

# MAINE STATE LEGISLATURE

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REPORTS  
OF  
THE COMMISSIONER  
AND  
THE LEGISLATIVE COMMISSION  
SUBMITTING THE FINAL DRAFT OF THE  
SIXTH REVISION  
OF THE  
PUBLIC LAWS  
OF THE  
STATE OF MAINE  
UNDER RESOLVE OF MARCH 25, 1915

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## TITLE TWO.

### Education, Religious Instruction, Public Health, Convenience, Support of the Poor and Police.

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## CHAPTER 16.

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**Location of Schools.**

**Sec. 1.** All school districts abolished except districts organized by act of legislature; how schools in such districts shall be supported; corporate powers of districts continued for purpose of meeting liabilities. **R. S. c. 15, § 1.** The school districts in all towns in the state are abolished. Provided, however, that school districts organized with special powers by act of the legislature, may retain such organization and special powers; but said districts shall annually, on or before the first day of June, by their agents, trustees or directors, submit to the school committees of their several towns estimates of the amounts required for the maintenance of the schools therein, other than free high schools, for the ensuing school year, and shall be entitled to such portion of the common school funds of the town as said committees shall determine, which sum shall not be less than is necessary for the maintenance of their schools for a period equal to that of the other schools of the town; and provided further, that the corporate powers of every school district shall continue so far as the same may be necessary for meeting its liabilities and enforcing its rights; and any property held in trust by any school district by virtue of a gift, devise or bequest for the benefit of said district shall continue to be held and used according to the terms thereof.

90 Me. 322; 91 Me. 519.

**Sec. 2.** No change in location of any school legally established; towns may determine number and location on recommendation of school committee; schools with few scholars may be suspended; superintendent shall procure conveyance for scholars; committee may furnish board instead of providing conveyance. **R. S. c. 15, § 2. 1907, c. 90. 1913, c. 148.** The location of any school legally established prior to the seventeenth day of March, eighteen hundred and ninety-three continues unchanged, notwithstanding the district is abolished; but any town at its annual meeting, or at a meeting called for the purpose, may determine the number and location of its schools, and may discontinue them or change their location; but such discontinuance or change of location shall be made only on the written recommendation of the superintending school committee, and on conditions proper to preserve the just rights and privileges of the inhabitants for whose benefit such schools were established; provided, however, that in case any school shall hereafter have too few scholars for its profitable maintenance, the superintending school committee may suspend the operation of such school for not more than one year unless otherwise instructed by the town, but any public school failing to maintain an average attendance for any school year, of at least eight pupils, shall be and hereby is suspended, unless the town in which said school is located shall by vote, at the annual meeting, or at a meeting called for that purpose, after the said committee shall have made a written recommendation to that effect, instruct its superintending school committee to maintain said school. The superintendent of schools in each town shall procure the conveyance of all common school pupils residing in his town, a part or the whole of the distance, to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from



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the said school as in the judgment of the superintending school committee shall render such conveyance necessary. Provided, however, that the superintending school committee may authorize the superintendent of schools, to pay the board of any pupil or pupils at a suitable place near any established school instead of providing conveyance for said pupil or pupils, when in their judgment it may be done at an equal or less expense than by conveyance.

**Sec. 3. Schoolhouse lots acquired by condemnation; damages, how appraised; lot to revert to owner if not occupied for two years. Land may be taken for schoolhouse lot, playgrounds.** R. S. c. 15, § 3. When a location for the erection or removal of a schoolhouse and requisite buildings has been legally designated, by vote of the town at any town meeting called for that purpose, and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for it, or resides without the state and has no authorized agent or attorney therein, they may lay out a schoolhouse lot, not exceeding three acres, and appraise the damages as is provided for laying out town ways, and appraising the damages therefor; and on payment or tender of such damages, or if such owner does not reside in the state, upon depositing such damages in the treasury of such town for his use, the town designating it may take such lot to be held and used for the purposes aforesaid; and when such schoolhouse has ceased to be thereon for two years, said lot reverts to the owner, his heirs or assigns. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a schoolhouse and requisite buildings and playgrounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling-house, and all schoolhouse lots and playgrounds that require fencing shall be fenced by the town or city.

52 Me. 146; 60 Me. 405, 542, 545; 63 Me. 192; 67 Me. 283; 77 Me. 120; 98 Me. 131.

**Sec. 4. Appeal by aggrieved owner.** R. S. c. 15, § 4. If the owner is aggrieved at the location of the lot, or the damages awarded, he may apply to the county commissioners within six months, who may change the location and assess the damages. If the damages are increased, or the location changed, such town or district shall pay the damages and costs; otherwise the costs shall be paid by the applicant.

