

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.

AUGUSTA
KENNEBEC JOURNAL PRINT
1902

TITLE EIGHT.

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

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

SUPREME JUDICIAL COURT. ATTORNEY GENERAL. REPORTER. SUPERIOR COURTS.

SUPREME JUDICIAL COURT. ORGANIZATION, JURISDICTION AND POWERS.

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

Constitution of the court. R. S., c. 77, § 1. 73 Me., 224.
 —Justices may act, although their county is interested.

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

Jurisdiction. R. S., c. 77, § 2. 41 Me., 17, 65. 49 Me., 400. 68 Me., 376.
 —may punish for contempts, and administer oaths.

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

Superintendence of inferior courts. —control of its records and those of former courts. —may make rules. R. S., c. 77, § 3.

SEC. 4. The affidavit required by rule VI, of said court, to pleas or motions in abatement, may be made at any time before entry of the action or before filing the same.

Affidavit in abatement. R. S., c. 77, § 4. 76 Me. 423.

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

Writs, and how attested. R. S., c. 77, § 5.

(a) 43 Me., 176; 53 Me., 88, 110; 57 Me., 23; 67 Me., 433; 77 Me., 238; 83 Me., 286.

(b) See c. 39, §§ 42, 50; 41 Me., 17, 55; 53 Me., 88; 67 Me., 433; 70 Me., 328; 77 Me., 239; 81 Me., 544.

EQUITY POWERS.

Its equity powers.
R. S., c. 77, § 6.
1891, c. 91.

SEC. 6. It has jurisdiction as a court of equity, in the following cases: (a)

53 Me., 63.

I. For the foreclosure of mortgages of real and personal property, and for redemption of estates mortgaged. (b)

See c. 111, §§ 8, 9, 12.

II. For relief from forfeiture of penalties to the State, from forfeitures in civil contracts and obligations, and in recognizances in criminal cases.

III. To compel the specific performance of written contracts, and to cancel and compel the discharge of written contracts, whether under seal or otherwise, when full performance or payment has been made to the contracting party. (c)

IV. For relief in cases of fraud, trust, accident, or mistake. (d)

V. In cases of nuisance and waste. (e)

See c. 51, § 135.
76 Me., 274.

VI. In cases of *partnership, and between part owners of vessels and of other real and personal property, for adjustment of their interests in the property and accounts respecting it, and in cases* arising out of the law providing for the application of receipts and expenditures of railroads by trustees in possession under mortgage.

R. S., c. 77, § 6,
¶ VI., § 7.
See c. 33, § 10;
c. 36, § 5.

VII. (In cases of partnership, and) between partners or part owners (of vessels and of other real and personal property) to adjust all matters of the partnership and between such part owners, compel contribution, make final decrees, and enforce their decrees by proper process in cases where all interested persons, within the jurisdiction of the court, are made parties. (f)

See c. 68, § 9.

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

R. S., c. 77, § 6,
¶ X.
1891, c. 53.

IX. In suits for re-delivery of goods or chattels taken or detained from the owner, and secreted or withheld, so that the same cannot be replevied, and in bills in equity, by creditors, to reach and apply in payment of a debt, any property, right, title or interest, legal or equitable, of a debtor, or debtors, which cannot be come at to be attached on writ, or taken on execution in a suit at law, and any property or interest conveyed in fraud of creditors. (h)

R. S., c. 77, § 6,
¶ VIII.
43 Me., 574.
53 Me., 441.

X. In cases where the power is specially given by statute, and for discovery *in the cases before named*, (when a discovery may be lawfully required) according to the course of chancery proceedings.

(a) 7 Me., 231; 8 Me., 322; 17 Me., 141, 294, 407; 18 Me., 210; 19 Me., 127, 366, 434; 20 Me., 271; 21 Me., 257, 276; 22 Me., 196, 209, 515; 23 Me., 48, 100, 178, 270, 451; 24 Me., 47; 25 Me., 282, 345, 381, 537; 29 Me., 276, 496; 31 Me., 96; 32 Me., 402, 483; 33 Me., 224, 534; 34 Me., 144, 372; 36 Me., 52, 124, 583; 37 Me., 269, 310; 40 Me., 246; 41 Me., 119; 50 Me., 239; 59 Me., 79; 72 Me., 281.

(b) 59 Me., 35, 77; 75 Me., 268; 83 Me., 293; 86 Me., 59.

(c) 40 Me., 132; 42 Me., 40; 46 Me., 41; 47 Me., 315; 63 Me., 99; 84 Me., 198; 85 Me., 434; 95 Me., 224.

(d) See c. 3, § 83; c. 64, § 68; c. 68, §§ 16-18; c. 74, § 14; c. 76, § 15; 43 Me., 211; 44 Me., 216; 45 Me., 131; 49 Me., 366; 57 Me., 510; 60 Me., 183; 61 Me., 514; 62 Me., 58, 522; 67 Me., 220; 69 Me., 497; 71 Me., 570; 73 Me., 33; 74 Me., 589.

(e) See c. 17, §§ 1, 17; c. 95, § 7; 60 Me., 194.

(f) 52 Me., 57; 62 Me., 114; 64 Me., 465; 73 Me., 75; 78 Me., 150.

(g) 49 Me., 302; 57 Me., 143, 524; 59 Me., 330, 481; 62 Me., 541; 64 Me., 493; 66 Me., 101, 535; 68 Me., 35, 381; 69 Me., 289; 70 Me., 210; 80 Me., 594; 82 Me., 80; 84 Me., 555; 85 Me., 133; 86 Me., 134.

(h) 71 Me., 70; 73 Me., 570; 76 Me., 447; 77 Me., 474; 78 Me., 249; 79 Me., 230; 84 Me., 326, 495; 90 Me., 380; 92 Me., 268.

XI. When counties, cities, towns, school districts, village, or other public corporations, for a purpose not authorized by law, vote to pledge their credit or to raise money by taxation or to exempt property therefrom, or to pay money from their treasury, or if any of their officers or agents attempt to pay out such money for such purpose, the court shall have equity jurisdiction on petition or application of not less than ten taxable inhabitants thereof, briefly setting forth the cause of complaint.

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

SEC. 7. The court has jurisdiction of cases mentioned in paragraph seven of the preceding section, notwithstanding *other* persons interested, not within the jurisdiction of the court, are not made parties; but, in such

See c. 3, § 33.
55 Me., 65.
56 Me., 37.
60 Me., 127.
80 Me., 134.
85 Me., 49.
87 Me., 89.
92 Me., 531.
93 Me., 601.

Jurisdiction between partners and part owners, does not affect

(a) 58 Me., 137; 69 Me., 303; 71 Me., 554, 570; 73 Me., 244; 74 Me., 234, 588; 75 Me., 268; 77 Me., 69, 95; 86 Me., 57.

Note. Jurisdiction in equity is also conferred upon the supreme judicial court in the following cases:

- To restrain violations of c. 3, §§ 36, 37.
- To fix rate of interest on trust funds used by cities or towns, c. 3, § 83.
- To determine rights of claimants to elective office, c. 4, § 121.
- To decree forfeiture of charter of corporation for non-payment of franchise tax, c. 6, § 64.
- To protect property dedicated to pious uses, c. 12, § 33.
- To restrain and abate nuisances, c. 17, §§ 1-19.
- To restrain unlawful acts of agent appointed to build road, c. 18, § 39.
- To restrain unlawful use of trademarks and names, c. 39, §§ 40, 51.
- To close city or town liquor agency, c. 27, § 33.
- In cases of limited partnerships, c. 33, § 10.
- In certain cases of loss of or damage to property on shipboard, c. 36, § 5.
- In cases of reduction of capital stock of corporations, c. 46, § 30.
- To value minority stock in corporations, c. 46, § 40.
- To decree dissolution of corporations, c. 46, § 59.
- To enforce stockholders' liability, c. 46, §§ 77, 81; c. 47, § 69.
- To enforce liability of directors in state banks, c. 47, §§ 40, 46, 47.
- To appoint receivers of state banks, c. 47, §§ 51-56.
- To appoint receivers of savings banks, c. 47, § 126.
- To reduce deposits of savings banks, c. 47, § 130.
- To restrain payment of deposits in savings banks, c. 47, § 131.
- To enforce accounts due loan and building associations, c. 47, § 152.
- To enforce law relating to foreign loan and building associations, c. 47, § 161.
- To order assessment on stockholders of trust and banking companies to restore impaired capital, c. 47, § 169.
- To confirm assessment in mutual fire insurance companies, c. 49, § 38.
- To appoint receivers of domestic insurance companies, c. 49, § 72.
- To appoint receivers of property of foreign insurance companies doing business in this state, c. 49, § 93.
- To appoint receivers of casualty insurance companies doing business upon the assessment plan, c. 49, §§ 131, 133.
- To appoint receivers of fraternal beneficiary associations, c. 49, §§ 148-159.
- To restrain unlawful appropriation of proceeds of railroad stock, c. 51, § 21.
- To enforce construction by railroad companies of cattle guards, passes and farm crossings, c. 51, § 32; payment of damages by railroad companies, c. 51, § 37; repairs of railroad bridges and crossings, c. 51, § 43.
- To appoint receivers when railroad company fails to operate its road, c. 51, § 70.
- To compel payment by lessee of judgment against owner of leased road, c. 51, § 81.
- To affirm election of trustees under railroad mortgages, c. 51, § 112.
- In cases relating to foreclosure and redemption of railroad mortgages, c. 51, §§ 135, 137.
- To decree dissolution of railroad corporations, c. 51, § 140.
- To enforce compliance with order of railroad commissioners to make repairs, c. 51, § 148; to stop running trains, c. 51, § 149; as to transportation of passengers and freight, c. 51, § 151; as to erection and maintenance of stations, c. 51, § 156.
- To determine disputes between co-executors and co-administrators, c. 64, § 68; and in certain cases, claims against estates of deceased persons, c. 87, § 20.
- To fill vacancies in trustees, c. 68, §§ 16-18.
- In insolvency cases, c. 70 § 12
- To enforce agreement relative to disposal of wife's share of proceeds of husband's real estate sold by his guardian, c. 71, § 13.
- In cases of contribution under wills, c. 74, § 14.
- For redemption from levies by appraisement, c. 76, §§ 23, 28, 55.
- To enforce liens on buildings and lands, c. 91, § 33.
- To restrain use of unsafe dams, c. 92, § 44.
- To ascertain betterments on lands recovered of the State, c. 93, § 17.
- To stay waste c. 95, § 7.
- To restrain lotteries, c. 127, § 20.
- See also provisions for change, by amendment, of action at law into proceeding in equity, c. 82, § 14.

rights of persons not parties to suit.
R. S., c. 77, § 7.

—partners or co-tenants out of jurisdiction of court, rights of, how protected.
R. S., c. 77, § 8.

Property of debtor out of state, or of uncertain value may be applied.
1891, c. 38, § 1.

Interest of a co-partner may be applied in payment of plaintiff's debt.
1891, c. 38, § 2.

—certain exemptions not affected.
1891, c. 53.

Masters in chancery, appointment.
R. S., c. 77, § 9.
40 Me., 53.
53 Me., 210, 352.

—tenure.

—duties.

Court always open for equity proceedings.
R. S., c. 77, § 10.
75 Me., 417.
82 Me., 250.

Causes in equity, how begun, return of subpoena, and service.

cases, no decree affects the right of any person not a party to the suit, unless he voluntarily becomes a party before final decree, except as hereinafter provided. In all such cases, the court has jurisdiction, if the case requires it, over all property of the partnership or co-tenancy within the state, and the other partners or co-tenants, out of the jurisdiction, may protect their interests by coming in at any time as parties to the bill; but, if there is no such property within the state, the jurisdiction of the court is limited to the adjustment of accounts and compelling contribution between the parties over whom the court has jurisdiction.

SEC. 8. The court has jurisdiction of cases mentioned in paragraph nine of section six, notwithstanding the fact that the property sought to be reached and applied is in the hands, possession or control of the debtor independently of any other person, or that it is not within the state, or that it is of uncertain value, *provided*, the value can be ascertained by a sale or appraisal, or by any means within the ordinary procedure of the court, or that it cannot be reached and applied until a future time.

SEC. 9. In such suit the interest of a co-partner in the partnership property may be reached and applied to the payment of the plaintiff's debt; *provided, however*, that unless the plaintiff's debt is in judgment, the business of the partnership shall not be interfered with by injunction or otherwise, farther than to restrain the withdrawal of any portion of the debtor's share or interest therein, *unless and* until the plaintiff's debt is established; and *provided further*, that if either co-partner shall give to the plaintiff a sufficient bond with sureties approved by the clerk, conditioned to pay to the plaintiff the amount of his debt and costs, within thirty days after the same is established, the court shall proceed no further therein save to establish the debt; and any injunction previously issued shall be dissolved upon the filing of such bond.* But no provision of said paragraph, or of this section, or of section eight shall be so construed as to reach and apply in payment of a debt, any property exempted by sections thirty-nine and forty of chapter five, sections six, seven, eight and twenty of chapter fifteen, and by chapter eighty-one.

* This section is of the highest equity and affords only a reasonable protection to solvent partners without hindering or delaying creditors of individual partners. But a creditor may entirely defeat its object and seriously injure the solvent partner by beginning an action at law and commanding the attaching officer to take possession of the partnership property. *Douglass vs. Winslow*, 20 Me., 89; *Hacker vs. Johnson*, 66 Me., 21, 24. This should not be permitted. The commissioner therefore recommends the following additional legislation, which may be considered amendatory of c. 81, § 64:

The personal property of any co-partnership, or the interest of any co-partner therein shall be exempt from attachment on mesne process or seizure on execution for any individual debt or liability of such co-partner, but such co-partner's interest in the partnership property may be reached and applied in payment of any judgment against him in the manner provided in section nine of chapter seventy-seven.

SEC. 10. The court by majority, shall appoint masters in chancery, not more than five in a county, and make all needful rules relating to proceedings before them. Such masters shall be sworn, and hold their offices for five years, unless sooner removed by the court; perform the duties pertaining to their offices according to equity practice, and be entitled to the fees therefor allowed by the court. Unless the parties agree upon another person, all cases shall be committed to them.

SEC. 11. Said court shall always be open in each county for equity proceedings, except upon days on which, by law, no court is held, and in the first instance, except as hereinafter provided, all hearings shall be had, all orders and decrees made, and all process issued by a single justice, except on appeal or exceptions as hereinafter provided, and said court shall establish rule-days for the return of subpoenas and the transaction of business relating to equity cases.

SEC. 12. Causes in equity shall be begun by bill of complaint filed in the clerk's office, upon which subpoena shall issue as matter of course returnable on the first day of a term of court for the county where it is filed, or upon a rule-day, which in either case shall be held within sixty

days after the filing of such bill, and such subpoena shall be served at least fourteen days before the return day thereof; or, by order of court, such subpoena may be made returnable on any day in or out of term, and be served as directed in such order; or such bill may be inserted in a writ of attachment, upon which property may be attached and which shall be made returnable as writs at common law. In all cases, service shall be made by copy of the subpoena and bill or writ of attachment. The bill of complaint shall state the material facts and circumstances relied on by the complainant,* with brevity, omitting immaterial and irrelevant matters, and may be amended or reformed at the discretion of the court, with or without terms, at any time before final decree is entered in said cause.

*The commissioner recommends the use of the terms "plaintiff" and "defendant," instead of "complainant" and "respondent" in the sections relating to equity procedure.

SEC. 13. No action commenced in the supreme judicial court by bill in equity not inserted in a writ of attachment, in which the title to real estate is involved, is effectual against any person not a party thereto or having actual notice thereof, until a certificate, setting forth the names of the parties, the date of the bill and of the filing thereof, and a description of the real estate in litigation as described in said bill, duly certified by the clerk of said court(s) in and for the county where said bill is pending, is recorded in the registry of deeds in and for the county (or district) in which such real estate is situated.

SEC. 14. Verification by the oath of a party for whose benefit the bill sets forth that it is prosecuted, is equivalent to such verification by the complainant.

SEC. 15. If discovery is sought, it may be by bill, with or without interrogatories annexed thereto, for the purpose of such discovery. Answers thereto shall be made within thirty days after the return day of such bill, or within such time as the court orders, and questions arising thereon shall be determined by the rules established by said court as herein provided, and in the absence thereof, by the rules applicable to bills of discovery in equity procedure.

SEC. 16. When process is made returnable at any regular term, the respondent shall appear within the first three days thereof; otherwise on the return day of such process; and in default thereof, on motion of the complainant in writing, the bill shall be taken, pro confesso, as matter of course, at the expiration of ten days after the filing of such motion, but such decree for good cause shown, on motion of the respondent, may be opened within ten days after it is made, and in such case the court shall fix the time for making a defense.

