empties into Sandy river at Madrid village; and the Ben Morrison brook that flows into Saddleback stream; or in the Branch and Meadow brooks, so called, situated in the town of Thomaston and city of Rockland, in Knox county, for a period of three years from February fifth, nineteen hundred and one, and after the expiration of said three years, from the first day of July to the first day of the following June of each year; or in Pleasant pond or its inlets, situated in the town of Sumner, in Oxford county, for a period of three years from March sixth, nineteen hundred and one, and for the period of five years thereafter, except on Tuesdays, Thursdays and Saturdays of each week, and then no person shall take more than twenty-five fish in any one day; or in Lily pond, in the town of Shirley, in Piscataquis county, for the period of three years from February thirteenth, nineteen hundred and one; or in Sandy stream or any of its tributaries, or in any of the tributaries of Unity pond, situated in the town of Unity in Waldo county, for a period of three years, from April twenty-two, nineteen hundred and one, except that eels or suckers may be taken in their season; or in Bunganeaut pond, situated in the towns of Alfred and Lyman, in York county, from the first day of October to the

—close time  
for certain  
waters in Ox-  
ford and  
Franklin  
counties.

—special laws.  
1901, c. 330.

See § 39.

—trout.  
—Hancock  
county.  
—special laws.  
1901, c. 272.  
—Franklin  
county.  
—special laws.  
1901, c. 448.  
—Hope and  
Rockport in  
Knox county.  
86 Me., 149.

Special pro-  
visions as to  
close time in  
certain  
waters.  
—special laws.  
1901, c. 474.  
1901, c. 292;  
c. 328.

—Franklin  
county.  
—special laws.  
1901, c. 310.

—Knox  
county.  
—special laws.  
1901, c. 224.

—Oxford  
county.  
—special laws.  
1901, c. 321.

—Piscataquis  
county.  
—special laws.  
1901, c. 251.

—Waldo  
county.  
—special laws.  
1901, c. 316.

—York  
county.  
—special laws.  
1901, c. 237.



—Washington  
county.  
—special laws.  
1901, c. 270.

—unlawful to  
kill black bass  
less than 12  
inches long  
in certain  
waters in  
Kennebec,  
Somerset,  
Androscoggin  
and Oxford  
counties.  
1901, c. 287.

—penalty for  
violation of  
this section.

first day of the following May of each year; and no person shall fish for, take, catch or kill in any manner, any land-locked salmon, trout and togue in Grand lake stream, the outlet of Grand lake, in Washington county, and in so much of Grand lake as is one hundred yards above the dam at the outlet, from the first day of October to the first day of the following June of each year; and no person shall during the open season on said stream and one hundred yards above the dam at the outlet of said lake, fish for, take, catch or kill any fish by any other method than by the ordinary way of angling with rod and artificial flies; or fish for, take, catch or kill any fish at any time from said dam to a point one hundred yards below said dam on said stream. No person shall kill any black bass taken from any of the following named waters, *situated in the counties of Kennebec and Somerset*, which do not measure twelve inches in length, from tip of nose to tip of tail, or kill or cause to be killed more than ten black bass in all taken in any one day from any of said waters, namely: Snow pond or Messalonskee lake, Long pond,<sup>1</sup> Great pond or Belgrade lake, North pond, East pond, McGrath and Ellis pond or Richardson lake, or any of the streams flowing into or out of any of said lakes or ponds or connecting the same, *also* Annabessacook, Maranocook and Cobbosseecontee lakes, and all streams connecting the same, situated in Kennebec county; *also* Sabattus pond in Androscoggin county; *also* (and) Keoka lake in Oxford county.

Whoever violates any provision of this section shall be subject to a penalty of not less than ten dollars nor more than thirty dollars for each offense, and one dollar additional for every fish caught, taken, killed or sold in violation of any provision of this section.

[The revision of the laws relating to inland fisheries and game enacted by the legislature of 1899 (c. 42) included all special acts at that time in force relating to the subject, and such acts were incorporated in section one. The legislature of 1901 enacted twenty-eight special laws relating to inland fishing, and six special laws relating to game. Many of these special acts by express reference amended section one; others by necessary interpretation amended or modified the same section. Although the resolve authorizing this revision of the public laws does not seem to contemplate that any special acts shall be included in the report, yet the commissioner has, in this instance, felt it his duty to include in the revision of c. 30, all these special acts of 1901. With the greatest respect for the opinion of the gentleman who made the admirable revision of 1899, he suggests that special acts ought not to be included in the revised statutes. The protection of the inland fish and game interests of the state has seemed to require the enactment, from time to time, of special laws affecting particular localities; many of these laws now in force are limited as to time; some of them will expire before the meeting of the legislature following the one considering this report, and there is no reason to believe that succeeding legislatures will adopt any different policy in the matter of the enactment of special laws.

The commissioner thinks that c. 30 should properly include only the general provisions, and that the special provisions affecting particular localities should have their place among the special laws. He therefore recommends that all that portion of section one relating to special localities, beginning with the words "The provisions of this section pertaining to fishing through the ice, shall not apply however, to any of the lakes or ponds lying wholly or partly in the counties of Oxford, Franklin," etc., be omitted from the revision, retaining however, the last sentence in that section relating to the penalty for violations. These special provisions as they exist in P. L. 1899, c. 42, subject to the subsequent enactments of 1901, may be re-enacted in a special law, if the legislature approves of this suggestion.

The following special laws of 1901 are not included in this chapter:—c. 207, regulating ice fishing in Thompson pond, which expires January 21, 1903; c. 391, relating to the protection of eels in Damariscotta river and pond; c. 401, relating to the taking of salmon, alewives and smelts in Pleasant River, Washington county; c. 453, relating to the taking of salmon in the Penobscot river.

The commissioner suggests that special legislation of the character referred to may be restricted by requiring compliance with P. L. 1893, c. 257; and that sec. 30 of this chapter gives to the Commissioners of Inland Fisheries and Game ample authority to regulate or entirely prohibit for a series of years the taking of inland fish and game in specified localities.]

SEC. 2. Whoever fishes for, takes, catches, kills, or destroys any fish, with fish spawn or grapple, spear, trawl, weir, seine, trap, or set lines, except when fishing through the ice, and then with not more than five set lines in the daytime, or with any device, or in any other way than by the ordinary mode of angling with single baited hooks and lines, artificial flies, artificial minnows, artificial insects, spoon hooks and spinners, so called, shall be fined not less than ten, nor more than thirty dollars for each

Taking of fish  
with fish  
spawn,  
grapple,  
spear, trawl,  
weir, seine,  
trap or set  
lines pro-  
hibited.  
1899, c. 42.

offense; and when such prohibited implements or devices are found in use or possession, they are forfeit and contraband, and any person finding them in use, may destroy them. Any person may, however, take minnows and other bait fish, commonly used for live bait, for his own use in fishing, in any of the closed streams in this state, and take smelts for consumption in the family of the person taking them.

SEC. 3. No person shall transport more than twenty-five pounds of land-locked salmon, trout, togue, or white perch, in all, at any one time; nor shall any such be transported except in the possession of the owner thereof, plainly labeled thereon with the owner's name and residence, except as is provided in section twenty-six of this chapter; nor shall any corporation transport more than twenty-five pounds in all, of said fish, at one time, as the property of any one person; nor shall any person take, catch, kill, or have in possession in any one day more than twenty-five pounds in all, of the above named fish, (except as provided in section one as to fishing for togue through the ice.) Whoever violates any of the provisions of this section shall be punished by a fine of fifty dollars for each offense and one dollar for every pound of fish so taken or being transported, in excess of twenty-five pounds; and all such fish being so transported or taken in violation of this section may be seized and shall be forfeited to the state. Whoever has in his possession more than twenty-five pounds in all, of said fish, shall be deemed to have taken them in violation of this section; *provided, however,* that the taking of one fish additional having less than twenty-five pounds, or less than twenty pounds (of any fish except togue, or less than forty pounds of togue,) when fishing through the ice, shall not be regarded as a violation of the law.