SEC. 17. Defense shall be made by answer, plea or demurrer, within thirty days after the time for appearance has elapsed, or within the time ordered by the court, as provided in the preceding section; but for good cause shown the court may in either case enlarge the time therefor. In default of such defense the bill shall be taken, pro confesso, as matter of course on motion of complainant in writing, filed on any day after such default, and served on the respondent. But such decree may be opened, on motion of respondent within ten days thereafter, as provided in said section. All answers shall be signed by the respondent and sworn to by him, if the complainant in his bill asks for an answer upon oath, otherwise it may be signed by the respondent, his agent or attorney, but in such case it has no effect as evidence, except to cast the burden of proof upon the plaintiff.

SEC. 18. The complainant shall file a replication within fifteen days after notice has been served on him or his counsel that answer or plea has been filed, but such time may be enlarged on such terms as the court orders, or the bill may be dismissed for want of prosecution, on motion filed by respondent at any time after said fifteen days, or at the expiration of the time ordered by the court for filing such replication.

R. S., c. 77, § 11.
See c. 81, § 61.
66 Me., 76.
71 Me., 169.
77 Me., 140, 499.
82 Me., 202, 250.

—service,
how made.

—bill of com-
plaint may be
amended.

Certificate
setting forth
names, date
of bill, de-
scription of
real estate
to be recorded
in registry
of deeds.
1893, c. 301, § 2.
94 Me., 322.
See § 30; c. 7,
§ 17; c. 81, § 61;
c. 115, §§ 4, 21.

Bill, how
verified.
R. S., c. 77, § 12.

Bill of
discovery,
and answers
thereto.
R. S., c. 77, § 13.

When
respondent
shall appear.
R. S., c. 77, § 14.

—proceed-
ings in case
of default.
95 Me., 305.

Defense, how
and when to
be made.
R. S., c. 77, § 15.
78 Me., 88.
95 Me., 305.

—proceedings
on default.

—form of
answer.

Replication,
when to be
filed.
R. S., c. 77, § 16.

Time for hearing upon bill and demurrer.
R. S., c. 77, § 17.
1893, c. 156, § 1.
90 Me., 399.

SEC. 19. When a demurrer is filed, the court upon motion of either party, may set the cause for hearing upon bill and demurrer at any time. When a plea or answer is filed, the court, upon the motion of the complainant, may set the cause for hearing upon bill and plea, or answer at any time. When a replication is filed, the court, upon the motion of either party, may set the cause for hearing upon bill, answer or plea and evidence, but such hearing shall not be (had) until after sixty days from the filing of the replication. When a jury trial is ordered it shall be had at the next jury term next after such sixty days. Any time fixed for hearing or trial may be extended for good cause shown.

How testimony may be taken.
R. S., c. 77, § 18.
1893, c. 156, § 2.

SEC. 20. At any hearing or trial in equity, the evidence may be presented wholly or partly by oral testimony, or by depositions. When oral testimony is used, it shall be reduced to writing by the stenographer, certified by him, and filed with the depositions, for use in case of appeal.

Justice shall decide cause, subject to appeal.
R. S., c. 77, § 19.
1893, c. 156, § 3.

SEC. 21. The justice before whom such hearings are had, has full power to decide any motion or cause so heard, and shall make and enter such order and decree, as seems just and proper to him, and in accordance with the established principles of equity jurisprudence, subject to appeal and exceptions as hereinafter provided. (a)

Appeal to next term of law court, how to be claimed, and when heard.
R. S., c. 77, § 20.
1901, c. 246, § 1.

SEC. 22. From all final decrees of such justice, an appeal lies to the next term of the law court. Said appeal shall be claimed by an entry on the docket of the court from which the appeal is taken, within ten days after such decree is signed, entered and filed, and notice thereof has been given by such clerk to the parties or their counsel. The appellant shall enter such appeal, and furnish written or printed copies of the case on the first day of said law term, and for good cause shown, the law court may enlarge the time for furnishing such copies. Such appeals shall be heard at the term to which they are taken, unless otherwise agreed, or the law court shall for good cause, order a further time for the hearing thereof, and shall on such appeal, affirm, reverse, or modify the decree of the court below, or remand the cause for further proceedings, as it deems proper. All cases in which appeals or exceptions are taken from a final decree, shall remain on the docket of the court below, marked "law," and decree shall be entered therein by a single justice, in accordance with the certificate and opinion of the law court. (b)

—law court shall affirm, reverse or modify decree of court below, or remand for further proceedings.

—cases shall remain on docket of court below marked "law."

Justice may make orders for protection of rights of parties, while an appeal is pending.
R. S., c. 77 § 21.

SEC. 23. When an appeal is taken from a final decree, any justice may also make such order for the appointment of receivers, for injunction and prohibition, or for continuing the same in force, and such other orders as are needful for protection of the rights of the parties, or as are usual in equity proceedings in such cases, until the appeal is determined by the law court. Such orders may be modified or annulled by such justice, or by such law court, while the appeal is pending before it.

Appeal from interlocutory decree.
R. S., c. 77, § 22.
80 Me., 100.
90 Me., 467.
95 Me., 263.

SEC. 24. An appeal may be claimed and taken in like manner from any interlocutory decree or order, but such appeal shall not suspend any proceedings under such decree or order, or in the cause, and shall not be taken to the law court until after final decree. Upon an appeal from a final decree, all previous decrees and orders are open for revision, reversal or approval.

Justice may report cause to the next term of law court.
R. S., c. 77, § 23.
1901, c. 246 § 2.
79 Me., 417.
78 Me., 337.
82 Me., 260.
83 Me., 190.
Justice may grant further time for

SEC. 25. Upon a hearing in any cause in equity, the justice hearing the same may report the cause to the next term of the law court, if he is of the opinion that any question of law is involved, of sufficient importance or doubt to justify the same, and the parties agree thereto. The cause shall be entered and copies furnished by the complainant and shall be heard and decided by said law court in like manner and with like results as is herein provided in case of appeals.

SEC. 26. If any party intending to appeal, by accident or mistake, fails to do so, within the time limited therefor, he may within thirty days after

(a) 75 Me., 417; 79 Me., 41; 88 Me., 359.

(b) 78 Me., 337; 81 Me., 141; 82 Me., 203; 83 Me., 193; 88 Me., 359.

the entry of the decree apply to any justice for leave to take such appeal, which may be granted on such terms as appear just and equitable.

SEC. 27. Either party aggrieved may take exceptions to any ruling of law made by a single justice, the same to be accompanied only by such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within the time allowed for appeal, and shall be made up, allowed and filed in the time provided therefor, unless further time is granted by the court, or by agreement of parties. In all other respects, such exceptions shall be taken, entered in the law court, and there heard and decided like appeals, with the same power in the single justice to make orders for injunction and prohibition, and the protection of the rights of the parties; and in the law court, to make orders and decrees pending the same and upon decision thereof; *provided*, that no question of fact is open to the law court on such exceptions. And upon request of either party, the justice hearing the cause shall give separate findings of law and fact. The allowance and hearing of exceptions shall not suspend the other proceedings in the cause.

SEC. 28. Every order and decree shall bear date upon the day on which it is filed and entered, and the day of such filing and entering shall be entered by the clerk upon the docket and on the decree.

SEC. 29. No process for enforcement of a final decree save for the appointment of receivers, for injunction or prohibition, or for continuing the same, shall issue within ten days from the entry of such decree, unless all parties waive an appeal by entry on the clerk's docket, or by writing filed in the cause, or consent in like manner to the issue thereof.

SEC. 30. No judgment or decree of the supreme judicial court divesting any person of title to real estate shall be effectual against any person not a party to the action in which such judgment or decree is rendered, and persons (not) having actual notice thereof, unless a copy of such judgment or decree or so much thereof as relates to the title to such real estate, duly certified by the clerk of said court(s) in and for the county where said judgment or decree is rendered, is, within thirty days after the rendering of such judgment or decree, duly recorded in the registry of deeds in and for the county (or district) in which such real estate is situated.

SEC. 31. Any hearing on a motion for an interlocutory decree or order may be had, or such order or decree passed, out of the county in which the cause is pending, on notice thereof to the adverse party. And the justice hearing the same shall transmit to the clerk of the county where the cause is pending any order or decree made at such hearing, but no trial before a jury upon issues framed therefor or final hearing of the cause, shall be had out of the county where the bill is pending, without consent of parties.

SEC. 32. All evidence before the court below, or an abstract thereof, approved by the justice hearing the case, shall on appeal be reported. No witnesses shall be heard orally before the law court as a part of the case on appeal, but the court may, in such manner and on such terms as it deems proper, authorize additional evidence to be taken when the same has been omitted by accident or mistake, or discovered after the hearing.

SEC. 33. The court may, in its discretion and upon application of either party, frame issues of fact in equity causes, to be tried by a jury in the county where such cause is pending. A single justice may confirm any verdicts rendered upon such issues, and enter appropriate decrees thereon, or he may set aside such verdicts, and render such decrees as equity requires, as if such issues had not been framed. In all causes where such issues are framed and tried, an appeal may be taken, and exceptions had to rulings of law, as hereinbefore provided, and upon such appeal or exception, the law court may confirm or set aside the verdicts rendered in the

appeal, in certain cases.
R. S., c. 77, § 24.

Aggrieved party may take exceptions to rulings of justice.
R. S., c. 77, § 25.
78 Me., 337.
80 Me., 100.
88 Me., 359.
89 Me., 21.
90 Me., 468.
95 Me., 253.

—justice shall give separate findings of law and fact.

—other proceedings not suspended.

Date of order and decree.
R. S., c. 77, § 26.
82 Me., 204.

Process to enforce final decree shall not issue for ten days after entry, unless appeal is waived.
R. S., c. 77, § 27.

Judgment, divesting person of real estate, not effectual unless certified and recorded in registry of deeds.
1893, c. 301, § 3.
94 Me., 322.
See c. 7, § 17;
c. 115, §§ 4, 21.

What proceedings may be had, out of the county in which the cause is pending, on notice to adverse party.
R. S., c. 77, § 28.

Evidence in court below, how to be reported.
R. S., c. 77, § 29.

—no witnesses heard orally before law court.

Issues of fact may be tried by jury.
R. S., c. 77, § 30.
65 Me., 447.
75 Me., 417.
80 Me., 175.

—a single justice may confirm or set aside verdicts.

—appeal may be taken, and exceptions had. Writs of seizin or execution, etc., may issue. R. S., c. 77, § 31.

Preliminary injunctions may be granted complainant. R. S., c. 77, § 32.

—granted to either party, if court directs.

—perpetual injunctions.

Summary process shall issue by order of court, when decree is disobeyed. R. S., c. 77, § 33. 49 Me., 399. 60 Me., 334.

—proceedings, and punishment for contempt.

—bail.

—no appeal; exceptions.

Justice may, on motion, certify exceptions to be frivolous and intended for delay, and transmit them to the chief justice. R. S., c. 77, § 34.

—proceedings. 83 Me., 406.

cause, or order a new trial of such issues, and make such disposal of the case as equity demands. All such appeals and exceptions shall be taken, heard and determined as provided by this chapter.

SEC. 34. Writs of seizin or execution, and all other process appropriate to causes in equity, may be issued by the court, to enforce its decrees.

SEC. 35. Preliminary injunctions may be granted by a single justice in term time or in vacation, upon the complainant filing a bond with sufficient sureties conditioned to pay all damages and costs caused thereby, if he is finally found not entitled to such injunction, unless a single justice, on motion to dissolve the same and hearing on the merits thereof, refuses to dissolve it. Such damages and costs shall be awarded by the court on motion, but if not so awarded before final decree, they may be determined in a suit on such bond. Such injunction may also be granted to either party on hearing, without bond, upon oral evidence, depositions or affidavits, and upon such notice and with such time for pleading, evidence and hearing as the court directs. No preliminary injunction shall be granted to either party unless his pleadings contain an application therefor; but an injunction may be granted pending the suit, in proper cases, upon motion and hearing. Perpetual injunctions may be granted by the court or any justice thereof making final decree. (a)

SEC. 36. Whenever a party complains in writing, and under oath, that the process, decree or order of court, which is not for the payment of money only, has been disregarded or disobeyed by any person, summary process shall issue by order of any justice, requiring such person to appear on a day certain and show cause why he should not be adjudged guilty of contempt, and such process shall fix a time for answer to the complaint, and may fix a time for a hearing on oral testimony, depositions, or affidavits, or may fix successive times for proof, counter proof, and proof in rebuttal, or the time for hearing and manner of proof may be subsequently ordered upon the return day or thereafter. The court may, for good cause, enlarge the time for such hearing. If the person so summoned does not appear as directed, or does not attend the hearing at the time appointed therefor, as enlarged, or if, upon hearing, he is found guilty of such disregard or disobedience, he shall be adjudged in contempt, and the court may issue a *capias* to bring him before it to receive sentence, and may punish him by such reasonable fine or imprisonment as the case requires. The court may allow such offender to give bail to appear at a time certain, when such punishment may be imposed, if he continues in contempt. But when a second time found guilty of contempt in disregarding or disobeying the same order or decree, no bail shall be allowed. When such person purges himself of his contempt, the justice may remit such fine or imprisonment or any portion thereof. No appeal lies from any order or decree for such punishment, nor shall exceptions thereto be allowed, save upon questions of jurisdiction, nor in any case shall such exceptions suspend the enforcement of any such order or decree, unless the court so directs.

SEC. 37. When a justice deems any exceptions allowed by him, or any appeal in a proceeding in equity, frivolous and intended for delay, he may so certify on the motion of the party not excepting, and such exceptions and appeal and the record connected therewith shall be transmitted to the chief justice, and be argued in writing on both sides within thirty days thereafter, unless the justice transmitting the same, for good cause, enlarges the time, and they shall be considered and decided by the justices of said court as soon as may be, and the decision certified to the clerk of the county where the cause is pending; and if the decision is adverse to

(a) 42 Me., 127; 49 Me., 322, 398; 54 Me., 404; 55 Me., 551; 60 Me., 194, 336; 81 Me., 305; 87 Me., 187.

the party taking such appeal or exceptions, treble costs may be allowed the prevailing party.

SEC. 38. In case of any decree, an absent respondent whose property has been attached and who does not appear by the record to have been served with process within the state and has made no appearance before final process, shall have a review within one year after final decree, as of right, with stay or supersedeas of such process. The respondent may in such case apply to any justice by petition setting forth the grounds for such review, whereupon, if such justice orders reasonable notice to the other party, to appear at a time and place named therein, to show cause why such review should not be granted, when such review is granted, the justice may prescribe the time in which the respondent's defense shall be made. Reviews may also be granted on petition, whenever, by fraud, accident or mistake, and without fault of the party against whom the decree was ordered, justice has not been done; *provided*, that the petition therefor is filed within six years after final decree; and notice may be ordered and served with like rights of stay or supersedeas as herein provided. Upon granting the review, the court may fix a time within which the next proceeding shall be had.

SEC. 39. Nothing herein contained abridges the power of the court to hold all interlocutory orders and decrees subject to revision, at any time before final decree, except when they have been decided on appeal.

SEC. 40. The court shall make all proper rules for the regulation of equity practice necessary to simplify proceedings, discourage delays and lessen the expense of litigation, and it has full power for that purpose; but no rule of court now existing is repealed hereby, except so far as it is inconsistent herewith.

LAW COURT.

SEC. 41. When sitting as a court of law to determine questions of law, arising in suits at law and in equity, and in criminal trials and proceedings, the court shall be composed of five or more of the justices, who shall hear and determine such questions by the concurrence of five members; but when any of them cannot act in a case by reason of interest or other disqualification, a majority of the others is sufficient; and in any civil action in which there is a subsisting verdict, if a majority of the justices qualified to act in the case, after mature consideration and consultation, do not concur in granting a new trial, the court shall order judgment on the verdict.

SEC. 42. No justice shall sit in the law court upon the hearing of any cause tried before him, in which any of his rulings and findings are the subject of review, nor take any part in the decision thereof.

SEC. 43. For the purposes of the law court the state shall constitute one district. The sessions of the court as a law court, shall be holden at Augusta on the second Tuesday of December, at Bangor on the first Tuesday of June and at Portland on the fourth Tuesday of June in each year. Meetings of all the justices shall be held annually at Augusta and Portland during the law terms, and all undecided questions of law and equity previously submitted shall then be decided.

SEC. 44. At least ten days before the sitting of each term of the law court, the clerks of court in the several counties of the state, shall certify to the clerk of such term, all cases, pending in the supreme judicial and superior courts in their respective counties, marked "law" and all other matters of which the law court has jurisdiction, except cases in which exceptions or appeals in proceedings in equity have been adjudged frivolous and intended for delay; and they shall be entered on the docket of the law court and shall, together with all other matters therein pending be in order for argument, determination or continuance in the alphabetical order of counties. *Provided*, that causes marked "law" and all other mat-

Absent respondent, not served with process, shall have review within one year. R. S., c. 77, § 35.

—proceedings.

—when review may be granted, on petition.

—proviso.

Revisory power of court, save on appeal, not abridged. R. S., c. 77, § 36. Court shall make rules for practice in equity cases. R. S., c. 77, § 37. 82 Me., 250.

Five or more justices sit as a court of law; when less suffice. R. S., c. 77, § 38. 41 Me., 17. 45 Me., 153. 57 Me., 510, 540.

—verdict to stand, unless majority concur in granting new trial.

Justice shall not sit in review of own rulings. 1895, c. 140. Sessions of law court. R. S., c. 77, § 39. 1901, c. 246, § 3.

—annual sessions of all justices.

All pending cases marked "law" shall be certified to clerk. R. S., c. 77, § 40. 1901, c. 246, § 4.

—how entered and determined.

—causes in certain counties shall not be heard in Bangor except by consent.

Clerks of the terms of the law court.
R. S., c. 77, § 41.
1901, c. 246, § 5.

—duties.

—compensation of clerks.

Jurisdiction of the law court.
R. S., c. 77, § 42.
1901, c. 246, § 6.

—law cases, how to be marked.

—how to be disposed of.

—rescripts.

Arguments in writing.
R. S., c. 77, § 43.
1901, c. 246, § 7.
57 Me., 510.
85 Me., 129.
88 Me., 132.

Complaint for not entering cases on law docket.
R. S., c. 77, § 44.
1901, c. 246, § 8.
36 Me., 35.

Clerks shall enter judgment on certificate, as of preceding term; attachments and rights to disclose, preserved.

ters of which the law court has jurisdiction in the counties of Androscoggin, Cumberland, Franklin, Knox, Lincoln, Oxford, Sagadahoc and York shall not be entered or be in order for hearing at the term holden at Bangor, except by consent of both parties; but such causes shall be entered and be in order for hearing at the Portland and Augusta terms.

SEC. 45. The clerks of court in the counties of Kennebec, Penobscot and Cumberland shall be the clerks of the terms of the law court held in their respective counties and each shall, upon the adjournment of a term thereof holden in his county, transmit to the clerk of the next term all dockets together with all exhibits and documents in his custody relating to pending causes. The dockets of the law court shall be made from time to time and kept as the court may direct.

The chief justice or in his absence the senior justice present may allow the several clerks for attendance, not exceeding two and one-half dollars a day, and a reasonable compensation for making dockets, which shall be paid by the state, but no entry fee shall be charged.

SEC. 46. The following cases only come before the court as a court of law: Cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases, civil or criminal, presenting a question of law; all questions arising in equity cases; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari, when the facts are agreed on, or are ascertained and reported by a justice. They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of the county, and the court shall immediately after the decision of the question submitted to it, make such order, direction, judgment, or decree, as is fit and proper for the disposal of the case, and cause a rescript in all civil suits, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of the county where the action is pending, and to the reporter of decisions; and if no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued, the case, together with such rescript, if the reporter deems the same of sufficient importance for publication. (a)

SEC. 47. When parties enter an agreement on the docket of a county under cases named in the preceding section, and transmit arguments in writing to the court before or at its next law term, such cases need not be entered on the docket of the law court; and the court may pronounce judgment in any county, and cause it to be certified and entered in the county where it is pending, as of the preceding term.

SEC. 48. When cases mentioned in section forty-six are not entered on the docket of the law court within the first two days of the next law term, the opposite party may, at that term, enter a complaint, briefly setting forth the facts, and the court, if satisfied of the truth thereof, may render judgment in his favor, as in other cases decided by it; and if the case is on exceptions, treble costs shall be awarded from the time when they were filed.

SEC. 49. The clerk of a county, by virtue of a certificate, provided for in this chapter, received in vacation, shall enter judgment as of the preceding term, and execution may issue as of that term; but attachments then in force continue for thirty days after the next term in that county; and if the defendant was arrested on mesne process and gave bond to disclose after judgment, he may do so after said next term without breach

(a) 41 Me., 18; 45 Me., 153, 418; 46 Me., 331; 50 Me., 272; 56 Me., 233; 57 Me., 23, 510; 59 Me., 580; 62 Me., 320; 67 Me., 133; 68 Me., 203, 343; 70 Me., 333; 72 Me., 104; 73 Me., 139, 224; 74 Me., 109; 77 Me., 243.

of his bond. *Provided*, that where a party to a suit dies while the action is pending before the law court, and no suggestion of such death has been made upon the docket of the county where the action is pending, at the time when the certificate of decision is received by the clerk of the court in such county, any justice of the supreme judicial court may, in term time or vacation, order such action to be brought or carried forward on such county docket to a subsequent term of the court in such county, in order that such death may be suggested upon the docket, and the proper parties entitled to defend or prosecute such suit may enter their appearance therein, and that the judgment in said action may be entered up at such subsequent term, in accordance with such certificate from the law court.

R. S., c. 77, § 45.
68 Me., 203.
72 Me., 451.
76 Me., 97.
79 Me., 358.

—provision, where a party to a suit dies, while action is pending before law court.
See c. 82, § 49;
c. 87, §§ 7, 12.

SEC. 50. When a plaintiff dies before the expiration of thirty days from the rendition of judgment in his favor, or before the expiration of thirty days after the next term of court in the county where the action was pending, in cases where a certificate of decision, provided for in this chapter, is received by the clerk of said county, in vacation, and no suggestion of such death has been made upon the docket of said courts, execution may issue as is now provided, and all attachments then in force continue for ninety days after the next term of the court in that county; and if the defendant was arrested on mesne process, and gave bond to disclose after judgment, he may do so after said next term without breach of his bond.

Attachments continue in certain cases, where plaintiff dies, within thirty days after judgment in his favor.
R. S., c. 77, § 46.

—if defendant has been arrested, proceedings.

TRIAL COURTS.

SEC. 51. For the trial of civil actions and of persons accused of offenses, and for the transaction of all other business, except cases named in section forty-six, the court shall be held annually by one justice, at the following places and times; and the justices shall so hold said terms, under the direction of the chief justice, that their services shall be divided to each county as equally as may be.

Trial terms, shall be held by one justice in each county.
R. S., c. 77, § 47.

In the county of Androscoggin, at Auburn, on the third Tuesdays of January, April and September:—

—Androscoggin.

Note. Jurisdiction is specially conferred upon the supreme judicial court in the following cases:

- In condemnation proceedings by U. S., c. 2, § 11.
- To appoint commissioners to locate public lots, c. 5, §§ 13 and 21; c. 12, §§ 60 to 63.
- Upon appeal from county commissioners assessing road tax, c. 6, § 144; from assessors on application for abatement of taxes, c. 6, § 168; from municipal officers ordering removal of dangerous building, c. 17, § 28.
- In cases arising under the law governing appeals from decisions of the county commissioners, railroad commissioners and municipal officers relating to ways, c. 18, §§ 8, 10, 11, 20, 21, 28, 45, 51; c. 92, § 41.
- To establish a common field, c. 22, § 36.
- Of proceedings to drain marsh lands, c. 22, § 44.
- To enforce penalties for neglect to maintain fishways, c. 30, § 36.
- Of appeals from orders of insurance commissioner, c. 49, §§ 95, 161; from county commissioners relating to damages for lands taken by railroads, c. 51, § 35; from decisions of railroad commissioners as to crossings and bridges, c. 51, § 52; on locations of street railroads, c. 51, § 187.
- Of actions on awards of municipal officers for damages caused by construction of electrical lines, c. 52, § 21; of appeals in such cases, § 24.
- Of applications to restore to parents custody of children, c. 59, § 49.
- Of probate appeals, c. 63, §§ 31-37; c. 66, §§ 12-18.
- To appoint administrators under certain conditions, c. 64, § 20.
- To authorize sales of real estate of deceased persons, c. 71, §§ 3, 14, 20.
- To authorize sales of real estate subject to contingent remainders, c. 73, § 4; to order deed to be recorded, c. 73, § 30.
- To approve sale, when husband or wife refuses to join in deed, c. 75, § 17.
- Of appeals from trial justices, c. 53, §§ 19-22; c. 98, § 3.
- In cases relating to partition of real estate, c. 58.
- Of petition for review, c. 89.
- To settle title to real estate encumbered by undischarged mortgage, c. 90, § 34.
- To enforce liens on buildings, lands, wharves and piers, c. 91, § 40.
- To order sale of vessel attached for lien, c. 91, § 11.
- In proceedings to recover damage for flowage, c. 92.
- In cases of forfeited goods, c. 98, § 5.
- To release an insane person under arrest or imprisoned, c. 99, § 38.
- Over cutting and sale of wood and timber, c. 109.
- To release on habeas corpus, person wrongfully detained in insane hospital, c. 142, § 36.

—Aroostook.
1893, c. 178.
1897, c. 230.

—April term
adjourned to
Caribou.

—Cumber-
land.

—Franklin.
1901, c. 253, § 1.
95 Me., 452.

—Hancock.
1889, c. 199.

—Kennebec.

—Knox.
1901, c. 253, § 2.

—Lincoln.
—Oxford.
1901, c. 137.

—Penobscot.

—Piscataquis.
1897, c. 258.

—Sagadahoc.
1901, c. 253, § 3.

—Somerset.
1901, c. 253, § 4.
60 Me., 363.

—Waldo.
1897, c. 284.

—Washing-
ton.

1897, c. 312.
—York.
1901, c. 253, § 5.

Legal
holidays.
R. S., c. 77, § 48.
1891, c. 19.
78 Me., 502, 582.

When jus-
tice may try
cases alone.
R. S., c. 77, § 49.
5 Me., 140.
65 Me., 81.
92 Me., 79.

Aroostook, at Houlton, on the third Tuesdays of April and September for civil and criminal business, and at Caribou on the first Tuesday of December for civil business only. At every said April term, the court upon the completion of the business conveniently triable therein at said Houlton, shall adjourn to Caribou to there complete such civil business pending in said court as ought to be and may be more conveniently there tried and heard; and the jurors in attendance at said court, except grand jurors, may be required to attend such adjournment, or may be discharged, or new jurors summoned as the circumstances may require:—

Cumberland, at Portland, on the second Tuesdays of January, April and October, for civil business:—

Franklin, at Farmington, on the first Tuesday of February, third Tuesday of May, and the fourth Tuesday of September; the May term shall be held without a grand jury and with but one traverse jury, unless a justice of said court shall otherwise specially order, in which case the clerk shall send venires for the requisite number of traverse jurors, and shall summon the grand jury of the preceding term, as the terms of said order may require. All recognizances from municipal courts and trial justices in which parties are held to await the action of the grand jury, made returnable to said May term, shall, when no grand jury is in attendance be continued to and have day in the next term of the court held in said county:—

Hancock, at Ellsworth, on the third Tuesday of January, and the second Tuesdays of April and October. The term held on the third Tuesday of January shall be for the transaction of civil business only and no grand jury shall be in attendance. Unless otherwise ordered by some justice of the court, either in term time or vacation, one traverse jury only shall be in attendance for the trial of causes, and venires for jurors shall be issued by the clerk in accordance with this section:—

Kennebec, at Augusta, on the first Tuesday of March, and the third Tuesday of October, for civil business:—

Knox, at Rockland, on the second Tuesday of March, third Tuesday of September and fourth Tuesday of December:—

Lincoln, at Wiscasset, on the fourth Tuesdays of April and October:—

Oxford, at Paris, on the second Tuesdays of March and October:—

Penobscot, at Bangor, on the first Tuesdays of January, April and October, for civil business, and on the first Tuesday of February and the second Tuesday of August, for criminal business:—

Piscataquis, at Dover, on the last Tuesday of February and third Tuesday of September:—

Sagadahoc, at Bath, on the first Tuesday of April, third Tuesday of August and the fourth Tuesday of December:—

Somerset, at Skowhegan, on the third Tuesdays of March and September, and the fourth Tuesday of December:—

Waldo, at Belfast, on the first Tuesday of January, and the third Tuesdays of April and September:—

Washington, at Machias, on the second Tuesdays of January and October, and at Calais on the fourth Tuesday of April:—

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

SEC. 52. No court shall be held on Sunday, on any day designated for the annual fast or thanksgiving, or for the choice of presidential electors, the thirtieth day of May, fourth day of July, the first Monday of September, the day of the state election, or on Christmas day; and when the time fixed for a term of said court falls on either of said days it shall stand adjourned until the next day, which shall be deemed the first day of the term for all purposes.

SEC. 53. The justice presiding at such terms shall decide any cause without the aid of a jury, when the parties enter upon the docket an agreement authorizing it.

SEC. 54. When no justice attends on the day for holding a court, the sheriff, or in his absence, the clerk, shall by oral proclamation in the courthouse and by notice posted on the door thereof, adjourn the court from day to day until a justice attends, and, in case of necessity, without day; and when so adjourned, actions brought for that term shall be entered by the clerk, and they, with all actions on the docket, shall be continued to the next term.

When justice does not attend court shall be adjourned; proceedings. R. S., c. 77, § 50. 66 Me., 425.

SEC. 55. When the court is held by one justice, a party aggrieved by any of his opinions, directions, or judgments, in any civil or criminal proceeding, may, during the term, present written exceptions in a summary manner, signed by himself or counsel, and when found true they shall be allowed and signed by such justice; but if he deems them frivolous and intended for delay, he may so certify on motion of the party not excepting; and such exceptions may then be transmitted at once by such justice to the chief justice, and shall be argued in writing on both sides within thirty days thereafter, unless the presiding justice, for good cause, enlarges the time, and they shall be considered and decided by the justices of said court as soon as may be, and the decision certified to the clerk of the county where the case is pending. This section applies to exceptions filed in any criminal proceedings in either of the superior courts. If the justice disallows or fails to sign and return the exceptions, or alters any statement therein, and either party is aggrieved, the truth of the exceptions presented may be established before the supreme judicial court sitting as a court of law, upon petition setting forth the grievance, and thereupon, the truth thereof being established, the exceptions shall be heard, and the same proceedings had as if they had been duly signed and brought up to said court with the petition. The supreme judicial court shall make and promulgate rules for settling the truth of exceptions alleged and not allowed. (a)

Exceptions, in civil and criminal cases. R. S., c. 77, § 51.

—proceedings, if they are deemed frivolous.

—this section applies to superior courts.

—how exceptions may be established. 1893, c. 174, § 1.

SEC. 56. When a dilatory plea is overruled and exceptions taken, the court shall proceed and close the trial, and the action shall then be continued and marked "law," subject to the provisions of the preceding section. (b)

Trial to proceed when dilatory pleas are overruled. R. S., c. 77, § 52.

SEC. 57. In all cases taken to the law court for argument and decision, except appeals by attorneys at law from judgments of court rendered against them on information, all copies of the case, abstracts containing the substance of all the material facts, pleadings and documents on which the parties rely, may either be printed or fairly and legibly written on good paper.

Copies, in law cases, may be printed or written. R. S., c. 77, § 53. See c. 79, § 41.

SEC. 58. In each case argued before the law court counsel shall file with the clerk of court where such case is heard, three copies of their respective briefs, if printed, and the clerk, at the expense of his county, shall cause the same to be bound in three equal volumes of convenient size, properly paged, indexed and labeled, and shall deposit one each of said volumes in the respective county law libraries at Augusta, Bangor and Portland.

Counsel shall file three copies of brief in all cases argued before law court. 1901, c. 195.

SEC. 59. Interest shall be allowed on verdicts and amounts reported by referees to be due, from the time of finding such verdicts or making such reports, to the time of judgment. (c)

Interest on verdicts and awards. R. S., c. 77, § 54.

(a) 41 Me., 18; 45 Me., 154, 418; 49 Me., 401; 56 Me., 25, 249; 57 Me., 292; 58 Me., 233; 60 Me., 464; 62 Me., 321; 64 Me., 176, 210; 65 Me., 81; 67 Me., 231, 387, 444; 74 Me., 109, 212; 77 Me., 243; 86 Me., 295; 92 Me., 79.

(b) 53 Me., 541; 65 Me., 367; 67 Me., 38; 71 Me., 28; 80 Me., 100; 91 Me., 577; 93 Me., 556; 95 Me., 134.

(c) 36 Me., 22; 50 Me., 338; 53 Me., 515.