SEC. 4. No person shall use dynamite or other explosives or any poisonous or stupefying substance whatever, for the purpose of destroying or taking fish, under a penalty of one hundred dollars and, in addition thereto, two months' imprisonment in the county jail for each offense.

SEC. 5. Whoever introduces fish of any kind into any of the waters of the state by means of live fish or otherwise, or whoever introduces wild birds or wild animals of any kind or species, into the state except upon written permission of the commissioners of inland fisheries and game, shall forfeit not less than fifty dollars nor more than five hundred dollars.

The having in possession of any jack light, spear, trawl, or net, other than a dip net, in any camp, lodge, or place of resort for hunters or fishermen, in the inland territory of the state, shall be prima facie evidence that the same are kept for unlawful use; and they may be seized by any officer authorized to enforce the inland fish and game laws. Whoever is convicted of having any of the above named implements in his possession unlawfully as aforesaid, shall be fined fifty dollars and costs of prosecution.

SEC. 6. In closed waters where eels, suckers, cusk and white fish abound, the commissioners may grant permits to take the same and dispose of them for food purposes; and where an exclusive right is granted to take eels in any river or stream or part thereof, they may grant such permit upon such terms as they deem reasonable, and such permits shall expire with the calendar year; and suckers may be taken with spears or hook and line in any closed tributaries from the time the ice goes out in the spring until June first.

#### GAME BIRDS.

SEC. 7. There shall be for game birds an annual close time in which no person shall hunt, chase, catch, kill or have them in possession whenever or however killed, as follows: For wood duck, dusky duck, commonly called black duck, teal, and gray duck the close time shall be during the months of January, February, March, May, June, July, August and December of each year; for ruffed grouse, commonly called partridge, and

—penalty.  
—prohibited implements forfeited.  
—taking of minnows and smelts, when permitted.

Transporting or taking fish limited to 25 pounds at one time, or in one day. 1899, c. 42.  
—penalty. 90 Me., 55.

—fish transported in violation of this section shall be forfeited.

—having in possession, deemed a violation.

Use of dynamite prohibited. 1899, c. 42. 1901, c. 284, § 69.

Unlawful to introduce fish, or wild birds or animals, except upon permission of commissioners. Unlawful to have in possession any jack light, spear, trawl or net. 1901, c. 222, § 4. 80 Me., 349.  
—penalty.

Commissioners may grant permits to take eels, suckers, cusk and whitefish in closed waters. 1901, c. 222, § 6.  
—lawful to take suckers from going out of the ice till June 1.

Close time for game birds. 1901, c. 258.

—on duck.

—on partridge and woodcock.

—quail.  
—plover, snipe  
and sand-  
pipers.

—penalty for  
violation.

—killing or  
having in  
possession in  
one day more  
than 15 birds,  
prohibited.  
90 Me., 223.

—killing or  
havin in pos-  
session par-  
tridge or  
woodcock, ex-  
cept for  
home con-  
sumption, pro-  
hibited.

—transportation  
of birds  
regulated.

—close time  
for caper-  
callie, etc.,  
for 10 years.  
—penalty.

Killing, etc.,  
of any wild  
bird other  
than a game  
bird or hav-  
ing in posses-  
sion the  
plumage,  
prohibited.  
—taking of  
nests and  
eggs pro-  
hibited.

—exceptions.  
—term "game  
birds" de-  
fined.  
1901, c. 142.

—penalty.

—penalty for  
killing tern.  
1899, c. 116.

Trapping or  
netting of  
wild ducks,  
quail, par-

woodcock, from the first day of December to September fifteenth next following of each year; for quail from the first day of December to the first day of October; for plover, snipe and sandpipers, from the first day of May to the first day of August of each year. Whoever violates any of the above named provisions of this section shall be subject to a penalty of not less than five dollars nor more than ten dollars for each bird so killed, caught, chased, or had in possession in close time. No person shall, in any one day, kill or have in possession more than fifteen of each variety of the above named birds, except sandpipers, the number of which shall not exceed seventy in one day, during the respective open seasons for each; nor shall any person, at any time, kill or have in possession any ruffed grouse, commonly called partridge, or woodcock, except for his own consumption within this state, except as hereinafter provided, under a penalty of five dollars for each bird so unlawfully killed or had in possession; nor shall any person at any time sell, or offer for sale, any ruffed grouse, commonly called partridge, or woodcock, within this state, under the same penalty; nor shall any person or corporation carry or transport from place to place any of the birds mentioned in this section, in close season, nor in open season unless open to view, tagged, and plainly labeled with the owner's name and residence and accompanied by him, unless tagged in accordance with section twenty-two of this chapter under the same penalty. Any person, not the actual owner of such bird or birds, who, to aid another in such transportation, falsely represents himself to be the owner thereof shall be liable to the same penalty; nor shall any person or corporation carry or transport at any one time more than fifteen of any one variety of the birds above mentioned as the property of one person, under the same penalty; and for a term of ten years from March twenty-one, nineteen hundred and one, no person shall hunt for, take, catch, kill or destroy the capercailzie, or cock of the woods, so called, black game, so called, or any species of the pheasant, except ruffed grouse or partridge, under a penalty of fifty dollars for each offense.

SEC. 8. No person shall, within the state of *Maine*, kill or catch or have in his or her possession, living or dead, any wild bird, other than a game bird, nor shall purchase, offer or expose for sale, any such wild bird after it has been killed or caught. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale. Nor shall any person within the state take or needlessly destroy the nest or the eggs of any wild bird, nor have such nest or eggs in his or her possession. The English, or European house sparrow, the common crow and the hawks and owls are not included among the birds herein protected; and for the purposes of this chapter, the following only shall be considered game birds: the anatidæ, commonly known as swans, geese, brant, and river and sea ducks; the rallidæ, commonly known as rails, coots, mud-hens and gallinules; the limicokæ, commonly known as shore birds, plovers, surf birds, snipe, woodcock, sandpipers, tatlers and curlews; the gallinæ, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quails. Nothing in this section, however, shall be construed to affect in any way the protection of game birds, as provided in sections seven and nine. Any person who violates any of the preceding provisions of this section shall be fined five dollars for each offense, and an additional five dollars for each bird, living or dead, or part of bird, or nest or eggs possessed in violation of this section, or to imprisonment for ten days, or both, at the discretion of the court. No person shall kill or have in his possession, except alive, any bird commonly known as tern, under a penalty of not less than one dollar nor more than ten dollars.

SEC. 9. Whoever, at any time or in any place, with any trap, net, snare or contrivance, other than the usual method of sporting with firearms, takes wild duck of any variety, quail, ruffed grouse, or partridge, wood-

cock, or any bird which is in any wise protected by this chapter, forfeits five dollars for each bird so taken. Whoever kills in any manner, any wild duck of any variety, on the Kennebec river, or on the shores thereof, south of the Gardiner and Randolph bridge, or on Merrymeeting bay, or the shores thereof, between sunset and the day light of morning, forfeits twenty-five dollars for each offense; and whoever hunts, kills, or destroys, any wild duck, at any time, with the aid of jack lights, so called, or any artificial light, at any time, forfeits fifty dollars for each offense; the having of firearms in possession, in the night time in the vicinity of the duck grounds in Merrymeeting bay or on the Kennebec river, south of the Gardiner and Randolph bridge, shall be prima facie evidence that the person having such firearms in possession is hunting ducks contrary to law. No person shall pursue, hunt or shoot duck or other water fowl upon the waters of lower Kezar pond, in the county of Oxford, in any launch or other craft propelled by steam, naphtha, electric or any power than by sails or hand, under a penalty of fifty dollars for each offense.

bridge, wood-cock, etc., prohibited. 1899, c. 42.

—killing of duck on Kennebec river, regulated.  
—hunting with jack-lights, prohibited.  
—hunting water fowl in lower Kezar pond regulated. S. L. 1901, c. 387.