ATTORNEY GENERAL.

To attend law courts and instruct county attorneys.
R. S., c. 77, § 55.
See c. 79, § 17.

Cause witnesses to recognize, and procure attendance of those out of the state.
R. S., c. 77, § 56.

May employ detectives.
1901, c. 162, § 2.

See c. 137, § 13.

Appropriation.
1901, c. 162, § 1.

—expenses, how paid.
1901, c. 162, § 3.

Make annual report.
R. S., c. 77, § 57.
See c. 79, § 19.

Shall not receive pay from prosecutor.
R. S., c. 77, § 58.

Reporter; appointment, and tenure of office.
R. S., c. 77, § 59.
72 Me., 543, 565.

SEC. 60. The attorney general, when practicable, shall attend all terms of the law court, and all trials of persons indicted for treason or murder, on notice from the clerk, and give all proper instructions to county attorneys when he is absent, and at other times.

SEC. 61. When a criminal prosecution, in which he appears, is continued, he shall cause the witnesses in behalf of the State to recognize to appear at the next term, unless otherwise directed by the court, and may procure the attendance of a witness living out of the state deemed by him material in procuring an indictment or conviction; and the court shall allow such witness a reasonable compensation beyond his legal fees.

SEC. 62. The attorney general may, by himself or through the several county attorneys or other officers of the state, employ such detectives or other persons, offer rewards or use other means that he may deem advisable, for the detection, arrest and apprehension of persons who commit crime in this state.

SEC. 63. For said purpose the sum of fifteen hundred dollars shall be appropriated each year, and so much thereof as may be necessary, may be expended under the direction of the attorney general. The governor and council may draw their warrants from time to time, for the expenditure of said sum, upon the presentation of bills properly avouched by the attorney general.

SEC. 64. The attorney general shall, annually, on the first day of December, make a report to the governor and council of the amount and kind of official business done by him, and by the several county attorneys during the year preceding, stating the number of persons prosecuted, their alleged offenses, the results, and the punishments awarded, with any useful suggestions.

SEC. 65. He shall not receive any fee or reward, from or in behalf of any prosecutor, for official services, or, during the pendency of a prosecution, be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts.

REPORTER OF DECISIONS.

SEC. 66. The governor, with the advice and consent of council, shall, in case of a vacancy, appoint a person learned in the law, to be reporter of the decisions of the law court, who shall *be sworn and* hold his office during the pleasure of the executive.

Note. Attorney General shall prosecute treasurer of state for misconduct in office, c. 2, § 57; shall assist in making inventory in case of vacancy in office of treasurer of state, § 72; shall prosecute registers of deeds for misconduct, c. 7, § 11; disqualified to be county treasurer, c. 8, §§ 5; shall institute proceedings to protect property dedicated to pious uses, c. 12, § 33; shall enforce penalty for failure to allege former conviction, c. 27, § 62.

As to corporations in general, shall enforce penalties for neglect of corporation or officers to make returns, c. 46, §§ 21, 22; shall discontinue action upon compliance with law and payment of costs, § 23; may excuse corporations from filing returns, § 25; shall prosecute for violations of law regulating savings banks, c. 47, § 133; shall be notified of proceedings for distribution of deposit of foreign loan and building association, § 160; shall examine and approve certificate of organization, c. 48, § 3; shall enforce law against trusts, § 22; shall approve form of notice of hours of labor, § 34; also form of certificate of age of minor laborer, § 40.

As to insurance companies, shall prosecute for violations of law relating to foreign surety companies, title and credit insurance companies, c. 49, § 123; shall institute proceedings against companies transacting the business of casualty insurance on the assessment plan, for violation of law, § 131.

As to railroads, shall take charge of proceedings against company for failure to operate road, c. 51, § 70; shall file information in nature of quo warranto against railroad corporation assigning its charter, or leasing its road without consent of legislature, § 77; shall prosecute corporation wilfully neglecting to make returns, § 83; shall prosecute corporation violating certain provisions for safety on railroads, §§ 86, 144, 147; shall take charge of proceedings to enforce compliance with order of railroad commissioners to make repairs, § 148.

Shall prosecute sheriff for failure to file bond, c. 80, § 5; county treasurer for failure to report to him, c. 135, §§ 14, 15.

May file information against unworthy attorney, c. 79, § 37; for recovering seizin by the State in lands, c. 93, §§ 2, 5, 9, 11, 14, 17.

SEC. 67. The reporter of decisions shall, by his personal attendance when practicable, or by the best other means in his power, prepare correct reports of all legal questions argued, reporting the cases more or less at large according to his judgment of their importance. He shall publish at least one volume yearly, and furnish the usual number of current copies to the state and to the public at a price of one dollar and seventy-five cents a volume. The volumes shall be of the average size of volume eighty-three, Maine reports, and be equal thereto in paper, printing, binding, general finish and quantity of printed matter.

Duties.
1901, c. 256, § 2.

—price of reports.

—size and style of volume.

SEC. 68. Each volume of said reports shall be entered by the secretary of state with the librarian of congress and copyrighted in the name of the state of Maine, and the manuscript and copyright thereof shall belong to the state. All profits arising from the publication and sale of said reports and advance sheets thereof by said reporter shall be accounted for and paid over by him to the treasurer of state on the first Monday in December in each year. After ceasing to hold office the reporter shall prepare and publish all unpublished cases argued while in office.

Reports shall be copyrighted in the name of the state.
1901, c. 256, §§ 3, 4.

—all profits shall be paid over to the treasurer of state.

SEC. 69. The reporter shall furnish free of charge the judges of the supreme and superior courts with one copy each of advance sheets; he shall also be entitled to twenty-five copies, free of expense, for current exchanges with the reporters of other states, law school libraries, the attorney general, and heads of departments.

He shall furnish advance sheets free to all judges.
1901, c. 256, § 5.

THE SUPERIOR COURT FOR THE COUNTY OF CUMBERLAND.

SEC. 70. The superior court established at Portland, within and for the county of Cumberland, shall consist of one justice, an inhabitant of said county, of sobriety of manners and learned in the law, who shall be appointed, commissioned and qualified according to the constitution, and shall reside during his continuance in office, in Portland.

Superior court for Cumberland county.
R. S., c. 77, § 62.
—qualification of justice.

SEC. 71. Within said county, said superior court has exclusive jurisdiction of civil appeals from municipal and police courts and trial justices; exclusive original jurisdiction of actions of scire facias on judgments and recognizances not exceeding five hundred dollars; of bastardy trials, and of all other civil actions at law not exclusively cognizable by municipal and police courts and trial justices, where the damages demanded do not exceed five hundred dollars, except complaints for flowage, real actions, and actions of trespass quare clausum; and concurrent original jurisdiction of actions of trespass quare clausum, and of proceedings in habeas corpus; and of all other civil actions at law where the damages exceed five hundred dollars, except complaints for flowage and real actions.

Jurisdiction.
R. S., c. 77, § 63.
57 Me., 154.
60 Me., 463.

SEC. 72. Said court shall be held for civil business on the first Tuesdays of every month, except June, July and August; but the criminal business of said county shall be transacted at the terms held on the first Tuesdays of January, May and September, together with civil business.

Civil and criminal terms.
R. S., c. 67, § 64.
64 Me., 530.

SEC. 73. Actions shall be made returnable at one of the three terms next begun and held after the commencement thereof.

Writs, when returnable.
R. S., c. 67, § 65.

THE SUPERIOR COURT FOR THE COUNTY OF KENNEBEC.

SEC. 74. The superior court established at Augusta, within and for the county of Kennebec, shall consist of one justice, an inhabitant of said county, of sobriety of manners and learned in the law, appointed, commissioned, and qualified according to the constitution.

Superior court for Kennebec.
R. S., c. 67, § 66.
—qualification of justice.

SEC. 75. Within said county, said superior court has exclusive jurisdiction of civil appeals from municipal and police courts, and trial justices, exclusive original jurisdiction of actions of scire facias on judgments and recognizances not exceeding five hundred dollars; of bastardy trials, and of all other civil actions at law not exclusively cognizable by municipal

Jurisdiction.
R. S., c. 77, § 67.
1891, c. 104, § 1.
73 Me., 514.
91 Me., 141.

Entitled to notice of certain proceedings on habeas corpus, c. 99, § 15; of poor debtor's proceeding on judgment in favor of the State, c. 112, § 83, and of proceedings in court on application for pardon, c. 137, § 2.

Shall institute proceedings against lotteries, c. 127, § 14.

pal and police courts, and trial justices, where the damages demanded do not exceed five hundred dollars, except complaints for flowage, real actions, and actions of trespass quare clausum; and concurrent original jurisdiction of proceedings in habeas corpus, and libels for divorce.

SEC. 76. Said court shall be held at Augusta on the second Tuesday of January, and the first Tuesdays of April and September, and at Waterville on the second Tuesdays of June and November; but the criminal business of said county shall be transacted at the terms held on the second Tuesday of January and the first Tuesdays of April and September, together with civil business. The judge of said court may continue any case pending in said court without costs, when in his judgment justice may require it, in order to give the parties in interest opportunity to try any such case in either Waterville or Augusta in said county.

SEC. 77. The city of Waterville *is hereby authorized and empowered* to (may) provide a building and furnish suitable accommodation, for holding the superior court in said city, and may raise by assessment or loan, and appropriate a sufficient sum of money for the purpose of providing said accommodation for the said court.

SEC. 78. Actions shall be made returnable at one of the next two terms begun and held after the commencement thereof.

GENERAL PROVISIONS APPLICABLE TO BOTH OF THE SUPERIOR COURTS.

SEC. 79. Each justice of a superior court shall establish a seal for his said court; all writs and processes issuing from any superior court shall be in the name of the state, of the usual forms, bearing the teste of the justice thereof under the seal of said court; they shall be signed by its clerk and obeyed and executed throughout the state, and may be made returnable in the superior court of any other county in which the action might be legally brought.

SEC. 80. The clerk for the time being of the supreme judicial court in each of said counties is also clerk of the superior court thereof. He shall appoint a deputy approved by the justice of such superior court, who shall act as clerk thereof whenever said court and the supreme judicial court are both in session in such county. And whenever said clerk of the supreme judicial court is absent, or the office is vacant, such justice may appoint a clerk for his court during such absence, or until an appointment is made by the governor and council, or by the supreme judicial court.

SEC. 81. The sheriff of each of said counties shall attend the superior court thereof unless the supreme judicial court is in session in such county in which case he shall specially designate a deputy, approved by the justice of such superior court, so to attend. And whenever it happens that such justice is prevented from attending at the time and place at which such court by law or by adjournment ought to be held, said sheriff or such deputy shall, by oral proclamation, adjourn said court from day to day, until such justice attends.

SEC. 82. Venires for grand jurors to serve at said superior courts shall be issued at least forty days before the first Tuesday of September, annually, and such jurors shall serve at every term of said courts for the transaction of criminal business throughout the year. Traverse jurors shall be drawn and returned to serve at the several terms of said courts as in the supreme judicial court, except that the same jurors may be required by the justice presiding to serve for two successive terms.

SEC. 83. If the plaintiff in either of said superior courts desires a jury trial, he must indorse the same upon his writ at the time of entry. The defendant shall, within fourteen days after entry, file his pleadings, and if the plaintiff has not demanded a jury, the defendant must indorse on his plea his demand for a jury, if he desires one. But whenever by

Terms.
R. S., c. 77, § 68.
1901, c. 172.
85 Me., 122.

—judge may
continue cases
for trial in
Waterville
or Augusta.
1889, c. 271, § 4.

City of
Waterville
may provide
accommoda-
tions for
court.
1889, c. 271, § 5.
Writs, when
returnable.
R. S., c. 77, § 69.
77 Me., 170.
85 Me., 122.

Seal: form of
writs and
processes, and
how issued.
R. S., c. 77, § 70.
1887, c. 2.

Clerk.
R. S., c. 77, § 71.
See c. 114, § 5.

—clerk may
appoint
deputy.

—vacancy,
how filled.

Sheriff or
deputy to
attend court.
R. S., c. 77, § 72.

Grand jurors.
R. S., c. 77, § 73.

—traverse
jurors.

Proceedings,
if jury trial
is desired by
plaintiff or
defendant.
R. S., c. 77, § 74.
57 Me., 38.
60 Me., 43.
63 Me., 87, 152.

accident or mistake the plaintiff fails to indorse on his writ at the time of entry a request for a jury trial, or if the defendant by accident or mistake fails to indorse upon his plea, when filed, a demand for a jury, the court may, on motion of either party, at its discretion order a trial by jury in the cause. Whenever a jury is so demanded by either party, or ordered by the court, the clerk shall enter the fact on the docket, and all other cases, except appeals, shall be tried by the justice without the intervention of a jury, subject to exceptions in matters of law, in term time, or if both parties desire, at chambers. When a defendant, legally served, does not appear by himself or attorney within the first three days of the term, he shall be defaulted as in the supreme judicial court. If the defendant does not file his pleadings as hereinbefore provided, he shall be defaulted on the first day of the next term after entry, unless the court for good cause grants leave to file a plea or otherwise lawfully disposes of the action. All actions duly answered to shall be in order for trial at the next term after entry, and shall be so tried, except for good cause. Appeals shall be entered by the appellant as in the supreme judicial court, and *appeals* shall be in order for trial at the first term.

—all other cases, save appeals, to be tried by justice.

—order of trials.

—appeals, how entered.

SEC. 84. Exceptions may be alleged as in the supreme judicial court and shall together with all cases upon agreed statement of facts, upon report and motions for new trials, be certified as provided in section forty-four of this chapter. And all exceptions arising in cases within the exclusive jurisdiction of either of said superior courts may be certified at once by the justice thereof to the chief justice of the supreme judicial court, and shall, when so certified, be argued in writing on both sides within thirty days thereafter, unless the justice of such superior court for good cause, enlarges the time, and exceptions so certified shall be considered and determined by the justices of the supreme judicial court, as soon as may be. Decisions of the law court on all exceptions and questions from said superior courts shall be certified to the clerk of either of said superior courts with the same effect as in cases originating in the supreme judicial court in the county.

Exceptions.
R. S., c. 77, § 75.
1901, c. 246, § 9.
59 Me., 198.
67 Me., 77.
90 Me., 274.

—cases certified upon agreed statements, when to be determined.

—decision shall be certified to clerk.

SEC. 85. When a demurrer to a declaration is overruled, the defendant, notwithstanding he excepts, may plead anew within such time as the justice orders, but in all cases where exceptions are alleged by the defendant, the action shall, notwithstanding, remain upon the docket of the superior court and be proceeded with as if no exceptions had been taken, until the case is in such a condition that the overruling of said exceptions will finally dispose of it. And the action shall then be transferred to the law court, or certified to the chief justice thereof, as hereinbefore provided for the hearing and determination of all exceptions arising in any stage of the case.

Demurrer overruled, defendant may plead anew.
R. S., c. 77, § 76.

—actions to remain on docket until finally disposed of
93 Me., 557.

SEC. 86. The supreme judicial court, sitting as a court of law, has the same jurisdiction of all questions of law, motions for new trials, and questions arising on reports or agreed statements of facts originating in either superior court, as if they had originated in the supreme judicial court; and said law court has the same jurisdiction of all questions and motions certified thereto from either superior court as hereinbefore provided. And all provisions of law and rules of the supreme judicial court relative to the transfer of actions and other matters from the supreme judicial court for said county, or from its docket to the docket of said law court, and all provisions of law and rules regulating proceedings in such cases, and the effects of such proceedings apply to the transfer of actions from either of the superior courts or the dockets thereof to said law court, and to the proceedings in such cases and the effect thereof, except so far as they are inconsistent with the foregoing provisions.

Jurisdiction of law court over questions of law.
R. S., c. 77, § 77.
1901, c. 246, § 10.
63 Me., 121.

—transfer of actions to law court.

SEC. 87. Said superior courts may administer all necessary oaths, render judgment and issue execution, punish for contempt, and compel attendance, as in the supreme judicial court; make all such rules and regu-

Authority of court.
R. S., c. 77, § 78.

lations, not repugnant to law, as may be necessary and proper for the administration of justice promptly and without delay; and the provisions of law relative to the jurisdiction of the supreme judicial court in each of said counties over parties, the arrest of persons, attachment of property, the time and mode of service of precepts, proceedings in court, the taxation of costs, the rendition of judgments, the issuing, service and return of executions, and all other subjects, apply to each of said superior courts in all respects, except so far as they are modified by this chapter; and each of said superior courts is clothed as fully as the supreme judicial court, with all the powers necessary for the performance of all its duties.

Final judgments may be re-examined in supreme court; proceedings. R. S., c. 77, § 79.

SEC. 88. Final judgments in said superior courts may be re-examined in the supreme judicial court on a writ of error, or on petition for review, and when the judgment is reversed, the supreme judicial court shall render such judgment as the superior court should have rendered, and when a review is granted, it shall be tried in said supreme judicial court, which has the same power to grant writs of supersedeas of executions issued from said superior courts, as it has of executions issued from the supreme judicial court.

In case of illness, etc., of judge of superior court, other judges may hold court. R. S., c. 77, § 80. 1893, c. 277. —teste of writs in case of vacancy.

SEC. 89. Whenever a judge of a superior court, by reason of illness, death, or other cause, is prevented from holding his court, any other judge of a superior court or any justice of the supreme judicial court by order of the chief justice, shall hold the same. And during a vacancy in the office of justice of either of the superior courts, all writs issued from the office of the clerk thereof, shall bear teste of any one of the justices of the supreme judicial court. Whenever the justice of either of the superior courts is disqualified by interest, relationship, or other lawful cause from trying any cause pending in his said court, said case shall thereupon be transferred to the docket of the supreme judicial court for the county, and be disposed of in said court according to law.

—cases transferred to supreme court, when justice is disqualified.

Criminal jurisdiction. R. S., c. 77, § 81. 56 Me., 491. 60 Me., 507.

SEC. 90. The original and appellate jurisdiction in all criminal matters in said counties of Cumberland and Kennebec, and all powers incident thereto, originally exercised by the supreme judicial court, but heretofore conferred upon and exercised by said superior courts, are continued, except as provided in section two of chapter one hundred and thirty.

Exceptions in criminal cases, when to be heard. R. S., c. 77, § 82. 1901, c. 246, § 11. 80 Me., 62.

SEC. 91. All exceptions or questions arising in any way during the trial of criminal cases in either of said superior courts, shall be transferred to the law docket of the supreme judicial court and have day therein, and if said exceptions are sustained, or a new trial is ordered, the cause shall be remanded to such superior court for trial. Motions for a new trial in criminal cases tried in either of the superior courts, shall be heard and finally determined by the justice thereof.

See § 55.

Jurisdiction of S. J. C. limited. R. S., c. 77, § 83.

SEC. 92. The jurisdiction of the supreme judicial court for the trial of civil and criminal cases in the counties of Cumberland and Kennebec, is limited in conformity to the foregoing provisions.

NATURALIZATION.

Jurisdiction of applications for naturalization. 1893, c. 310.

88 Me., 200.

SEC. 93. The supreme judicial and superior courts shall respectively have jurisdiction of applications for naturalization. No other court established by this state shall entertain any primary or final declaration or application made by or in behalf of an alien to become a citizen of the United States, or entertain jurisdiction of the naturalization of aliens.

CHAPTER 78.

COUNTY COMMISSIONERS.

THEIR ELECTION AND TENURE OF OFFICE.

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

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

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

Vacancies, how filled.
R. S., c. 78, § 2.

—full term of election, six years.

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

Vacancies happening otherwise, filled by appointment.
R. S., c. 78, § 3.
50 Me., 609.
61 Me., 603.

SEC. 4. County commissioners shall be elected on the second Monday of September, in the year eighteen hundred and eighty and every two years thence following, by the written votes of electors qualified to vote for representatives. The votes shall be received, sorted, counted, and declared, as votes for representatives are; the names of the persons voted for, the number of votes for each, and the whole number of ballots received, shall be recorded by the clerk in the town records, and true copies thereof, sealed and attested as returns of votes for senators, shall be transmitted to the secretary of state within thirty days.

Mode of election.
R. S., c. 78, § 4.
64 Me., 592, 594.

SEC. 5. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, may personally, and by or with counsel, examine said returns in presence of the governor and council, or either of them, or any member of the council. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of state, *be sworn*, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected. *To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes intentionally cast for him, although his name upon*

Mode of determining who are elected.
R. S., c. 78, § 5.
26 Me., 498.
54 Me., 603, 605.
64 Me., 590, 598.
70 Me., 561, 571, 587.
71 Me., 370, 384.

—how to be notified of their election.

—when they shall enter upon official duties.

—highest number of votes, how ascertained.

—governor and council may hear testimony.
 —to the election of what officers, applicable.
 —in cases of defective return, attested copy of record may be substituted.
 70 Me., 561, 587.

the ballot is misspelled or written with only the initial or initials of his christian name or names; and they may hear testimony upon oath, in relation to such votes, in order to get at the intention of the electors, and shall decide accordingly. This section shall be applied in determining the election of all county officers, and, so far as it relates to the examination and correction of returns, *and to ascertain for whom votes were intentionally cast*, it shall be applied in determining the election of representatives to congress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

[The commissioner suggests that the words in italics in the second and third sentences from the end of the section are probably inconsistent with the "careful provision for a secret ballot" in P. L. 1891, c. 102, and amendments. 86 Me., 42, 52.]

THEIR REGULAR SESSIONS AND CLERK.

Regular sessions, times and places.
 R. S., c. 78, § 6.
 —Androscoggin.

SEC. 6. They shall hold annual sessions in the shire town of each county at the times following:

In the county of Androscoggin, on the first Tuesdays of April and October:—

—Aroostook.
 —Cumberland.
 78 Me., 102.

Aroostook, on the first Tuesdays of January and July:—

Cumberland, terms of record on the first Tuesdays of January and June, and regular sessions on the first Tuesday of each month:—

—Franklin.

Franklin, on the last Tuesdays of April and December:—

—Hancock.
 1897, c. 183.

Hancock, on the third Tuesday of January, and the second Tuesdays of April and October:—

—Kennebec.

Kennebec, on the third Tuesdays of April, August and December:—

—Knox.

Knox, on the first Tuesdays of April and December, and the third Tuesday of August:—

—Lincoln.
 1897, c. 228.

Lincoln, on the second Tuesday of May, the first Tuesday of September, and the last Monday of December:—

—Oxford.

Oxford, on the second Tuesday of May, the first Tuesday of September, and the last Tuesday of December, at Paris:—

—Penobscot.

Penobscot, on the first Tuesdays of January, April, July, and October:—

—Piscataquis.
 —Sagadahoc.

Piscataquis, on the first Tuesdays of April, August and December:—

Sagadahoc, on the first Tuesdays of March, July and November:—

—Somerset.

Somerset, on the first Tuesdays of March and August, and the second Tuesday of December:—

—Waldo.

Waldo, on the second Tuesday of April, and the third Tuesdays of August and December:—

—Washington.
 1899, c. 12.

Washington, at Machias, on the second Tuesdays of January and October, and at Calais, on the fourth Tuesday of April:—

—York.
 1889, c. 198.

York, terms of record on the first Tuesdays of April and October, at Alfred, and regular sessions on the first Tuesday of each month, where the probate court for the county of York, for the same month, shall be held.

Clerk of the courts to be clerk of the commissioners; when he may appoint clerk pro tem: his oath and duty.
 R. S., c. 78, § 7.
 67 Me., 436.

SEC. 7. The clerk of the judicial courts in each county is clerk of the commissioners; and when the supreme judicial court and the commissioners are in session at the same time, he may appoint a clerk pro tempore to the commissioners, for whose doings he is responsible. Such clerk shall be sworn, and make a daily record of their doings, and they shall examine it, and when correct certify it, and it shall be copied into their records by the stated clerk.

THEIR POWERS AND DUTIES.

Quorum.
 R. S., c. 78, § 8.
 83 Me., 117.

SEC. 8. Two commissioners constitute a quorum; when only one attends, he may adjourn to a convenient time and place; when neither attends, the clerk may adjourn as provided in section fifty-four of chapter seventy-seven.

—adjournment.

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

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

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

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

SEC. 13. They shall, at the expense of their several counties, unless county workshops are therein established, provide some suitable place, materials and implements for the breaking of stone into suitable condition for the building and repair of highways, and shall cause all persons sentenced under the provisions of section twenty-six of chapter one hundred and twenty-seven, to labor at breaking stone. And they may, at the expense of their several counties, provide suitable materials and implements sufficient to keep at work all persons committed to either of such jails, and may from time to time establish needful rules for employing, reforming and governing the persons so committed, for preserving such materials and implements, and for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed, and may make all necessary contracts in behalf of their several counties.

SEC. 14. They shall not remove a county building in the shire town, or erect a new one instead of it more than half a mile from the former location, without first giving notice of their intentions and of the place where they propose to locate it, to the municipal officers of each town in the county; who shall present the same to the town at its next annual meeting for choice of state or town officers, and receive, sort and count the votes, for and against the proposal; and they and the clerks shall certify and return such votes to the clerk of said commissioners, who shall examine them and act according to the decision of a majority.

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

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

Officers to execute precepts.
R. S., c. 78, § 9.
Duties of county commissioners.
R. S., c. 78, § 10.

See c. 18.

Shall provide and keep in repair court houses, jails and fire-proof rooms for records and papers of county officers.
R. S., c. 78, § 11.
1899, c. 101.

May provide workshops, etc., for prisoners.
R. S., c. 78, § 12.

—may raise money to make alterations in jails.

Shall provide suitable place, material and implements for employment of prisoners.
R. S., c. 78, § 13.
1889, c. 288, § 1.

—may establish rules.
See c. 139, § 42.

—make contracts.

Shall notify towns of intention to remove site of county buildings; and towns shall decide by vote thereon.
R. S., c. 78, § 14.
87 Me., 88.

Shall examine jails at each session, and may authorize employment of prisoners.
R. S., c. 78, § 15.
See c. 139, § 12.

Report of county commissioners and sheriff.
R. S., c. 78, § 16.

[In the opinion of the commissioner, section 16 may well be repealed; the inspection of jails by the inspectors of prisons (c. 139, § 12.) and their report thereon, probably gives sufficient information on the subject.]

Their power to obtain loans, restricted.
R. S., c. 78, § 17.
1859, c. 302, § 1.
87 Me., 88.

County commissioners of Cumberland authorized to raise temporary loan.
1889, c. 302, § 2.
1893, c. 265.
Warrants of distress, when and how to be issued on judgments of the board.
R. S., c. 78, § 18.
64 Me., 331.
83 Me., 115.
93 Me., 131.

Action of debt thereon.
R. S., c. 78, § 19.

Not to be agent to expend money.
R. S., c. 78, § 20.
Annual financial report shall be published.
R. S., c. 78, § 24.
1885, c. 381.

Compensation.

1901, c. 261.
1887, c. 38.
R. S., c. 78, § 21.
1885, c. 372.
1887, c. 141.
1889, c. 202, § 3.

1901, c. 199.
1887, c. 57.
1899, c. 93.
1889, c. 203.
1885, c. 375.
1885, c. 330.
1889, c. 193.
1885, c. 371.

Cumberland.
1897, c. 194.

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

SEC. 18. The county commissioners of Cumberland county may, (without obtaining the consent of the county) raise by temporary loan, to be paid within one year from the time when the same is contracted, a sum not exceeding fifty thousand dollars in any year for use of said county and cause notes or obligations of said county, with coupons for lawful interest, to be issued for payment thereof, as aforesaid.

SEC. 19. Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within two years after judgment, and made returnable to the clerk's office within ninety days from their date. New warrants may be issued, within two years from the return day of the last preceding warrant, for sums remaining unsatisfied. No warrant shall be originally issued against a town until twenty days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages shall be included and collected by such warrants as in executions.

SEC. 20. A party, for whose benefit a judgment is rendered by them, may recover the amount in an action of debt founded on such judgment. (a)

SEC. 21. No commissioner shall be appointed to expend money assessed or raised for any purpose by the board of which he is a member.

SEC. 22. At the end of each year, the commissioners of each county shall make a statement of its financial condition, showing in detail, all moneys received into and paid out of its treasury, and such other facts and statistics, as may be necessary to exhibit the true state of its finances; and publish in pamphlet form, a reasonable number of copies for distribution among the citizens thereof.

SEC. 23. The compensation of the county commissioners for the several counties shall be as follows:

Each commissioner of the counties of Androscoggin and Aroostook shall receive three dollars a day, of the county of Lincoln, two dollars a day, of the counties of Oxford and Sagadahoc two dollars and fifty cents a day, of the county of Waldo, two dollars and twenty-five cents a day, while actually employed in the service of the county, including time spent in travel, for which every commissioner shall have eight cents a mile for the distance actually traveled.

Each commissioner of the counties of Franklin, Hancock, Kennebec, Knox, Penobscot, Piscataquis, Somerset and Washington, shall receive two dollars and fifty cents a day while actually employed in the service of the county, including the time spent in traveling, for which every commissioner shall have ten cents a mile for the distance actually traveled.

But no commissioner shall have more than one travel during the same hearing or session, or for more than two adjournments of any regular term; nor for service or travel on more than one petition or case at the same time; nor anything for travel or attendance at the legislature connected with the annual county estimates; nor for any additional trouble or expense.

The chairman of the county commissioners of the county of Cumberland shall receive the sum of ten hundred and fifty dollars and each of the other commissioners shall receive the sum of nine hundred and fifty dollars annually, payable from the county treasury, in quarterly payments, on the first days of April, July, October and January, in full for all services,

(a) 37 Me., 36; 53 Me., 218.

expenses and travel, including the management of the jail workshop and the sale of its products, except actual necessary cash expenses incurred outside of the county for the transaction of official business; all bills for such expenses shall be approved by the clerk of courts and county attorney of said county; at least a majority of said board shall be in attendance at their office in Portland on all secular days except when official business calls them elsewhere.

Each commissioner of the county of York shall receive six hundred dollars annually, payable in quarterly payments on the last days of March, June, September and December, which shall be in full for all services, expenses and travel.

SEC. 24. Each commissioner (except in the counties of Cumberland and York) shall keep an accurate account of his time and travel, specifying the kind of service performed each day or part of a day, and the places from and to which he traveled each day, and he shall not be allowed for services not so specified. His account shall be audited and examined by the county attorney and clerk, to the truth of which he shall be sworn before one of them; they shall certify the amount allowed, and no further sum shall be paid. The clerk, *except in Cumberland county*, shall cause a copy of such account to be published in a newspaper printed in the county, if any, and return such printed copy to the secretary of state by the first day of January in each year.

SEC. 25. If a commissioner charges in his account any miles not actually traveled, or time not spent, he forfeits ten dollars for every such charge, to be recovered in an action of debt in the name of the county, half to the complainant and half to the county.

York.
1899, c. 24, § 1.

Accounts of services, how kept and settled; copy to be published in newspaper, and returned to secretary of state.
R. S., c. 78, § 22.

Penalty for over-charging, and how collected.
R. S., c. 78, § 23.

CHAPTER 79.

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

CLERKS OF THE JUDICIAL COURTS.

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

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

SEC. 3. He shall keep a true and exact account of all moneys which he receives, or is entitled to receive, for services by virtue of his office, and on the first Wednesday of each January, (and at such other times as may be required by law,) render to the county treasurer under oath, a true account thereof, specifying the items, and after deducting his salary and the amount allowed him for clerk hire, pay the residue, if any, to said treasurer for the use of the county; but all other moneys belonging to the county shall be paid in thirty days after they are received by him; and if, in either case he neglects to do so, he shall pay twenty-five per cent interest thereon until paid; and the county treasurer shall notify the treasurer of state of any such known delinquency, and the clerk's bond shall then be sued.

SEC. 4. He shall receive all fines, forfeitures, and bills of costs, imposed or accruing to the use of the State, when paid or tendered to him before

Clerks, how elected.
—vacancies, how filled.
R. S., c. 79, § 1.
See c. 78, §§ 1-5.
—term.

To be sworn, See Const. Me., Art. IX., § 1, and give bond to the state.
R. S., c. 79, § 2.
60 Me., 429.

To account for moneys received and pay balance to county treasurer; other moneys to be paid in thirty days, or bond sued.
R. S., c. 79, § 3.
See c. 114, § 5.

Receive and discharge fines and

costs voluntarily paid.
R. S., c. 79, § 4.

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

To complete records of deceased clerk; approval.
R. S., c. 79, § 6.
60 Me., 429.
He shall record lists of justices.

—also discharges of soldiers and seamen.
R. S., c. 79, § 7.
60 Me., 429.
See c. 81, § 71;
c. 115, § 4.

—state paper to be filed.
Resolve of 1848, c. 112.

Penalty for taking illegal fees.
R. S., c. 79, § 8.
See c. 106, § 18.
Deputy clerk.
R. S., c. 79, § 9.

—oath and bond of deputy clerk.

—his powers and duties.

Court may appoint a clerk pro tem in absence of clerk; oath and bond.
R. S., c. 79, § 10.