## TAXIDERMISTS.

SEC. 10. The commissioners of inland fisheries and game may, upon application, issue a license to such persons as taxidermists, who, in their judgment, are skilled in that art, of good reputation, and friendly to the fish and game laws of the state; and may also issue licenses to suitable persons, whose numbers shall not exceed fifteen at one time, to take, kill, capture and have in possession any species of birds other than domestic and the nests and eggs thereof for scientific purposes; and for such licenses the applicant shall pay the sum of five dollars; but no person thus allowed to take or have in possession birds for scientific purposes shall sell, offer for sale, or take any compensation for specimens of birds, nests, or eggs, or dispose of the same, by gift or otherwise, to be taken from the state, except for exchange of specimens for scientific purposes; and for any violation of the provisions of this section, such persons shall be subject to a fine of not less than ten, nor more than fifty dollars. This section, however, shall not authorize the killing of any birds nor the taking of any birds' nests or eggs thereof on Sunday; and the commissioners may, for cause, revoke any license authorized by this section. Taxidermists mentioned in this section may at all times have in their possession, at their places of business, fish and game lawfully caught or killed in open time for the sole purpose of preparing for, and mounting the same; and such fish and game, or parts thereof, may be transported to such licensee and retained by him for the purposes aforesaid, under such rules, restrictions and limitations as shall, from time to time, be made by said commissioners and stated in such original license and additions made thereto, from time to time, by said commissioners. Such licenses may be revoked by said commissioners, at any time after notice and an opportunity for a hearing; such licenses shall be for the term of three years, and each person so licensed shall annually, on or before December first of each year, make a detailed, written report to the commissioners of all they have done during the year by virtue of such license; and every licensee or carrier violating any of the provisions of this chapter, or of the rules, restrictions, or limitations set out in said license and additions thereto, shall, *on complaint before any trial justice or municipal or police court*, be fined not less than twenty dollars nor more than fifty dollars.

Commissioners may issue licenses to taxidermists. 1901, c. 222, § 7.

—may license persons to take birds, eggs, and nests for scientific purposes.

—fee.

—such birds, etc., shall not be offered for sale.

—penalty.

—taking of birds, etc., on Sunday, prohibited.

—taxidermists may have in possession fish and game in open season.

—may be transported under license by commissioners.

—license may be revoked.

—term of license.

—persons licensed shall make written report. See § 49.

MINK, SABLE, MUSKRAT AND FISHER.

Close time  
for mink,  
sable, musk-  
rat and  
fisher.

—penalty.  
1899, c. 42.

—Lily pond  
excepted.

—penalty for  
killing beaver  
at any time.

SEC. 11. Whoever, between the first day of May and the fifteenth day of October, destroys any mink, sable, muskrat, or fisher, forfeits ten dollars for each animal so destroyed; excepting, however, that it shall be lawful to kill muskrats in Lily pond in the towns of Rockport and Camden and also such muskrats as interfere at any time with the operation and maintenance of any canal, ditch, lawful dam, or cranberry bog. Whoever at any time kills or destroys any beaver, except upon written permission of the commissioners of inland fisheries and game, shall be fined one hundred dollars and costs and twenty-five dollars additional for each beaver killed or destroyed.

BOUNTY ON WOLVES.

Bounty on  
wolves.  
1889, c. 42, § 16.  
1901, c. 207.  
—how paid.

SEC. 12. A bounty of five dollars for every wolf killed in any town, shall be paid by the treasurer thereof to the person killing it, upon compliance with the following conditions: No bounty shall be paid unless the claimant, within ten days after he has killed such animal, or has returned from the hunting in which he killed it, exhibits to the town treasurer the entire skin thereof, with the ears and nose thereon, in as perfect a state as when killed, except natural decay, and signs and makes oath to a certificate, which oath said treasurer may administer, in which he shall state that he killed such animal, and the time and place, showing it to be within the state; and the treasurer shall thereupon cut off the whole of the ears and of the nose from such skin, and entirely destroy them by burning; then he shall pay the bounty and take the claimant's receipt therefor upon the same paper with such certificate. The town treasurer shall immediately make upon the same paper a certificate under oath addressed to the treasurer of state, that he first cut off the ears and nose from the skin of such animal and destroyed them by burning, and then paid said bounty to the claimant. Said certificates and receipts shall annually in December be transmitted to the treasurer of state, and by him laid before the governor and council as early as convenient; and when allowed by them shall be paid by the treasurer of state to such towns. The certificates shall be in the following form:

Form of  
certificate.

CLAIMANT'S CERTIFICATE.

To the treasurer of ..... I hereby certify that on the ..... day of ..... A. D. 19.., at ....., in the State of Maine, I killed the wolf the skin of which I now exhibit to you; and I claim the bounty allowed by law for killing the same.

Dated at....., this..... day of..... A. D. 19..

.....Claimant.

Subscribed and sworn to before me the day and year aforesaid.

.....Treasurer of.....

CLAIMANT'S RECEIPT.

On this.....day of.....A. D. 19.., I received of..... treasurer of....., .....dollars, being the bounty allowed by law for killing the wolf described in the above certificate.

.....Claimant.

## TREASURER'S CERTIFICATE.

I hereby certify that as required by law, I first cut off the whole of the ears and nose from the skin of the wolf described in the foregoing certificate and destroyed the same by burning, and then paid to said ..... the bounty for which I have taken his receipt as above.

Dated at.....this.....day of.....A. D. 19..

.....Treasurer of.....

Subscribed and sworn to before me the day and year aforesaid.

.....Justice of the Peace.

Treasurer's  
certificate.

## MOOSE, DEER AND CARIBOU.

SEC. 13. No person shall at any time hunt, catch, kill, destroy or have in his possession any cow or calf moose; and the term "calf moose" as herein used, shall be construed to mean that these animals are calves until they are at least one year old, and have at least two prongs or tines to their horns. No person shall, between the first day of December and the fifteenth day of October, in any manner, hunt, take, catch, or kill, or have in possession any bull moose or part thereof; and no person shall, between October fifteenth and December first, take, catch, kill or have in possession more than one bull moose or part thereof.

Close time  
for moose.  
—term "calf  
moose" how  
construed.  
1901, c. 222, § 1.  
82 Me., 179.  
89 Me., 209.

SEC. 14. No person shall, except as hereinafter provided, in any manner hunt, take, catch, kill or have in possession for any purpose or whenever or wherever taken, caught or killed, any deer, or part thereof, between December fifteenth and October first next following; no person shall between October first and December fifteenth next following, except as hereinafter provided, take, catch, kill or have in possession for any purpose or whenever or wherever taken, caught or killed, more than two deer or parts thereof; a person lawfully killing a deer in open season shall have a reasonable time in which to transport the same to his home and may have the same in possession at his home in close season.

Close time for  
deer.  
1901, c. 222, § 2.  
83 Me., 236.  
87 Me., 208.  
88 Me., 385.

—two only  
may be taken  
in open sea-  
son.

SEC. 15. No person shall at any time, in any manner, hunt, catch, take, kill or destroy, with dogs, jack lights, artificial lights, snares, or traps, any moose, deer, or caribou; and no person shall, within six years from October fifteenth, in the year of our Lord eighteen hundred and ninety-nine, in any manner, hunt, chase, catch, kill, or have in possession any caribou or parts thereof.

Hunting with  
dogs, jack  
lights, etc.,  
prohibited.  
1899, c. 42.  
—close time  
on caribou  
for six years.

SEC. 16. Whoever shall violate any of the provisions of section thirteen of this chapter, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment not exceeding four months; whoever shall violate any of the provisions of section fourteen of this chapter, shall be punished by a fine of forty dollars and costs for each deer taken, caught, killed or had in possession in violation of the provisions of section fourteen of said chapter; whoever shall violate any of the provisions of section fifteen of this chapter relating to deer, shall be punished by a fine of forty dollars and costs; and whoever shall violate any of the provisions of section fifteen of this chapter, relating to moose or caribou, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment not exceeding four months.