Clerks shall make extended records in certain cases.
R. S., c. 79, § 11.
78 Me., 112.
82 Me., 76.
85 Me., 370.

—brief records in other civil cases.

Extended records in indictments for felonies.
R. S., c. 79, § 12.
—in misdemeanors, brief record.
—in criminal appeals, record, how made.

a precept is issued to enforce collection; give discharges therefor and enter them of record.

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

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

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

SEC. 8. A clerk, who exacts or receives more than his lawful fees, forfeits fifty dollars, to be recovered in an action of debt by the prosecutor, or by indictment, half to the prosecutor and half to the State.

SEC. 9. Any clerk may appoint a deputy to be paid out of the clerk's salary, for all whose official acts the clerk is responsible. Before entering upon his official duties, such deputy shall be sworn and give bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of eight thousand dollars, with two or more sureties, conditioned that he will faithfully perform all the duties required of clerks of courts. Whenever the clerk is unable to perform the duties of his office, said deputy shall have all the powers and perform all the duties of clerk, and be subject to the same penalties for any neglect thereof.

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

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

SEC. 12. In indictments for felonies, clerks shall make extended records of the process, proceedings, judgment and sentence. In other indictments, it is sufficient to record the title of the case, the nature of the indictment, the term when it was found, the proceedings in brief thereon, and the judgment and sentence of the court. In criminal prosecutions brought up by appeal from inferior courts, it is sufficient to record the title of the case, the nature and date of the complaint, the name and official character of

the magistrate before whom the case was tried, and the sentence appealed from and its date; to be followed by correct minutes of the proceedings and judgment in the appellate court.

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

Records shall be examined, and when found deficient, made or corrected.
R. S., c. 79, § 13.
60 Me., 429.
70 Me., 432.

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

Disposal of money collected by suit on clerk's bond.
R. S., c. 79, § 14.

SEC. 15. No clerk, register or recording officer of any court of the state, shall be attorney or counselor in any suit or matter pending in such court; neither shall he commence actions to be entered therein; or draft or aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty not exceeding one hundred dollars, to be recovered by any complainant by action of debt for his benefit, or by indictment for the benefit of the county.

No clerk, register or recorder to be attorney or sue in his own court.
R. S., c. 79, § 15.
—not to draft or aid in drafting any paper which he is required to record.
1893, c. 245.

Note. Clerk of courts to make returns of fines collected under inland fish and game laws, c. 30, § 53; of libels for divorce to state registrar of vital statistics, c. 59, § 33; to make abstract on record, of pardon or commutation of sentence, c. 137, § 11.

COUNTY ATTORNEYS.

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

County attorneys, how elected; vacancies, how filled.
R. S., c. 79, § 16.
See c. 78, §§ 1-5.
71 Me., 384.

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

Duties.
R. S., c. 79, § 17.
67 Me., 129.

—to act with attorney general in the law court.

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

To enforce collection of fines and costs by officers.

—examination of officers' bonds.
R. S., c. 79, § 18.
See c. 80, § 3.
—penalty for neglect, how collected.

SEC. 19. He shall, annually, by the twentieth day of November, make such a report to the attorney general of the business done in his office during the year ending on the first day of said November as is required by section sixty-four of chapter seventy-seven, and failing to do so, he forfeits one-half of his salary for the current quarter, to be deducted by the governor and council in drawing his salary warrant, unless they are satisfied that there was reasonable cause therefor.

Annual report to attorney general.
R. S., c. 79, § 19.

—penalty for neglect how collected.

SEC. 20. When he does not attend a criminal session, or the office is vacant, the court may appoint an attorney to perform his duties during

Appointment of temporary

substitute.
R. S., c. 79, § 20.
67 Me., 129.

Restrictions
and obliga-
tions.
R. S., c. 79, § 21.

Assistant
county
attorney for
Cumberland
county.
R. S., c. 79, § 22.
—duties.

See c. 114, § 2.

the session, and allow him a reasonable compensation, to be paid from the county treasury, and charged to the State as bills of costs are in criminal cases, and the justice shall notify the treasurer of state who shall deduct the same from the salary of such county attorney.

SEC. 21. He is under the same restrictions as to fees, and the same obligations as to witnesses as are imposed on the attorney general, by sections sixty-one and sixty-five of chapter seventy-seven.

SEC. 22. The county attorney of the county of Cumberland may appoint an assistant, to be approved by the justice of the superior court for said county. Said assistant shall take the oath prescribed for county attorneys; and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury, and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the State in the trial of complaints, before judges of municipal and police courts and trial justices.

Note. County attorneys to enforce compliance with order of railroad commissioners to make repairs, c. 51, § 148; to have notice of investigation of railroad accidents resulting fatally, §§ 88, 159.

Duties as to delinquent fines, forfeitures and costs in criminal cases, c. 135. §§ 16, 17.

ATTORNEYS AT LAW.

Attorneys,
residents of
other states
or foreign
countries,
may be
admitted to
practice in
courts of
this state.
1899, c. 133, § 1.

—procedure.

Qualifications
necessary to
be admitted to
practice law.
1899, c. 133, § 2.

—no person
shall be
entitled to
practice, until
licensed.

—sex no bar
to admission.
1899, c. 98.

Appointment
of commis-
sioners for
examination
of applicants.
1899, c. 133, § 3.

—tenure.

—meetings.

—character of
examination.

SEC. 23. Practicing attorneys, residents of other states and territories, or from foreign countries, may be admitted on motion to try cases in any of the courts of this state by such courts, but shall not be admitted to the general practice of law in this state without complying with the provisions of the following section; *provided*, that where the applicant shall furnish the supreme judicial court a certificate of admission to practice in the court of last resort of any state, or a certificate of admission to any circuit court of the United States, together with the recommendation of one of the judges of the court of last resort of such state, said supreme judicial court may in its discretion, if satisfied as to his qualifications, admit such person to practice on motion made by some member of the bar of said court.

SEC. 24. Every other person who shall be of full age, a resident and a citizen of the United States and of a good moral character, may be admitted to practice as an attorney and counselor at law, and solicitor and counselor in chancery, in all the courts of record of this state on motion made in open court, but the applicant shall first produce the certificate hereinafter provided for from the board of examiners, *to be appointed by the governor upon the recommendation of the chief justice of the supreme judicial court*, that he possesses sufficient learning in the law, and moral character and ability to enable him to properly practice as an attorney and counselor at law and solicitor and counselor in chancery in the courts of this state. No person shall be entitled to practice as an attorney and counselor at law and solicitor and counselor in chancery in this state until he shall be licensed so to do by said courts. No person shall be denied admission or license to practice as an attorney at law on account of sex.

SEC. 25. The board of examiners, for the examination of applicants for admission to the bar, shall be composed of five competent lawyers of the state; one member of said board shall be appointed annually by the governor on the recommendation of the chief justice of the supreme judicial court and shall hold office for the term of five years beginning on the first day of September of each year. Vacancies occurring from death, resignation, removal or inability to act, shall be filled in like manner for the unexpired term. Such board shall meet annually at Portland in January, at Bangor in April, at Augusta in October, during the sessions of the supreme judicial court, and also at such other times and places in the state as the supreme judicial court shall direct, for the purpose of

examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the state as attorneys and counselors at law and solicitors and counselors in chancery and, upon such examination being had, the board shall issue to such applicants as shall pass the required examination a certificate of qualification stating the standing of the applicants and recommending their admission to the bar. Such board shall elect from their number a secretary and a treasurer and shall make such rules and regulations relative to said examination as to them may seem proper. The president of said board shall be the member whose term of office soonest expires. Three members of said board shall constitute a quorum for the transaction of business.

—secretary
and treasurer.

—president.

—quorum.

SEC. 26. The residences and names of the applicants shall be made to appear to said board and satisfactory evidence shall also be produced by said applicants of their good moral character and of their having pursued the study of the law in the office of some attorney or in some recognized law school or university for at least three years prior to such examination; and a fee to be fixed by said board of not more than twenty dollars shall accompany the application. The applicant shall be required to submit to a written examination which shall be prepared by said board, also to an oral examination by the board, and shall be required to answer correctly a minimum of seventy per cent of the questions given him to entitle him to the certificate of the board. The board shall, however, have power to establish such higher grades of standing as to them may seem proper.

Applicants shall be of good moral character, and produce evidence of having studied law at least three years. 1899, c. 133, § 4.
—fee.
—examination shall be written and oral.
—grade of standing.

SEC. 27. The examination papers shall be kept on file in the office of the secretary of the board, and a record kept of each application the name of the applicant, and his qualifications and general standing as ascertained by such examination, and the secretary of the board shall furnish each applicant with a card, showing the proficiency he has attained in each branch or subject upon which he has been examined, whether a certificate is issued or not. Any applicant failing to pass the examination may again apply after six months, by showing to the board that he has diligently pursued the study of the law six months prior to the examination; and (if such second application is within one year after his first examination, he) shall not be required to pay an extra fee for the second examination. *In case any applicant does not pass the examinations, and is not reexamined, he shall have the fee which accompanied his application returned to him.*

Examination papers shall be kept on file with record of qualification of applicant. 1899, c. 133, § 5.

—applicant failing to pass, may be examined again after six months.

—fee shall be returned if applicant fails entirely.

[This amendment is suggested by the provisions applicable to other examining boards. See 1895, c. 170, § 4; 1891, c. 43, § 7; 1899, c. 96, § 7.]

SEC. 28. The board of examiners shall receive as compensation for their services five dollars a day for the time actually spent, and the necessary expenses incurred in the discharge of their duties as examiners in going to, holding, and returning from, such examination to be certified by the clerk or one of the justices of the supreme judicial court; *provided, however, that all compensation for services and expenses shall not exceed the amounts received as fees from applicants.*

Compensation of board. 1899, c. 133, § 6.

SEC. 29. On the first Tuesday in January of each year said board shall apportion any sum of money in the hands of their treasurer, received for fees, in excess of the expenses of said board during the preceding year, among the treasurers of the several counties in the state, for the use of the law libraries in said counties. There shall be paid to the treasurer of each county a sum of money proportioned to the number of students examined from said county as compared with the whole number examined in the state.

How fees shall be disposed of 1899, c. 133, § 7.

SEC. 30. Upon admission to the bar, *he* (every applicant) shall, in open court, take and subscribe an oath to support the constitution of the United States, and also take the following oath:

Attorney's oath. R. S., c. 79, § 25. See c. 121, § 13. 64 Me., 146, 150.

"You solemnly swear, that you will do no falsehood, nor consent to the doing of any in court, and that if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of

—form of oath.

them, that it may be prevented; you will not, wittingly or willingly, promote or sue any false, groundless, or unlawful suit, nor give aid or consent to the same; that you will delay no man for lucre or malice, but will conduct yourself in the office of an attorney within the courts, according to the best of your knowledge and discretion, and with all good fidelity, as well to the courts, as to your clients. So help you God."

Person not admitted, cannot recover pay for services. R. S., c. 79, § 26. 63 Me., 183.

SEC. 31. No person commencing practice as an attorney or counselor at law in any other state or place, or in any court in this state, without the qualifications, (and) oaths, and *payment of the duty* aforesaid, is entitled to demand or recover any remuneration for his professional services rendered in this state.

SUMMARY PROCEEDINGS FOR PAYMENT OF MONEY COLLECTED.

Summary proceedings against attorney failing to pay money collected. R. S., c. 79, § 27.

SEC. 32. If an attorney at law receives money or any valuable thing on a claim left with him for collection or settlement, and fails to account for and pay over the same to the claimant for ten days after demand, he is guilty of a breach of duty as an attorney; and such claimant may file in court in the county where such attorney resides, a motion in writing, under oath, setting forth the facts; and thereupon the court shall issue a rule, requiring the attorney to appear on a day fixed and show cause why he should not so account and pay, and to abide the order of court in the premises; which shall be served by copy in hand at least five days before the return day.

Procedure. R. S., c. 79, § 28.

SEC. 33. If he then appears, he shall file an answer to such motion, under oath, and the court may examine the parties and other evidence pertinent thereto. If he does not appear and answer, the facts set forth in the motion shall be taken as confessed; and in either case, the court shall render such decree as equity requires.

Exceptions. R. S., c. 79, § 29.

SEC. 34. Either party may allege exceptions to any ruling or decree of the court; and they shall be allowed, unless deemed frivolous.

Not performing decree, shall be imprisoned. R. S., c. 79, § 30.

SEC. 35. If the attorney does not perform the decree of the court, he shall be committed for contempt until he does, or is otherwise lawfully discharged; and his name shall be struck from the roll of attorneys.

Claimant may sue at common law; debtor shall not cite to disclose until in jail ninety days. R. S., c. 79, § 31.

SEC. 36. The claimant may have his suit at common law against such attorney before filing such motion, or after an adverse decision thereon; and if judgment is recovered against the attorney in either mode, the fact shall be noted on the margin of the execution issued thereon; and when the debtor is arrested thereon, he shall be committed to jail, and no citation to disclose shall be issued until he has been there for ninety days.

REMOVAL OF UNWORTHY ATTORNEYS.

Information may be filed by attorney general or committee of bar against any attorney. R. S., c. 79, § 32.

SEC. 37. Whenever an information is filed in the clerk's office of the supreme judicial court in any county, by the attorney general, or by a committee of the bar of such county, charging that an attorney at law has become and is disqualified for the office of attorney and counselor at law, for reasons specified in the information, any justice of said court, in term time or in vacation, may, in the name of the State, issue a rule requiring the attorney informed against, to appear on a day fixed, to show cause why his name should not be struck from the roll of attorneys, which rule, with an attested copy of the information, shall be served upon such attorney in such manner as the justice directs, at least fourteen days before the return day, and shall be made returnable, either in the county where such attorney resides or where it is charged that the misconduct was committed.

—rule to show cause.

—service.

—where returnable. 64 Me., 146.

SEC. 38. If the attorney on whom such service has been made, on or before said return day, files in the clerk's office of said court in said

Attorney filing denial

county of return, a denial of the charges specified in the information, the information shall thereupon stand upon the docket of said court, for hearing at the next term thereof in said county, by the justice presiding, upon such lawful evidence as may be produced either by the State or by the respondent.

SEC. 39. If such attorney fails to file his denial as aforesaid, the facts set forth in the information shall be taken as confessed, and if the justice presiding finds that the facts so confessed are sufficient to disqualify the respondent from holding the office of attorney and counselor at law, or if, in case of denial, the justice upon hearing finds that any of the charges specified are true and that the acts proved are sufficient to disqualify the respondent as aforesaid, he shall give judgment accordingly, and shall enter a decree that the respondent be removed from the office of attorney and counselor at law in all the courts of the state and that his name be struck from the roll of attorneys.

SEC. 40. The judgment of such justice shall be final unless the respondent within one week, and before the adjournment of said term, files his appeal therefrom to the law court by entering his claim therefor upon the docket.

SEC. 41. Such appeal shall be heard upon printed copies of the case furnished by the respondent at the next law term held within the district. If the case is not argued, it shall be decided upon the record, and if the respondent fails to enter his appeal with the printed copies of the case during the first three days of said law term, the counsel for the prosecution shall enter the appeal with an attested copy of the judgment and decree, whereupon the same shall be affirmed by the law court.

SEC. 42. The prosecution shall be conducted by the county attorney for the county where the rule is returnable, unless the justice issuing the rule appoints some other suitable counsel to perform said duty. Compulsory process shall issue to compel the attendance of witnesses, and in case of decree of removal, judgment shall be rendered in behalf of the State against the respondent for full costs to be taxed by the court.

SEC. 43. The six preceding sections do not annul or restrict any authority hitherto possessed or exercised by the courts over attorneys.

SEC. 44. If any person who has not been admitted to practice law in this state, or whose name has been struck from the roll of attorneys, advertises as, or represents himself to be an attorney or counselor at law, he shall be fined not exceeding five hundred dollars, or imprisoned not more than three months.

SEC. 45. Parties may plead and manage their own causes in court or do so by the aid of such counsel, not exceeding two on a side, as they see fit to employ; or by any citizen of good moral character who produces in court a letter of attorney for that purpose; but no person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party, or be eligible for appointment as a trial justice, justice of the peace, or justice of the peace and quorum.

of charges, information shall stand upon docket for hearing at next term. R. S., c. 79, § 33. —evidence.

Attorney failing to file his denial, facts taken as confessed. R. S., c. 79, § 34.

—if acts are confessed, or proved are sufficient to disqualify, name struck from rolls. 64 Me., 145.

Judgment is final unless appealed from. R. S., c. 79, § 35.

Appeal, how to be heard. R. S., c. 79, § 36. See c. 77, § 57.