Penalty for  
violation of  
section  
thirteen.  
1901, c. 222, § 8.

—for viola-  
tion of sec-  
tion fourteen.

—for viola-  
tion of sec-  
tion fifteen.

SEC. 17. Non-residents of the state shall not enter upon the wild lands of the state with intent to camp and kindle fires thereon, while engaged in hunting or fishing, without being in charge of a registered guide, during the months of May, June, July, August, September, October and November; *provided*, that the provisions of this section so far as entering upon the wild lands in the state with intent to camp and kindle fires thereon while engaged in hunting or fishing, shall not apply to any person or per-

Non-residents  
shall not  
camp on wild  
lands in cer-  
tain months  
unless in  
charge of a  
guide.

—sec. shall  
not apply to

persons stop-  
ping at any  
hunting  
camp.  
1901, c. 278.

—penalty for  
violation.

—close time  
for deer in  
the counties  
of York,  
Cumberland,  
Androscoggin  
and Sagadahoc.

—exceptions.  
S.L. 1901, c. 371.  
c. 381.

—Knox and  
Lincoln.

—Kennebec.

—Waldo.  
S.L. 1901, c. 452.

—two deer  
only may be  
taken.

—penalty.  
1899, c. 42, § 21.  
1901, c. 283.

—close time in  
Isle au Haut  
and Swan's  
Island, Han-  
cock county.  
S.L. 1901, c. 258.  
c. 446.

Terms "close  
season" and  
"close time."  
1901, c. 222, § 3.

—lawful to  
kill any dog  
found hunting  
deer.  
See c. 3, § 60.

—penalty for  
keeping a dog  
for hunting  
purposes.

Sunday is a  
close time for  
game and  
birds.

sons who while hunting or fishing, stop permanently at any hunting or fishing camp, during such stay, which is owned or under the control of any registered guide or registered camp owner.

Any such non-resident who shall take, catch or kill any deer, or enter upon the wild lands in the state, with intent to camp, and kindle fires thereon, while engaged in hunting or fishing, without being in charge of a registered guide, during the months of May, June, July, August, September, October and November, in violation of the provisions herein contained, shall be fined forty dollars and costs of prosecution for each offense and be subject to imprisonment thirty days.

No person shall, however, take, catch, kill, chase or hunt any deer in either of the counties of York, Cumberland, Androscoggin or Sagadahoc, for four years from October first, in the year of our Lord eighteen hundred and ninety-nine, except that the month of October of each year shall be an open month in Androscoggin county, and in the towns of Baldwin, Bridgton, Casco, Gorham, Gray, Harrison, Naples, New Gloucester, Otisfield, Raymond, Sebago, Standish and Windham, in Cumberland county, under the conditions and restrictions provided in this chapter relating to the hunting and killing of deer in open season; and no person shall hunt, chase, catch or kill any deer in the counties of Knox and Lincoln, except during the month of October of each year, or in Kennebec, except during the months of October and November of each year, or in the county of Waldo for two years from the first day of October in the year of our Lord nineteen hundred and one, except from the first day of October to the fifteenth day of November inclusive, of each year, and no person shall, during the respective open seasons in these counties, take, catch, kill, or have in possession more than two deer. Whoever shall violate any of the provisions of this section relating to deer in the counties of York, Cumberland, Androscoggin, Sagadahoc, Knox, Lincoln, Waldo, and Kennebec, shall be subject to a penalty of forty dollars and costs for each offense.

No person shall hunt, chase, catch, or kill in any manner, any deer on any island, within the limits of the town of Isle au Haut, in the county of Hancock, for a period of six years, or in the town of Swan's Island, in said county, for a period of five years, from April twenty-two, in the year of our Lord nineteen hundred and one, under the penalties provided for violation of section fourteen.

[For the reasons stated in the commissioner's note to section one of this chapter, he recommends that sec. 17, as amended by P. L. 1901, c. 278, except the first two paragraphs, be omitted from this revision, and that the provisions relating to the protection of deer in particular localities be enacted as a special law.]

SEC. 18. The words "close season" and "close time" where used in this chapter, shall mean the time or period during which by this chapter it is made unlawful to hunt, shoot, wound, trap or destroy any bird or animal, or fish for, or catch any fish mentioned or referred to in this chapter, and the words "open season" where used in this chapter, shall mean the time or period during which it shall be lawful to take these animals, fish, and birds as specified and limited. *Any person may, at any time, lawfully kill any dog which hunts or chases a moose, caribou, or deer, or any dog kept or used for that purpose.*

Any person owning or having in his possession any dog for the purpose of hunting or chasing moose, caribou, or deer, shall be punished by a fine of one hundred dollars and costs of prosecution for each offense.

Sunday is a close time, on which it is not lawful to hunt, kill, or destroy game or birds of any kind, under the penalties imposed therefor during other close time; but the penalties already imposed for the violation of the Sunday laws by the statutes of this state are not hereby repealed or diminished.

## TRANSPORTATION OF GAME, BIRDS AND FISH.

SEC. 19. No person or corporation shall carry or transport from place to place any moose or deer, or part thereof, in close time, nor in open time unless open to view, tagged and plainly labeled with the name and residence of the owner thereof, and accompanied by him, under a penalty of forty dollars and costs of prosecution for each moose or deer so transported or carried; and any person not the actual owner of such game or parts thereof, who, to aid another in such transportation, falsely represents himself to be the owner thereof, shall be liable to the penalties aforesaid; and it shall be prima facie evidence that said game, that is being transported or carried in violation of this section, was illegally killed; but nothing herein shall apply to the transportation of moose or deer by any person or corporation, when such game is lawfully tagged in accordance with the provisions of section twenty-two of this chapter. Whoever lawfully kills a bull moose shall, while the same or any part thereof, is being transported, preserve and transport it with the evidence on the moose of the sex of the same. Whoever fails to comply with the provisions of this section shall forfeit to the state the moose or part thereof being transported, and pay a fine of three hundred dollars and costs of prosecution.

SEC. 20. All birds, fish and game hunted, caught, killed, destroyed, bought, carried, transported or found in possession of any person or corporation, in violation of the provisions of this chapter shall be liable to seizure; and in case of conviction for such violation, such game shall be forfeited to the state, to be sold for consumption in the state only. Any person whose game or fish has been seized for violation of any game or fish law, shall have it returned to him on giving to the officer a bond with sufficient sureties, residents of the state, in double the amount of the fine for such violation, on condition that, if convicted of such violation, he will, within thirty days thereafter, pay such fine and costs. If he neglects or refuses to give such bond and take the game or fish so seized, he shall have no action against the officer for such seizure, or for the loss of the game or fish seized.

SEC. 21. No resident of the state shall sell or give away any moose or deer or part thereof, or any game birds, to be transported or carried beyond the limits of the state, under a penalty of one hundred dollars for each and every moose, deer or part thereof, and one dollar for every game bird so sold or given away; and any person who shall buy any of the above named animals or birds or parts thereof, to so transport them, or who shall transport them after buying the same or receiving the same as a gift, shall be subject to the same penalty.

SEC. 22. Any person who has lawfully killed a moose or a deer, or who has lawfully in his possession one trout, one togue, one landlocked salmon or one white perch or ten pounds of either kind of these fish, or one pair of game birds, may send the same to his home or to any hospital in the state, without accompanying the same by purchasing of the duly constituted agent therefor a tag, paying for a moose five dollars, for a deer two dollars, for a trout, togue or landlocked salmon, one dollar for each or one dollar for each ten pounds of the same, and fifty cents for one white perch or ten pounds of the same, and fifty cents for a pair of game birds. The commissioners of inland fisheries and game may appoint agents in convenient localities who may sell these tags, under such rules and regulations as the commissioners may adopt. Said tag shall be substantially as follows:

Penalty for transporting moose and deer unless tagged and open to view and accompanied by owner.

—penalty for falsely claiming to be owner.  
1899, c. 42.

—when bull moose is transported, evidence of sex shall be on same.

—penalty.

All birds, fish and game, transported, etc., in violation, liable to seizure.

—shall be forfeited to state.  
1899, c. 42.

—game may be returned to owner by giving bond.

Moose, deer and birds shall not be sold or given away to be transported beyond limits of state.  
1899, c. 42.

—penalty.

Fish and game may be transported, without being accompanied by owner, upon payment of license fee.  
1899, c. 42.

—fees.

—agents may be appointed to sell tags.



State of Maine.

Department of Inland Fisheries and Game.  
License to ship game, game birds or fish.

—form of tag.

No. ....  
Augusta, ..... 19..

This certifies that.....of.....is authorized to ship to his home in.....or to....., a patient in the.....hospital, the following described game, game birds or fish,.....by having this tag attached thereto.

Not transferable.  
Signature of licensee, .....  
.....  
..... Commissioners.  
.....

Marketman may have in possession three deer and sell the same after procuring license of commissioners.  
—shall keep record of the name and residence of each person of whom he purchases game.  
1901, c. 222, § 5.  
—penalty.

—fee for license.

—shall make report to commissioners.  
—penalty.

License may be issued to buy and tan deer skins.  
1899, c. 42.  
—record shall be kept.  
—fee for license.  
—penalty for not reporting.

Keepers of sporting camps and hunters required to procure license.  
1901, c. 186.

SEC. 23. Any marketman or provision dealer, having an established place of business in the state, may purchase and have in his possession at his said place of business not more than three deer, lawfully killed or destroyed, or any part thereof, at one time, and may sell the same at retail to his local customers, *provided, however*, that said marketman or provision dealer, shall have procured a license of the commissioners of inland fisheries and game to carry on said business of buying and selling deer as aforesaid; and *provided further*, that said marketman shall record in a book kept for that purpose, and open to the inspection of inland fish and game wardens and the commissioners of inland fisheries and game, the name and residence of each person of whom he purchases any inland game and the date of such purchase; and if any marketman or provision dealer shall violate the provisions of this section, he shall be fined five hundred dollars for each offense and be prohibited for five years thereafter from the benefits of this section. All marketmen or provision dealers licensed as aforesaid shall pay to the commissioners, in cities and towns of over three thousand inhabitants, five dollars annually, and three dollars in all other places; or instead of this fee, the commissioners may, at their discretion, issue licenses authorizing the retailing of deer as above specified, on payment of fifty cents for each deer retailed; said marketmen and provision dealers holding these licenses shall annually, on December fifteenth, make, sign, and send to the commissioners, under oath, a statement setting forth in detail the number of deer by them bought, and of whom bought, and the date of each purchase, during the time covered by their licenses; and whoever fails to make the report required in this section shall be subject to a penalty of one hundred dollars and costs.

SEC. 24. The commissioners may annually issue licenses to suitable persons to buy and sell, or tan, deer skins lawfully taken. Such persons shall keep a record of all deer skins purchased, of whom purchased, and the date of purchase, and shall report annually to the commissioners. The fee for such license shall be five dollars, to be paid to the commissioners and by them to the treasurer of state; and whoever, licensed as aforesaid, unreasonably and wilfully refuses to make such report, shall be punished by a fine of one hundred dollars and costs.

SEC. 25. No person shall build, occupy, maintain or keep a sporting camp, lodge or place of resort for inland hunting or fishing parties in any place, *nor* (or) engage in the business of hunting or trapping any of the fur bearing animals of the state in any of the unorganized townships or wild lands of the state without first procuring a license therefor from the commissioners of inland fisheries and game, and paying a fee therefor of five dollars; and he shall make such report to the commissioners as may be called for; but a license to build, occupy, maintain or keep such

sporting camp, lodge or place of resort shall not be granted unless the person applying for the same files with his application therefor, the written consent of the owner or owners of the land or his or their agent upon which such camp, lodge or place of resort is or may be located; and such licensed persons may purchase for consumption in their sporting camps, lodges or places of resort deer lawfully killed, but they shall keep a record of all such purchases, of whom purchased and the date of the purchase, and on December fifteenth of each year shall make written report thereof to the commissioners under oath; whoever violates any provision of this section shall be fined one hundred dollars and costs for each offense; the commissioners, however, may refuse to issue a license or licenses to such person or persons as they deem unsuitable.

—fee.

—report.

—consent of land owners a prerequisite to obtaining license.

—may purchase deer lawfully killed.

—penalty for violation.

## REGISTRATION OF GUIDES.

SEC. 26. No person shall engage in the business of guiding, either for inland fishing or forest hunting, until he has caused his name, age, and residence to be recorded in a book kept for that purpose by the commissioners of inland fisheries and game, and has procured a certificate from said commissioners, setting forth in substance that he is deemed suitable to act as a guide, either for inland fishing or forest hunting, or both, as the case may be, under a penalty of fifty dollars and costs of prosecution for each offense. Each registered guide shall, from time to time, as often as requested by the commissioners, forward, on blanks furnished him by the commissioners, a statement of the number of persons he has guided in inland fishing and forest hunting during the time called for in said statement, the number of days he has been employed as a guide, and such other useful information relative to inland fish and game, forest fires and the preservation of the forests in the localities where he has guided, as the commissioners may deem of importance to the state, under a penalty of fifty dollars for unreasonably or wilfully refusing to comply with these requirements.

Guides required to register with commissioners.  
1899, c. 42, § 94 Me., 108.

—certificate.

—shall furnish information as requested, to commissioners.

—penalty.

SEC. 27. Such registration as is provided for in this chapter shall be as follows; the applicant shall apply in writing or personally to the commissioners for registration, or to some person designated by the commissioners, setting forth in his application whether he desires to be registered as a general or local guide; and the commissioners shall, as soon thereafter as may be, register such person as a guide in such class as they shall deem proper, after such investigation as they shall deem proper; but said commissioners may refuse to register any applicant whom they deem unfit to be a guide, and may, for cause shown, after due notice and hearing, cancel any registration by them made, and may advance any one from the local class to the general class, whenever they shall deem such person qualified to be a general guide. Whenever a guide, registered as provided in this chapter, is convicted of any violation of any of the inland fish and game laws, the commissioners shall, at their discretion, cancel his certificate of registration and strike his name from the list of registered guides; but such person may thereafter be registered again at the discretion of the commissioners. Any certificate canceled by virtue of this chapter shall be immediately returned to the commissioners, under a penalty of fifty dollars for refusal or neglect to comply with this requirement. A fee of one dollar shall be paid annually for the registration as herein provided. No person shall receive a certificate as a general guide unless he be at least twenty years of age, of good repute and friendly to the inland fish and game laws, and will discountenance in all proper ways all violations thereof. He shall be thoroughly competent to traverse the hunting grounds of the state in which he is licensed to guide and shall be skilled in the use, management and handling of such boats or canoes,

Form of registration.  
1899, c. 42.

—class may be general or local.

—unfit persons may be refused.

—certificate may be canceled.

—guides may be advanced.

—penalty of guides who violate the law.

—canceled certificate shall be returned to commissioners under penalty.

—annual fee.

—qualifications of general guides.

- qualifications of local guides.
  - non-resident guides shall pay a fee of \$20.
  - badge.
- on lake, pond or river, as are used in the territory in which he is authorized to guide, and shall be a safe person under all circumstances to be a guide for inland fishing and forest hunting parties. A person may receive a certificate as a local guide who does not, in the judgment of the commissioners, possess all the necessary qualifications of a general guide, yet is deemed suitable to act as such under certain conditions; and guides may be restricted in the territory in which they are permitted to guide. Every non-resident registered as a guide shall pay a fee of twenty dollars; the commissioners may at their discretion refuse to issue any certificates of registration after October twentieth of each year, and every certificate issued shall expire with the calendar year. An official badge for guides may be prepared by the commissioners.