—respondent, failing to enter appeal, counsel for prosecution shall enter it.

Who shall conduct prosecution. R. S., c. 79, § 37. —witnesses. —judgment. —costs.

Construction of foregoing. R. S., c. 79, § 38.

Penalty for falsely advertising or representing himself to be an attorney or counselor. R. S., c. 79, § 39.

Parties may manage their own causes, or employ two counsel, or any moral person by power of attorney. R. S., c. 79, § 40. 33 Me., 358. 26 Me., 329. 72 Me., 411.

CHAPTER 80.

SHERIFFS AND THEIR DEPUTIES. JAILS, CORONERS, AND CONSTABLES.

SHERIFFS AND THEIR DEPUTIES.

Sheriffs;
election, ap-
pointment of.
R. S., c. 80, § 1.
[See Consti-
tution,
Art. IX., § 10.]
See c. 78, §§ 4, 5.

—their oath
and bond.
11 Me., 245.
64 Me., 197.

Bond must be
approved by
county com-
missioners,
and filed with
treasurer.
R. S., c. 80, § 2.
1899, c. 72.

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

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

Forfeiture
for neglect
to give bond.
R. S., c. 80, § 5.

—office
vacant, if
neglect is
continued.

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

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

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

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

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

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

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

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

SEC. 7. When a surety on the official bond of a sheriff, or his heirs, executors, or administrators, petition the county commissioners of the same county to be discharged therefrom, they shall cause an attested copy of the petition to be served on such sheriff, and may require him to give a new bond to their satisfaction; and when it is given and accepted, such surety or his legal representatives are not liable for any neglects or misdoings thereafter.

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

SEC. 9. Sheriffs shall obey all such orders relating to the enforcement of the laws as they from time to time receive from the governor. (b)

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

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

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

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

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

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

SEC. 16. The property of the defendant may be attached on such summons as on mesne process, and it shall be served on the defendant as an

Shall notify coroners; may appoint deputies, and must furnish clerk of each county a list thereof.

R. S., c. 80, § 8.

See c. 115, § 4.

Obeys orders of governor.

R. S., c. 80, § 9.

Duty of sheriff and deputies to serve precepts; their fees must be paid or secured.

R. S., c. 80, § 10.

1 Me., 363.

42 Me., 426.

54 Me., 205.

Service upon deputy.

R. S., c. 80, § 11.

75 Me., 296.

Duty of sheriffs and deputies in serving processes, on vacating office.

R. S., c. 80, § 12.

55 Me., 548.

Actions survive against them.

R. S., c. 80, § 13.

Person injured by misdoings of sheriff, may sue his bond, at his own expense; writ must be indorsed; costs.

R. S., c. 80, § 14.

—judgment.

46 Me., 498.

49 Me., 177.

51 Me., 515, 547.

56 Me., 216.

Actions on sheriff's bond, proceedings.

R. S., c. 80, § 15.

Service: right of person filing

(a) 18 Me., 63, 279; 19 Me., 439; 23 Me., 327; 25 Me., 312; 29 Me., 74; 31 Me., 165; 33 Me., 424; 36 Me., 544; 51 Me., 550; 64 Me., 197; 71 Me., 416.

(b) Have powers of inland fish and game wardens, c. 30, § 45. See c. 27, § 71; 67 Me., 375.

declaration:
defendant
shall answer.
R. S., c. 80, § 16.

Damages
assessed on
 rendition of
 judgment.
R. S., c. 80, § 17.

—execution,
how to issue.

—costs.

Any person
is entitled to
a copy of the
bond; unless
execution is
disputed, it
is evidence.
R. S., c. 80, § 18.

Sheriff not
liable to ar-
rest in civil
action; exe-
cutions issue
against his
property;
but he may
disclose;
failing to pay
or disclose,
he vacates
his office.
R. S., c. 80, § 19.

—alias execu-
tion against
his body in
such case.

Fees of
sheriff from
deputies.
R. S., c. 80, § 20.

Sheriffs in
certain coun-
ties not to
receive fees
from deputies.
(a)

Deputies to
keep account
of fees, and
return to
sheriff.
R. S., c. 80, § 21.

Sheriffs to
make return
of emoluments
to county

original summons; and thereupon such person has all the rights of a plaintiff in the suit; and the defendant shall answer to said declaration, and judgment may be rendered thereon as if it were filed in an action originally instituted for the same cause.

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

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

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

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

SEC. 21. The sheriffs of the counties of Aroostook, Franklin, Kennebec, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Waldo and Washington shall not receive from any of their deputies any of the fees earned by said deputies or any percentage thereon; and the sheriffs of the counties of Oxford and Franklin shall not receive any per diem or other compensation for their attendance on the supreme judicial court.

SEC. 22. Each deputy sheriff (in the counties of Androscoggin, Cumberland, Hancock, Knox, Somerset and York) shall keep a true account, with the items of all fees for travel and service, and other emoluments accruing to him by virtue of his office, and by the twenty-first day of December annually, return, under oath, to the sheriff, a true copy of such account up to December first.

SEC. 23. Each sheriff (of the counties named in the preceding section) by the thirtieth day of December annually, from the accounts so returned to him by his deputies, shall state a true account of the amount of such

(a) 1889, c. 304; 1897, c. 238; 1901, c. 193, § 1; 1891, c. 15; 1901, c. 152; 1901, c. 231; 1901, c. 143; 1901, c. 232, § 1; 1899, c. 49; 1891, c. 7.

fees for travel, services and other emoluments, specifying the different classes of items accruing to his deputies, and of the amount of such fees and other emoluments accruing to himself from his deputies within the preceding year, and make a true return thereof under oath, to the treasurer of his county, and pay to him, for the county, the residue, after deducting the sum allowed him in the following section.

SEC. 24. The sheriffs of the counties of York and Cumberland are allowed seven hundred dollars each; of Somerset, five hundred dollars; of Androscoggin, Hancock and Knox four hundred dollars each.

SEC. 25. The sheriff of the county of Androscoggin shall receive a salary of two thousand five hundred dollars a year, and the sheriff of the county of Cumberland shall receive a salary of three thousand five hundred dollars a year, together with the free rental of the house or living apartments connected with the county jail in each county, including the stables, and including necessary light and fuel. Said salaries shall be paid from the county treasuries in equal quarterly payments on the first days of January, April, July and October of each year, and shall be in full compensation for services in attendance upon the supreme judicial court in said county of Androscoggin, and upon the supreme judicial and superior courts in said county of Cumberland, as jailer, master or keeper of the county jails in said counties, for receiving and committing prisoners therein, and for the services of all criminal processes and the performance of all duties relating to the enforcement of all criminal law. Such necessary, incidental expenses as are just and proper, incurred in the performance of their public duties, shall be allowed by the respective boards of county commissioners of said counties, and paid from the county treasury.

SEC. 26. All fees chargeable under the statutes of the state for the performance of any of the duties prescribed in the preceding section, except for the board of prisoners, shall be charged and collected by said sheriffs as now provided by law, and an accurate account thereof, and of those specified in the following section, kept and transmitted to the county treasurer on the last days of March, June, September and December annually, and the amount deducted from the quarter's salary for the quarter then ending. If such fees are in excess of the amount of salary then due the sheriff, he shall pay said excess to the county treasurer. And no county treasurer shall pay any quarter's salary until said statement shall have been filed.

SEC. 27. For all prisoners committed from other counties or from any court of the United States, and for all other persons confined for debt and on other civil processes, the said sheriffs shall collect the same fees for their entire support as are now provided by law, or may be fixed by the county commissioners under the authority vested in them by statute and include the same in the statement provided for in the preceding section, and the same shall be deducted from the salary as herein prescribed. They shall not make any charge or collect any fees for the support of prisoners committed on criminal process from any court in the county in which said jail is situated.

SEC. 28. The sheriff of Cumberland county shall appoint three deputy sheriffs, who shall serve at the pleasure of said sheriff, and whose special duty shall be to enforce the provisions of chapter twenty-seven, in said county, and who shall receive as compensation therefor, the sum of three dollars a day, to be paid from the county treasury, together with such incidental expenses as may be necessary for the proper enforcement of said chapter; bills for which shall be audited as provided in section one, chapter one hundred and thirty-five.

SEC. 29. The sheriff of said county, and his deputies appointed under the provisions of the preceding section, shall receive no fees for said service except as herein provided, but shall charge up all fees now allowed to sheriffs and their deputies for the enforcement of the provisions of said

treasurer,
annually.
R. S., c. 80, § 22.

Allowances
to certain
sheriffs.
R. S., c. 80, § 23.

Salaries of
sheriffs of
Androscoggin,
1901, c. 263, § 1;
Cumberland,
1901, c. 224, § 1.

—incidental
expenses may
be allowed.

Legal fees
shall be
collected and
accurate
account
transmitted
to county
treasurer.
1901, c. 263, § 2.
1901, c. 224, § 2.

—excess of
salary due
shall be paid
to county
treasurer.

Fees collected
from other
counties, etc.,
shall be
disposed of as
in section 26.
1901, c. 263, § 3.
1901, c. 224, § 3.
See c. 115, § 9.

Special deputies
shall be
appointed
to enforce
liquor law.
1901, c. 224, § 6.

—compensa-
tion.
See c. 27, § 71.

Fees of sheriff
and deputies
for enforce-
ment of liquor
law shall be
charged up

to county.
1901, c. 224, § 7.

An itemized
account of
fees shall be
rendered and
paid to the
county.
1901, c. 224, § 8.

Restrictions
upon pay-
ment of com-
pensation for
enforcement
of liquor law.
1901, c. 224, § 9.

Salaries of
sheriffs of
Kennebec,
1901, c. 193, § 1;
Sagadahoc,
1901, c. 232, § 1.

Fees shall be
deducted from
salary.
1901, c. 193, § 2;
1901, c. 232, § 2.

Salaries of the
sheriffs:

Aroostook,
1889, c. 304;
Franklin,
1897, c. 238;
Lincoln,
1901, c. 280;

Oxford,
1901, c. 152;
Piscataquis,
1901, c. 143;
Washington,
1891, c. 7.
Waldo.
1899, c. 49.

Sheriff has
custody of
jail and pris-
oners, and is
answerable

chapter twenty-seven, to the county of Cumberland and account for them as provided in the following section.

SEC. 30. The sheriff of Cumberland county, on the last secular days of June and December of each year, shall render to the treasurer of said county an itemized account of all fees charged up to said county by him, and by his deputies appointed as herein provided, for the enforcement of the provisions of said chapter twenty-seven, in said county, which said fees shall revert to the county of Cumberland.

SEC. 31. No deputy sheriff, unless appointed under the provisions of section twenty-eight, shall receive any compensation for the enforcement of the provisions of said chapter twenty-seven, in the city of Portland, unless such compensation shall be allowed by the county commissioners of said county.

SEC. 32. The sheriff of the county of Kennebec shall receive a salary of twenty-five hundred dollars a year, and the sheriff of the county of Sagadahoc shall receive a salary of twelve hundred dollars a year. Said salaries shall be paid from the county treasuries in equal quarterly payments on the last days of March, June, September and December of each year, and shall be in full compensation for services in attendance upon the supreme judicial and superior courts in said county of Kennebec, and upon the supreme judicial court in said county of Sagadahoc, as jailer, master or keeper of the county jails in said counties, for receiving and committing prisoners therein and to whatever jails said county of Sagadahoc may legally contract with the proper authorities (for receiving prisoners), and for the service of all criminal processes and performance of all duties relating to the enforcement of all criminal laws.

SEC. 33. All fees chargeable under the statutes of this state for the performance of any of the duties prescribed in the preceding section, shall be charged and collected by said sheriffs as now provided by law, an accurate account thereof kept and transmitted to the county treasurer of the respective counties on the last days of March, June, September and December annually and the amount deducted from the quarter's salary for the quarter then ending, and the county treasurer shall not pay any quarter's salary until said statement shall have been filed.

SEC. 34. The sheriffs of the counties of Aroostook, Franklin, Lincoln, Oxford, Piscataquis, and Washington shall receive, in quarterly payments, from the treasuries of their counties on the first days of January, April, July and October, annual salaries as follows:

Aroostook, three hundred dollars;

Franklin, three hundred dollars;

Lincoln, five hundred dollars, which shall be in full compensation for all services as sheriff, excepting fees for attending courts and for service of precepts in civil actions.

Oxford, three hundred dollars;

Piscataquis, three hundred and fifty dollars;

Washington, five hundred dollars.

The sheriff of the county of Waldo shall receive an annual salary of four hundred dollars from the county treasury; *provided, however*, that said sheriff on the first day of January annually shall state a true account of the amount accruing to him for board of prisoners under his care during the preceding year, and make a true return thereof under oath to the treasurer of said county, and when the sum so accruing to him in any year for such board of prisoners shall exceed the sum of twelve hundred dollars then he shall not receive any part of said salary for such year.

JAILS AND JAILERS.

SEC. 35. The sheriff has the custody and charge of the jail in his county, and of all prisoners therein, and shall keep it himself, or by his deputy, as jailer, master or keeper, for whom he is responsible. The

jailer, master or keeper shall appoint all subordinate assistants and employes for whom he is responsible, and the pay of whom, including the jailer, shall be fixed by the county commissioners, and paid by their several counties, (except when otherwise provided by law.)

for jailer.
R. S., c. 80, § 24.
—may
appoint
assistants.
See §§ 25, 32.

SEC. 36. When a vacancy occurs in the office of sheriff, the jailer lawfully acting, continues in office, and shall retain charge of the jail, and of all prisoners therein, or committed thereto, and his official neglects and misdoings are a breach of his principal's official bond, until a new sheriff is qualified, or the governor and council remove such jailer and appoint another, which they may do; and the jailer so appointed shall give bond, in the manner required of a sheriff for the faithful discharge of his duties.

When vacancy in office of sheriff, jailer shall continue; unless governor appoints a jailer.
R. S., c. 80, § 25.

SEC. 37. If the office of jailer becomes vacant, while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do, and continue in office, if his appointment is confirmed at their next meeting, during the vacancy in the office of sheriff, or until he is removed, and a new jailer appointed.

When office of jailer and sheriff are vacant, county commissioners may appoint.
R. S., c. 80, § 26.

SEC. 38. The sheriff shall see that the jail in his county is kept as clean and healthy as may be; cause the walls to be whitewashed in April or May annually, and as often as the county commissioners order, at the expense of the county; and pay strict attention to the personal cleanliness of the prisoners.

Jail must be kept clean and healthy.
R. S., c. 80, § 27.
See c. 139, § 12.

SEC. 39. Every keeper of a jail shall reside constantly, with his family, if he has any, in the house provided for him, if in the opinion of the county commissioners, it is good and sufficient; and if he neglects so to do, he forfeits not exceeding three hundred dollars, to be recovered for the county by indictment.

Jailer must live in jail, if suitable.
R. S., c. 80, § 28.
—forfeiture
for neglect.

SEC. 40. The sheriff, by himself or his deputy, keeping the jail, with the consent of the commissioners, may in behalf of his county make necessary and proper contracts, for the carrying on of manufacturing or other industries, with like effect as when made by the commissioners. The business shall at all times be open to the inspection of said commissioners, who shall examine the workings of their several jails at least once in every three months, audit all receipts and expenses thereof, and order all payments necessary from their several county treasuries.

Sheriff or jailer may make contracts for work, with consent of commissioners.
R. S., c. 80, § 29.
See c. 139, § 42.

SEC. 41. The jailer, at the expense of the county, shall furnish to each prisoner who is able to read, a copy of the Bible, and to all, on Sundays, such religious instruction as he may be able to obtain without expense, and to such as may be benefited thereby, instruction in reading, writing and arithmetic, one hour every evening, except Sunday. It shall be his further duty to receive for their use, from whatever source, by loan or contribution, any books or literature of a moral or religious tone, and to exclude those of opposite tendencies.

Jailer shall furnish a Bible and other books and instruction to prisoners.
R. S., c. 80, § 30.

SEC. 42. Any person charged with crime, or awaiting sentence, who, while confined in any jail where provision for labor has been made, chooses to labor, as provided for persons under sentence, shall receive therefor such sum as, in the judgment of the commissioners of said county, he has earned.

Pay for labor of prisoners, before sentence.
R. S., c. 80, § 31.
See c. 78, §§ 12, 13.

SEC. 43. The sheriff of the county of Androscoggin shall procure all necessary food and provisions for the support of the prisoners confined in the jail in said county; employ a suitable person or persons to prepare the food for the prisoners and to serve the same at the expense of the county. All bills for such food and provisions and for the preparation and service of the same shall be audited and allowed by the county commissioners and paid from the county treasury monthly. Said sheriff shall from time to time consult with the county commissioners as to the quantity, kinds and quality of foods and provisions necessary and proper to be procured.