## COMMISSIONERS OF INLAND FISHERIES AND GAME.

- Commissioners of inland fisheries and game, how appointed.
  - tenure. 1899, c. 42. 95 Me., 585.
  - office.
  - clerk.
- SEC. 28. The governor, with the advice and consent of the council, shall appoint three persons to be commissioners of inland fisheries and game, one of whom shall be the land agent of the state, and shall hold the office so long as he shall continue to be land agent; the other two commissioners shall hold their office for three years, and until their successors are appointed and qualified. Said commissioners shall be provided with an office in the state capitol, with suitable furniture, stationery and other facilities for the transaction of the business of the department, and they may appoint a clerk.

- Duties. 1899, c. 42.
  - may purchase or lease land for hatcheries. Resolves 1901, c. 142.
  - report.
- SEC. 29. The commissioners of inland fisheries and game shall examine dams and all other obstructions existing in all rivers and streams, and determine the necessity of fishways, and the location, form and capacity thereof; and shall introduce and disseminate valuable species of food fish into the inland waters of the state, and valuable food birds into the state. They shall examine into the workings of the inland fish and game laws, see that all violations thereof are duly prosecuted, and perform all other duties prescribed by law. They may purchase or lease real estate, in the name of the state, for the purpose of maintaining fish hatcheries and feeding stations for fish culture, and may assist in maintaining fish hatcheries for fish culture owned and under the management of fish and game associations. They shall annually, on or before the thirty-first day of December, report to the governor, who shall cause three thousand copies of said report to be printed.

- Authorized to regulate times and places of taking game and fish. 1899, c. 42.
  - cannot authorize taking of, in close time.
  - may prohibit untimely taking of game and fish.
  - may make rules for protection of game and fish.
  - how notice of rules shall be given.
- SEC. 30. The commissioners of inland fisheries and game, upon petition of five or more citizens of the state, or whenever they shall deem it for the best interests of the state, after due notice and public hearing in the locality to be affected, may regulate the times and places in which and the circumstances under which game and inland fish may be taken; but they cannot authorize the taking of game or inland fish at a time in which its capture is prohibited by the laws of the state, and in all cases where the prayer of the petitioners is refused, one-half of the expenses of the commissioners shall be paid by the petitioners. Whenever they deem it for the best interests of the state, after like notice and hearing, they may entirely prohibit the taking of any kind of game or inland fish, in any part of the state, for a series of years not exceeding four. They may adopt and, from time to time, modify or repeal such needful rules and regulations, not contrary to the laws of the state, as they may deem necessary or proper for the protection and preservation of the game and inland fish of the state, in conformity with the provisions of the last two preceding sections. They shall file, in the office of the clerks of the cities, towns and plantations in the territory to be affected, a copy of the rules and regulations adopted by them, and publish the same three weeks successively in a newspaper printed in the county, and post on the banks of waters to be affected, as nearly as may be, like notices; and whenever

any such rules or regulations apply to any unorganized township, a like copy shall be filed with the clerk of courts for that county, and published three weeks successively in a newspaper printed in the county; they shall also immediately upon the adoption of any rules and regulations contemplated by this section, file an attested copy of the same in the office of the secretary of state.

SEC. 31. Whoever fishes for, takes, catches, kills, or destroys any inland fish, in any manner or at any time, in violation of any of the rules and regulations of the commissioners of inland fisheries and game, made and promulgated in conformity with the provisions of this chapter, shall be punished in the same manner and to the same extent as is provided for by law for the illegal taking, catching, killing or destroying of any such inland fish.

Penalty for taking fish in violation of rules.  
1899, c. 42.

SEC. 32. Whoever at any time or in any manner hunts, chases, catches, kills, takes, has in possession, or destroys any inland game, in violation of any of the rules and regulations of the commissioners of inland fisheries and game, made and promulgated in conformity with the provisions of this chapter, shall be punished in the same manner and to the same extent as is provided for by law for the illegal hunting, chasing, catching, killing, taking, having in possession, or destroying of any such inland game.

Penalty for hunting in violation of rules.  
1899, c. 42.

SEC. 33. Whoever wilfully mutilates, defaces or destroys any notice, rule or regulation of the commissioners of inland fisheries and game, posted in conformity with the provisions of this chapter, shall be punished by a fine not exceeding fifty dollars, to be recovered by complaint or indictment; and one-half of said fine shall be paid to the prosecutor.

Penalty for wilfully defacing notices.  
1899, c. 42.

SEC. 34. The commissioners of inland fisheries and game, for their department, and the commissioner of sea and shore fisheries, for his department, may take fish and game of any kind when, where, and in such manner, as they choose, for the purposes of science and of cultivation and dissemination, and may grant written permits to other persons to take fish and game for the same purposes, and may introduce or permit to be introduced, any kind of fish into any waters. Said commissioners or said commissioner may, after a hearing, set apart, for a term not exceeding ten years, any waters for the use of themselves, or of the United States commissioner of fish and fisheries, in the prosecution of the work of fish culture and of scientific research relative to fishes. The order setting apart such waters shall be recorded in the registry of deeds of the county in which they are situated. In the waters so set apart, they and the United States commissioner of fish and fisheries, and persons acting under their authority may, in their respective fish culture and scientific work take fish at any time or in any manner, and erect and maintain any fixtures necessary for such purposes. No other person shall take or kill any fish, or use any implement for fishing therein, under a penalty of not less than ten, nor more than one hundred dollars, and a further penalty of one dollar for each fish so taken or killed; *provided, however*, that before such hearing said commissioners or said commissioner shall give notice thereof by publication of their or his intention for two successive weeks in at least one newspaper printed in the county where such waters lie. The commissioners of inland fisheries and game may grant permission to take moose, caribou, deer and birds for park purposes in the state, under such rules, regulations and conditions as they shall establish. They may, under such rules and regulations as they may establish, permit the taking of eels and white fish in the inland waters of the state. They may cause the destruction of all mink found in or around any fish hatchery or feeding station in this state. They may upon petition of ten or more tax-payers, residents in the locality, adopt such needful rules and regulations, not contrary to the

Commissioners may take fish and game for scientific purposes, and may grant permits to others.

—may set apart waters for cultivation of fish.  
1899, c. 42.  
1901, c. 284, § 8.

—fish may be taken for scientific purposes.

—penalty for fishing in such waters.

—may grant permits to take game and birds for park purposes.

—may permit taking of eels and white fish.

—cause destruction of mink.

—may adopt rules to prevent destruction of spawning beds.  
 —penalty for violation.  
 —may screen outlet of pond or lake.  
 —penalty for destroying any screen.  
 1901, c. 289, § 1.

general laws of the state as may be necessary to prevent the interference with, or the destruction of the spawning beds, feeding troughs or artificial ponds of landlocked salmon or trout, or other useful fish. The penalty for the wilful violation of any of such rules and regulations shall be fifty dollars for each offense. The commissioners may, at their discretion, screen the outlet of any pond or lake or authorize the same to be done under such conditions as may seem to them just. Whoever shall take up, destroy or injure any screen erected at the outlet of any lake or pond by authority of the commissioners, shall be punished by a fine not exceeding fifty dollars for each offense.

#### CONSTRUCTION OF FISHWAYS.

Fishways to be provided.  
 1899, c. 42.

—notice and hearing.

—fishways to be kept in repair.

—appeal to county commissioners in case of disagreement.

—costs, how paid.

—if fishway is not completed in specified time, owner shall be fined.

—may prescribe time when fishways shall be kept open.

—penalty.

Fishways to be kept in repair.  
 1899, c. 42.

SEC. 35. The owner or occupant of every dam or other artificial obstruction in any river or stream frequented by salmon, shad, alewives, or landlocked salmon, shall provide the same with a durable and efficient fishway, of such form and capacity, and in such location as may, after notice in writing to one or more of said owners or occupants and a hearing thereon, be determined by the commissioners of inland fisheries and game by written notice to some owner or occupant specifying the location, form, and capacity of the required fishway, and the time within which it shall be built; and said owner or occupant shall keep said fishway in repair, and open and free from obstruction for the passage of fish, during such times as are prescribed by law; *provided, however*, that in case of disagreement between said commissioners and the owner or occupant of any dam, as to the propriety and safety of the plan submitted to the owner or occupant of such dam for the location and construction of the fishway, such owner or occupant may appeal to the county commissioners of the county where the dam is located, within twenty days after notice of the determination, *to* (from) the commissioners of inland fisheries and game by giving to the latter named commissioners, notice in writing of such appeal within that time, stating therein the reasons therefor; and at the request of the appellant or the commissioners of inland fisheries and game the senior commissioners in office of any two adjoining counties shall be associated with them, who shall appoint a time to view the premises and hear the parties and give due notice thereof, and after such hearing they shall decide the question submitted, and cause record to be made thereof, and their decision shall be final as to the plan and location appealed from. If the requirements of the commissioners of inland fisheries and game are affirmed, the appellants shall be liable for the costs arising after the appeal, otherwise they shall be paid by the county. If a fishway thus required is not completed to the satisfaction of the commissioners of inland fisheries and game within the time specified, every owner or occupant shall forfeit not more than one hundred, nor less than twenty dollars for every day of such neglect between the first days of May and November. On the completion of a fishway to the satisfaction of the commissioners of inland fisheries and game, or at any subsequent time, they shall prescribe in writing the time during which the same shall be kept open and free from obstruction to the passage of fish each year, and a copy of such writing shall be served on the owner or occupant of the dam. The commissioners of inland fisheries and game may change the time as they see fit. Unless otherwise provided, fishways shall be kept open and unobstructed from the first day of May to the fifteenth day of July. The penalty for neglecting to comply with this section, or with any regulations made in accordance herewith, is not less than twenty, nor more than one hundred dollars for every day of such neglect.

SEC. 36. Whenever the commissioners of inland fisheries and game find a fishway out of repair or needing alterations, they may, as in case of new fishways, require the owner or occupant to make such repairs or

alterations; and all proceedings in such cases and the penalty for neglect shall be as provided in the preceding section, without appeal. If the dam is owned and occupied by more than one person, each is liable for the cost of erecting and maintaining such fishway, in proportion to his interest in the dam, and if any owner or occupant neglects or refuses to join with the others in erecting or maintaining such fishway, the other owners or occupants shall erect or repair the same, and have an action on the case against such delinquent for his share of the expenses. If the owner or occupant of such dam resides out of the state, said penalties may be recovered by a libel against the dam and land on which it stands, filed in the supreme judicial court in the county where it is located, in the name of the commissioners of inland fisheries and game or of any fish wardens who shall give to such owner or occupant and all persons interested therein, such notice as the court or any justice thereof in vacation, orders and the court may render judgment therein, against said dam and lands for said penalties and costs, and order a sale thereof to satisfy such judgment and costs of sale, subject, however, to all said requirements for the erection and maintenance or repair of said fishway. The commissioners of inland fisheries and game may delegate to any fish warden or other lawful officer of fisheries any of the powers given to said commissioners in relation to the construction of fishways.

—liability of owners of dams for cost of erecting ways.

—notice to owners residing out of the state.

—may delegate powers to any fish warden.

SEC. 37. The following waters and their tributaries are exempt from the provisions relating to migratory fishes and the supervision of the fishways by the commissioners; that is to say, Royal river in North Yarmouth, Sewall's pond or its outlet in Arrowsic, so much of the waters of the Damariscotta river as are west of the railroad bridge near Damariscotta mills, all waters in Vinalhaven, Tremont, Mount Desert, Eden, Franklin, and Sullivan, Pleasant river in Washington county, East Machias river, Winslow's stream in Penobscot and the eastern Penobscot river in Orland. Little river in Perry shall be exempt from all the foregoing provisions that relate to maintaining fishways in said river, except during April, May and June.

Waters exempted from provisions relating to migratory fish. 1899, c. 42. 1901, c. 284, § 42.

#### GENERAL PROVISIONS.

SEC. 38. For the purposes of this chapter, the term "salmon" means the common migratory salmon of the sea coast and rivers; the term "landlocked salmon" means any of the species, or varieties of salmon that do not periodically and habitually run to the sea, being the same locally known as "salmon trout" and "black spotted trout;" the term "alewife" means the small species of migratory fish called "alewife" but known also by the local names of "herring" and "gaspereau," and also includes the similar species found in tidal waters and known as "blue-back;" and the term "bass" means the striped bass of tidal waters.

Terms "salmon" and "landlocked salmon," defined. 1899, c. 42.

—alewife, defined.

—bass, defined.

SEC. 39. The provisions of this chapter so far as they relate to fish apply to the taking of the same in all fresh waters above the flow of the tide and in all tidal waters frequented by the various species of fresh water and migratory fishes, except to the capture of shad and alewives in Denny's river and its tributaries, Pemmaquam river and its tributaries, and the Schoodic lakes and their tributaries, and to the taking of white fish in the Schoodic lakes on the St. Croix river and their tributaries, by citizens of the state with set nets, during the months of May and November, and conveying them to their own homes, but not otherwise. This chapter does not apply to fish taken in the weirs on St. Croix river and does not repeal the laws relating to the St. Croix, Denny's, Pemmaquam, Cobscook, East Machias and Narraguagus rivers; nor does it apply to the taking of the blue back trout; except that no person shall fish for, catch, take, kill or destroy the same, with net, seine, weir or trap, under a penalty of five dollars for the attempt, and one dollar for each blue back trout so taken, caught, killed or destroyed, to be recovered by complaint.

Provisions of this chapter apply to all fresh waters above flow of tide. 1899, c. 42.

—waters exempted.

—penalty for killing blue back trout. See § 1.

Riparian owners may enclose, waters not navigable, for cultivation of fish.

—shall not obstruct passage of migratory fish.

—may take fish any time for purposes of cultivation and propagation.

—penalty for selling for food in close time.

—when parent fish are taken from public waters, twenty-five per cent shall be returned to original waters.  
1899, c. 42.  
1901, c. 284  
§§ 59-61.

—does not apply to fish taken lawfully for food.

Fishing in waters used for cultivation of fish, artificially, prohibited.  
—penalty.  
1899, c. 42.  
1901, c. 284, § 62.

Penalty for killing sea salmon less than nine inches, or trout less than five inches in length.  
1899, c. 42.

Fish and game wardens, appointment.  
1899, c. 42.

—term.

—duties.

—shall give bond.

SEC. 40. Any riparian proprietor may, within the limits of his own premises, enclose the waters of a stream not navigable for the cultivation of useful fishes; provided that he furnishes suitable passages for migratory fishes naturally frequenting such waters, and does not obstruct the passage of boats and other craft and materials, in places where the same have a right to pass. Any person legally engaged in the artificial culture and maintenance of fishes, may take them in his own enclosed waters wherein the same are so cultivated and maintained, as and when he pleases, and may at all times sell them for cultivation and propagation, but he shall not sell them for food at seasons when the taking thereof is prohibited, under a penalty of not less than ten, nor more than one hundred dollars, and a further penalty of not less than one dollar for each fish so sold. Any person engaged in the artificial propagation of trout, or fresh and salt water salmon, when the parent fish are taken from public waters in the state, shall retain not less than twenty-five per cent of all eggs taken from said parent fish, and shall cause the same to be properly cared for and hatched, and when hatched and in proper condition, to be returned to a place suitable for such young fish in the original waters from which the parent fish were taken, and shall cause said parent fish to be returned to safe locations in such waters, under a penalty of not less than fifty, nor more than five hundred dollars for each offense. But this section does not apply to cases in which the parent fish are taken in the manner and at the time and place permitted for the capture of such fish for food; nor to operations in fish culture conducted for public purposes by permission of the commissioners of fisheries, who may affix such conditions to their permits as they see fit, requiring in no case, however, less than twenty-five per cent of the young fish to be returned, as provided in this section.