Sheriff of Androscoggin shall provide food for prisoners.
1901, c. 269, § 4.
—all bills shall be audited by county commissioners.

SEC. 44. The county commissioners of the county of Cumberland shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, fuel, bedding and clothing, for the jail and the prisoners therein, in said county, to be fur-

County commissioners of

Cumberland shall procure all necessary supplies.
1901, c. 224, § 4.

—food for prisoners shall be prepared at expense of the county.

—county commissioners may prescribe rations, etc.

—how bills shall be audited.

Commissioners may annually advertise for proposals for supplies.
1901, c. 224, § 5.

—award contract to lowest bidder.

Deduction from sentence for good conduct.
R. S., c. 80, § 32.
71 Me., 241.

—rate and proportion.

—care of convicts, sick at expiration of sentence.
1897, c. 241.

Sheriff to keep record of persons committed.
R. S., c. 80, § 33.
92 Me., 250.

Jailer to return list of prisoners at each criminal session of court.
R. S., c. 80, § 34.
71 Me., 407.
—penalty.

Official papers, to be filed and kept with calendar, and delivered to successor.
R. S., c. 80, § 35.

nished and purchased under their direction and at the expense of the county. A suitable person shall be employed to prepare the food of the prisoners, at the expense of the county, and the service of the food to the prisoners shall be under the general direction of the jailer, master or keeper. The person employed to prepare the food of the prisoners shall be appointed by the sheriff, subject to the approval of the county commissioners. The county commissioners shall have authority at any time to direct specific rations, or articles of food, clothing, soap, fuel or other necessities, to be furnished and served to the prisoners. The bills and accounts for supplies furnished, and the items of expenses incurred in preparing and serving the same, shall be audited quarterly by some competent person appointed by the judge of the superior court of the county of Cumberland, and be paid by the county treasurer. For services in auditing said accounts, said judge shall allow a reasonable compensation to be paid from the county treasury.

SEC. 45. The county commissioners of the county of Cumberland may each year, as soon after the first of January as may be, make an estimate of the amount of food, fuel, clothing and supplies as far as practicable, which will be required by the county jail and for the support of the prisoners therein for the current year, and advertise for sealed proposals for furnishing the same according to specifications furnished by them, in the daily papers of the city of Portland, three days successively, at least fourteen days before the time limited for the reception of such proposals, at which time they shall examine all such proposals and award the contract to the lowest responsible bidder; and the county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract, and account for the same in the manner provided for in the preceding section.

SEC. 46. The keeper of each jail shall keep a record of the conduct of each convict, and for every month during which it thereby appears that he has faithfully observed all the rules and requirements of the prison, he is entitled to a deduction from his sentence according to and not exceeding the following rate and proportion: for a convict under sentence for six months and less than one year, two days for each month of good conduct; for one year and over, three days a month; and for every day that any convict is punished for disobedience of said rules, a record thereof shall be made, and two days deducted therefor from any commutations to which he is entitled. Whenever a convict, at the expiration of his sentence, is sick and unable to be removed from jail, he shall be cared for by the jailer, at the expense of the county, until the county commissioners deem it safe for him to be removed.

SEC. 47. Every sheriff shall keep, in a suitable bound book, a true and exact calendar, containing, distinctly and fairly registered, the names of all prisoners committed to the jail under his charge, their places of abode, additions, time of their commitment, for what cause, and by what authority; and a particular description of the persons of those committed for offenses; and he shall register in said book the name and description, the time when, and the authority by which any prisoner was discharged; and the time and manner of any prisoner's escape.

SEC. 48. Every jailer, at the opening of every criminal term of the supreme judicial or superior court for his county, shall return a list of prisoners in his custody, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed; and shall have the calendar of prisoners in court for its inspection; and for neglecting so to do, the court may impose a reasonable fine.

SEC. 49. All warrants, mittimus, processes, and other official papers, by which any prisoner is committed or liberated, or attested copies thereof, shall be regularly filed in order of time; and with the calendar aforesaid safely kept in a suitable box; and when he vacates his office, they shall be,

by the sheriff, or his personal representative, delivered to his successor, on penalty of forfeiting two hundred dollars to the county.

SEC. 50. Every sheriff is answerable for the delivery to his successor of all prisoners in his custody at the time of his removal; and for that purpose, shall retain the keeping of the jail in his county, and the prisoners therein, until his successor enters on the duties of his office.

SEC. 51. Whenever complaint on oath is made to a judge of the supreme judicial court that any jail is unfit for occupation, or is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than three days' notice of such complaint to be given to the jailer or sheriff of the county, to appear at the time and place fixed in such notice, and if on examination the matter complained of, is found true, he may issue his warrant for the transfer of such prisoner at the expense of said county, to any jail where he may be more securely kept. And if by fire or other casualty any jail is destroyed or rendered unfit for use, any judge of the supreme judicial court may, upon being notified by the county attorney of the county where such jail was or is located, issue his order to the sheriff and his deputies and constables of said county to cause all prisoners who might be liable to imprisonment in said county, to be imprisoned in the jail of some adjoining county, said order to be printed in the newspapers of said county.

SEC. 52. When a prisoner escapes through the insufficiency of the jail, or the negligence of the sheriff or jailer, the sheriff is chargeable to the creditor, or other person at whose suit he was committed, or to whose use any forfeiture was adjudged against such prisoner.

SEC. 53. When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to such party; and if they do not make such order within six months after the demand is laid before them, the sheriff may bring his action on the case against the inhabitants of such county, to be tried therein, or in an adjoining county; and an attested copy of the writ left with the county treasurer, thirty days before the sitting of the court to which it is returnable, is a sufficient service.

SEC. 54. The commissioners may appoint an agent, to appear and defend the suit; and if they have no meeting between the time of service and the return day thereof, it shall be continued to the next term, saving all advantages to the defendants; and if judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied.

SEC. 55. Every prison keeper shall keep prisoners committed for debt, separate from prisoners charged with felony or infamous crimes; and shall keep all minors so committed, and all prisoners upon a first charge, before or after conviction, separate from notorious offenders, and those convicted more than once of felony or infamous crimes, so far as the construction or state of the prison admits.

SEC. 56. If any prison keeper violates the preceding section, or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in such prison, in writing, certifies that such prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offense, twenty-five dollars, and for the second, fifty dollars, to be recovered for the county by indictment, or by any person suing therefor, to his own use; and shall be removed from office, and incapable of holding the office of sheriff, deputy sheriff, or jailer, for five years; and if he, or any other person, gives, sells or delivers to any person committed to jail on mesne process or execution, or to any other person for such prisoner's use, any intoxicating liquor, without the consent in writing of the overseers of the poor of the town where the jail is situated, he forfeits not less than five, nor more than ten dollars, half to said town and half to the prosecutor.

71 Me., 407.
—penalty.

Sheriff is answerable for delivery of prisoners to successor.
R. S., c. 80, § 36.

Any judge of the supreme court may order transfer of a prisoner when he deems the jail unfit or insecure.
R. S., c. 80, § 37.
1887, c. 54.

Liability of sheriff for escape of prisoners.
R. S., c. 80, § 38.
71 Me., 578.

If escape happens through insufficiency of jail, sum paid, reimbursed; proceedings.
R. S., c. 80, § 39.

Agent to defend county may be appointed by commissioners.
R. S., c. 80, § 40.
—execution, how levied.

Treatment of prisoners for debt, and minors.
R. S., c. 80, § 41.

Penalty for violation of preceding section, or for furnishing intoxicating liquor to prisoners.
R. S., c. 80, § 42.

See c. 27, § 47.

Liability of
keeper and
sheriff, if
prisoner
escapes.
R. S., c. 80, § 43.

SEC. 57. If any prison keeper, through negligence, suffers a prisoner charged with an offense to escape, he shall be fined according to the nature of the offense charged against the escaped prisoner; but if a person committed for debt escapes from prison, and the sheriff or jail keeper, within three months thereafter, returns him thereto, the sheriff is liable only for the costs of any action commenced against him therefor.

Jailers to
receive
United States
prisoners.
R. S., c. 80, § 44.

SEC. 58. The keepers of the several jails shall receive and safely keep all prisoners committed under authority of the United States, until discharged, under the penalties provided for the safe keeping of prisoners under the laws of the State.

Disposal of
body of per-
son dying
in jail.
R. S., c. 80, § 45.

SEC. 59. When a person dies in jail, the jailer or sheriff shall deliver the body to his friends, if requested; otherwise, he shall dispose of it for anatomical purposes as provided in chapter thirteen, unless the deceased at any time requested to be buried, in which case he shall bury the body in the common burying-ground, and the expenses thereof shall be paid by the town in which he had a settlement, if he had any in the state, and if not, by the State.

Fines to be
applied to
building and
repair of jails.
R. S., c. 80, § 46.

SEC. 60. All fines imposed by this chapter, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed.

CORONERS.

Appointment
and bond of
coroners.
R. S., c. 80, § 47.
[See Consti-
tution, Art. V,
Part 1, § 3.]
72 Me., 556.

SEC. 61. Every coroner shall be appointed and hold his office, as provided in the constitution, *be sworn*, and give bond to the treasurer of state, with sufficient sureties to the satisfaction of the county commissioners of his county, for the faithful discharge of his duties; such bond shall be transmitted to said treasurer, like a sheriff's bond; but when it is approved by the certificate of two county commissioners, and filed with the clerk of his county, he may discharge his duties until the first day of their next stated session, and not afterwards, unless his bond is then approved by them.

Certain
sections
apply to
coroners.
R. S., c. 80, § 48.

SEC. 62. All the provisions of sections three, four, seven, and fourteen to eighteen, inclusive, apply to coroners as well as to sheriffs; and any coroner neglecting to give the new bond required by section four, thereby vacates his office.

Of coroner's
powers to
serve
precepts.
R. S., c. 80, § 49.
1 Me., 363.
21 Me., 482.
51 Me., 548.
54 Me., 205.
63 Me., 464.

SEC. 63. Every coroner shall serve and execute, within his county, all writs and precepts in which the sheriff thereof is a party, unless served by a constable, or while the office of sheriff therein is vacant, including those in which a town, plantation, parish, religious society, or school district, of which he is at the time a member, is a party or interested; and may lawfully serve, execute and return any process in his hands when his term of office expires, or when he is notified of the qualification of the sheriff of his county, after a vacancy.

CONSTABLES, AND POLICE OFFICERS.

Constables
may serve
precepts.
R. S., c. 80, § 50.
5 Me., 79.
11 Me., 333.
31 Me., 122, 496.
35 Me., 210.
48 Me., 255.
64 Me., 35.
68 Me., 201.
74 Me., 369.
82 Me., 97.

SEC. 64. A constable may serve, execute and return, upon any person in his town, or in an adjoining plantation, any writ of forcible entry and detainer, or any precept in a personal action, when the damage claimed does not exceed one hundred dollars, including those in which a town, plantation, parish, religious society, or school district, of which he is a member, is a party or interested; but before he serves any process, he shall give bond to the inhabitants of his town in the sum of five hundred dollars, with two sureties, approved by the municipal officers thereof, who shall indorse their approval on said bond in their own hands, for the faithful performance of the duties of his office, as to all processes by him served or executed; and for every process that he serves before giving such bond, he forfeits not less than twenty, nor more than fifty dollars, to the prosecutor.

—to give
bond.

—forfeiture
for neglect.

SEC. 65. Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action, and action on his bond, as in case of a sheriff's bond. (a)

SEC. 66. The constables of the town of Bristol may serve all precepts on Muscongus and Harbor islands, in the county of Lincoln, the same as in their own town, until said islands can legally elect constables.

SEC. 67. Police officers, appointed in any city, have the powers of constables in all matters criminal, or relating to the by-laws of their city.

Remedy for misconduct of constable. R. S., c. 80, §51. See § 14.
Constables of Bristol may serve on islands. R. S., c. 80, §52.
Powers of police. R. S., c. 80, §53.
See c. 3, § 94.

PROVISIONS RELATING TO SHERIFFS, CORONERS, AND CONSTABLES.

SEC. 68. A warrant issued by a municipal or police court or a trial justice, for an offense committed in his county, or under the laws for the maintenance of bastard children, may be directed to and executed by a constable of any town therein; and if the accused has gone into another county before or after the warrant was issued, a sheriff or his deputy, coroner, or constable, having the warrant, may pursue and arrest him in any county, and carry to the county where the act complained of was committed; and when such officer arrests a person to commit to the jail of his county, he may convey him by the most convenient and suitable route, although it pass through other counties. But, except, for the purpose of retaking a prisoner whom he has arrested and who has escaped, or for the purpose of taking a person before such a court or trial justice, or for the purpose of executing a mittimus given to him by such a court or trial justice, or for the purpose of pursuing a person who has gone into another town and for whose arrest such constable or marshal has a warrant, no constable of the several towns or city marshal of the several cities shall have any authority in criminal matters beyond the limits of the town or city in which he is elected or chosen.

Constables may serve warrants in any town in the county. R. S., c. 80, §54.
1901, c. 238.
—officers may serve certain precepts in any county. 87 Me., 215.

—commitment of persons.

—powers of constables. restricted.

SEC. 69. An officer of any county qualified to serve precepts in criminal cases in the county where he resides, may serve any precept required by the laws providing for work-jails, whether such service is performed in whole or in part in one or more counties, and processess shall be issued and directed accordingly.

Officers may serve precepts for work-jails in one or more counties. R. S., c. 80, §55.

SEC. 70. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses so to do, forfeits to the county not less than three, nor more than fifty dollars; and if he does not forthwith pay such fine, the court may imprison him not exceeding thirty days.

Aid may be required by officer. R. S., c. 80, §56.

—penalty for refusal.

SEC. 71. If any officer aforesaid, who has commenced the service or execution of a precept, becomes disqualified, it may be completed, with the same legal effect, by any other qualified officer; and if any officer aforesaid has made, in fact, any service, attachment or levy, by virtue of any process placed in his hands for service, and for any cause, has not made his return thereon, such return shall be made by a sheriff, any deputy, or other proper officer, under direction of a justice of the supreme judicial court, held in the county where said writ is returnable, the facts to be set forth by said officer in said return, to be proved to the satisfaction of said justice; or if a deputy sheriff dies after he has served and returned a precept, the sheriff, if alive, and if not, any deputy in commission at the time of such service, may be allowed by the court to amend such return as the officer who made it might, but the rights of third parties shall not be affected thereby.

Execution of precepts commenced, how completed when officer becomes disqualified. R. S., c. 80, §57.
41 Me., 342.

—returns, how made.

—may be amended.

SEC. 72. Every officer, plaintiff, or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to

Copy of writ to be delivered

to defendant
on request:
penalty for
neglect.
R. S., c. 80, § 58.

Officer to pay
money
collected:
penalty.
R. S., c. 80, § 59.
8 Me., 133.
18 Me., 63.
No officer to
be attorney,
or draw pa-
pers; no em-
ploye of jailer
to act as
magistrate or
attorney.
R. S., c. 80, § 60.
67 Me., 374.

In actions
against
officers, for
breach of
duty, where
principal
defendant is
out of state,
writs, how
served.
R. S., c. 80, § 61.

the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof. And if he unreasonably refuses or neglects so to do for twenty-four hours, he forfeits five dollars, and five dollars additional for every subsequent twenty-four hours that he so refuses or neglects; to be recovered by the debtor to his own use, in an action of debt.

SEC. 73. Any officer aforesaid who unreasonably neglects or refuses, on demand, to pay money received by him on execution to the person entitled to it, shall pay five times the lawful interest thereon so long as he so retains it.

SEC. 74. No officer aforesaid shall appear before any court or justice or justice of the peace as attorney or adviser of any party in a suit, or draw any writ, plaint, declaration, citation, process, or plea, for any other person; and all such acts done by either of them are void; and no person employed by the keeper of a jail in any capacity, shall exercise any power or duty of a magistrate, or act as attorney for any person confined in the jail; and all such acts are void.

SEC. 75. In actions against sheriffs, deputy sheriffs, coroners and constables, for breach of official duty, where the principal defendant is out of the state, the writ may be served on such defendant by leaving a copy of the same with each of the sureties on his official bond fourteen days before the return day thereof, and the court in the county where the writ is returnable, either before or after entry, may order further notice to the defendant by publication of an abstract of the writ and order thereon, in some newspaper published in the county where the writ is returnable, or in the state paper, or in such other manner as the court directs; and if the order is complied with and proved, the defendant shall answer to the suit, and judgment in such case has the same effect as if personal service was made upon the principal defendant.