SEC. 41. No person without permission of the proprietor, shall fish in that portion of the pond or other water in which fish are artificially cultivated or maintained by written permission of the fish commissioners, under a penalty of not less than ten, nor more than one hundred dollars, besides two dollars for each fish so taken or killed; and, in default of payment, such offender shall be imprisoned at the expense of the prosecutor, until said forfeiture is paid or otherwise discharged by due process of law.

SEC. 42. Whoever kills or destroys any sea salmon or landlocked salmon less than nine inches in length, or any trout less than five inches in length, forfeits five dollars for the offense and fifty cents for every landlocked salmon or trout so killed or destroyed. Whoever has in possession any salmon or trout of less than the above dimensions shall be deemed to have taken it in violation of this section.

#### FISH AND GAME WARDENS.

SEC. 43. The governor with the advice and consent of the council, upon the recommendation of the commissioners of inland fisheries and game, may appoint suitable persons as fish and game wardens, who shall hold office for a term of three years unless sooner removed, and who shall enforce all laws relating to inland fisheries and game, and all rules and regulations in relation thereto, arrest all violators thereof, and prosecute all offenses against the same; said wardens shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriffs, for like services, and they shall have the same right as sheriffs to require aid in executing the duties of their office. They shall, before being qualified to discharge the duties required by this chapter, give bond to the treasurer of state with two good and sufficient sureties in the penal sum of two thousand dollars approved by the commissioners of inland fisheries and game, conditioned for the faith-

ful performance of the duties of their office. Inland fish and game wardens may serve all processes pertaining to the collection of penalties for violation of the inland fish and game laws; fish wardens may be appointed inland fish and game wardens and need not give additional bond.

—power to serve processes.

SEC. 44. The commissioners of inland fisheries and game may appoint deputy wardens, for whose official misconduct and neglect they shall be answerable, and said deputy wardens shall be sworn. Their appointment and discharge shall be in writing. Such deputy wardens shall be subject to all the laws pertaining to wardens appointed by the governor and council, and have the same powers. And said commissioners may revoke such appointment at any time.

Deputy wardens, appointment of. 1901, c. 214. See Const. of Me. Art. ix, § 1.

SEC. 45. Sheriffs, deputy sheriffs, police officers and constables, are vested with the powers of inland fish and game wardens and their deputies, and shall receive for their services the same fees.

Sheriffs and other officers, vested with powers of wardens. 1899, c. 42.

#### PROSECUTIONS.

SEC. 46. The commissioners and every warden throughout the state, and every sheriff and constable in his respective county shall enforce the provisions of this chapter, and shall seize any game or fish or game birds taken or held in violation of this chapter; and every such officer shall *have full power and authority, and it shall be his duty*, with or without a warrant, *to arrest any person whom he has reason to believe guilty of a violation thereof*, and, (may) with or without a (lawful) warrant, (therefor), *to open, enter, and examine all camps, wagons, cars, stages, tents, packs, stores, ware-houses, store-houses, outhouses, stables, barns, and other places, and to examine all boxes, barrels, and packages where he has reason to believe any game or fish taken or held in violation of this chapter is to be found, and to seize the same; provided, however, that a dwelling house actually occupied can be entered for examination, only in pursuance of a warrant or to make an arrest.*

Commissioners and other officers, may seize game and fish. 1899, c. 42. —may arrest without warrant. —may enter camps, store-houses, and other places. 94 Me., 132. —examine packages supposed to contain game. —dwelling houses, exempt.

SEC. 47. Any officer authorized to enforce the inland fish and game laws may recover the penalties for the violation thereof in an action on the case in his own name, the venue to be as in other civil actions, or by complaint or indictment in the name of the state; and such prosecution may be commenced in the county in which the offense was committed, or in any adjoining county, and the plaintiff prevailing shall recover full costs without regard to the amount recovered.

How penalties may be recovered. 1899, c. 42. 1901, c. 223, § 9. 88 Me., 211.

SEC. 48. Any officer authorized to enforce the inland fish and game laws may, without process, arrest any violator of any of said laws, and shall with reasonable diligence, cause him to be taken before any trial justice or any municipal or police court, in the county where the offense was committed, or in any adjoining county, for a warrant and trial. Jurisdiction in such cases is hereby granted to all trial justices and all other courts to be exercised in the same manner as if the offense had been committed in that county; and any officer who shall maliciously, or without probable cause, abuse his power in such proceedings, shall be liable upon complaint or indictment, to a fine not exceeding one hundred dollars, or imprisonment not exceeding three months.

Violators of this chapter may be arrested without process. 1899, c. 42.

—jurisdiction is granted to all courts, to be exercised as if offense had been committed in that county.

SEC. 49. In all prosecutions under this chapter, municipal and police judges and trial justices within their counties have, by complaint, original and concurrent jurisdiction with the supreme judicial and superior courts.

Jurisdiction. 1899, c. 42. 79 Me., 17, 160.

SEC. 50. Any officer or other person who shall receive any fine or penalty, or any part thereof, for the violation of any fish or game law, and shall neglect for more than thirty days to pay the same into the state treasury, shall be punished by a fine of not less than fifty, nor more than one hundred dollars; all fines and penalties recovered, or money paid, under any of the provisions of this chapter, shall, by the person recover-

Penalty of any officer who neglects to pay fines into the state treasury. 1899, c. 42.



—all fines shall be paid into state treasury.

How warrant may be served on a corporation. 1899, c. 42.

Licenses, etc., may be revoked if holder shall persistently violate this chapter. 1899, c. 42.

Duty of county attorneys to prosecute all violations, subject to control of commissioners. 1899, c. 42.

—witnesses may be compelled to testify against any other person.

—such evidence shall not be used against such witness.

—all seizures shall be reported to commissioners.

—wardens shall report all violations.

—penalty for failure to perform duty.

ing the same, be paid forthwith to the treasurer of state, after deducting legal taxable costs; and such money so received by said treasurer shall be expended by the commissioners of inland fisheries and game for the protection of the fish and game of the state.

SEC. 51. In case of a violation of any of the provisions of this chapter by a corporation, the warrant of arrest may be served by an attested copy on the president, secretary or manager or any general agent thereof in the county where the action is pending, and upon return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation; but this section shall not be deemed to exempt any agent or employe from prosecution.

SEC. 52. If the holder of any license, certificate, or permit, issued in conformity with any of the provisions of this chapter, shall persistently and flagrantly and knowingly violate or countenance the violation of any of the provisions of this chapter, such license, certificate, or permit may be revoked by the commissioners, after due notice given of the alleged violation and an opportunity afforded to appear and show cause against the same.

SEC. 53. Each county attorney shall prosecute all violations of this chapter occurring within his county, when such cases may come to his knowledge, or when he may be so requested by the commissioners or any officer charged with its enforcement, the same at all times to be subject to the supervision and control of the commissioners. In any prosecution under this chapter, any participant in a violation thereof, when so requested by the county attorney, commissioners or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating the same, but his evidence so given shall not be used against himself in any prosecution for such violation. Every *justice of the peace* and (magistrate or) clerk of the court before whom any prosecution under this chapter is commenced, or shall go on appeal, within twenty days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and the disposition thereof to the commissioners, at Augusta. In all cases, the officer making the seizure or sale of fish, game or birds, shall within ten days thereafter, report all the particulars thereof and an itemized statement of the proceeds, expenses, and fees, and the disposition thereof to the commissioners at Augusta. Every warden shall, in the month of December of each year, and at such other times as the commissioners may require, report to the commissioners all violations of and prosecutions under this chapter, occurring in this district, together with such further information as the commissioners may require. The failure of any person or officer to perform any act, duty, or obligation enjoined upon him by this chapter, shall be deemed a violation thereof.

Note. Notices on petitions to legislature for special legislation relating to fish and game, c. 2, § 37.

Fish and game wardens are made state fire wardens, c. 5, § 55.

Notices of special benefits from legislation for protection of fish to be posted on banks or shores of protected waters, c. 40, § 53.