60 Me. 335, 542, 543; 63 Me. 192; 98 Me. 131.

**Sec. 5. Schoolhouse lots, erroneous location, how re-established and made valid.** R. S. c. 15, § 5. If any town or school district, by its officers or by a committee, has designated, located and described a lot upon which to erect, move or repair a schoolhouse, and from mistake or omission has failed to comply with the law, whereby such location has been rendered invalid, three legal voters and taxpayers thereof may apply in writing to the selectmen of said town, and have the lot, so designated or described, re-appraised by them.

**Sec. 6. Notice of appraisal and hearing.** R. S. c. 15, § 6. The selectmen of any town to whom such application has been made, shall forthwith give not less than seven nor more than twenty days' notice, to the clerk of said town or district and to the owner of such real estate, or

to the persons having the same in charge, of the time and place by them fixed for such hearing, and shall, after examination and hearing of all interested, appraise the lot as set out and affix a fair value thereon, exclusive of improvements made by said district or town, either by buildings or otherwise; and shall, as soon as practicable, notify the town or district clerk, and the persons interested in said estate who had been notified as hereinbefore provided, of the sum at which said lot has been appraised.

**Sec. 7. Assessment and collection.** R. S. c. 15, § 7. The sum fixed as the value of said lot shall be assessed, collected and paid over as other school money.

**Sec. 8. Tender to be allowed in payment.** R. S. c. 15, § 8. Any sum which has been tendered and is in the hands or under the control of the persons owning or having charge of such land, shall be allowed in payment of said appraisal.

**Sec. 9. Either party may appeal.** R. S. c. 15, § 9. If the town or district, or persons owning or having charge of the land on which such location is made, are dissatisfied with such appraisal, either party may within ten days appeal to the county commissioners of the county in which the land lies, by filing a copy of the proceedings and a claim of appeal with said commissioners, and the determination of a majority of said commissioners not residents of said town, shall be final.

**Sec. 10. Improvements inure to town or district.** R. S. c. 15, § 10. When any school district or town has erected or moved a building upon such lot or in any way improved the same, such improvement shall inure to the benefit of such town or district, and the same may be as completely occupied and controlled by such town or district as it would have been if such location had been in strict conformity to law.

**Sec. 11. Tax not affected by error in location.** R. S. c. 15, § 11. The legality of a tax assessed to build, repair or remove a schoolhouse and to pay for a lot, shall not be affected by any mistake or error in the designation or location thereof.

**Sec. 12. Plan to be approved by committee.** R. S. c. 15, § 12. 1909, c. 88, § 3. A plan for the erection or reconstruction of any schoolhouse voted by a town, shall first be approved by the superintending school committee; and in case no special building committee has been chosen by the town, said superintending school committee shall have charge of said erection or reconstruction; provided, however, that they may if they see fit, delegate said power and duty to the superintendent of schools.

**Sec. 13. Plans and specifications to be furnished by state superintendent.** 1909, c. 88, § 1. 1913, c. 89. The state superintendent of public schools shall procure architects' plans and specifications for school buildings of not exceeding four rooms each, and full detail working plans therefor. Said plans and specifications shall be loaned to any superintending school committee or school building committee desiring to erect a new school building. For the use of the state superintendent of public schools in procuring such plans and specifications the sum of two hundred dollars annually shall be appropriated.

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**Sec. 14. Provision for heating, lighting and ventilating.** 1909, c. 88, § 2. Where the plans and specifications prepared by the state superintendent are not used, all superintending school committees of towns in which new schoolhouses are to be erected, shall make suitable provision for the heating, lighting and ventilating and hygienic conditions of such buildings, and all plans and specifications for any such proposed school building shall be submitted to and approved by the state superintendent of public schools and the state board of health before the same shall be accepted by the superintending school committee or school building committee of the town in which it is proposed to erect such building.

110 Me. 242.

**Sec. 15. Schoolhouses shall be provided with proper exits; municipal officers shall correct defects.** 1909, c. 100. Any building which is used in whole or in part as a schoolhouse shall be provided with proper egresses or other means of escape from fire sufficient for the use of all persons therein accommodated. These egresses and means of escape shall be kept unobstructed, in good repair and ready for use. Stairways on the outside of the building shall have suitable railed landings at each story above the first, accessible at each story from doors or windows; and such stairways, doors or windows shall be kept clean of snow, ice and other obstructions. In school buildings of more than one story there shall be at least two separate means of egress by inside or outside stairways, and each story above the first shall be supplied with means of extinguishing fire, consisting of pails of water or other portable apparatus, or of a hose attached to a suitable water supply and such appliance shall be kept at all times ready for use and in good condition. Upon written notification by the superintending school committee that any school building does not meet the specifications herein named, the municipal officers of the town shall at once proceed to correct the defects, and any failure so to act shall render the town liable to the provisions of section nineteen of this chapter.

See c. 30, § 37; c. 23, § 27.

### Duties of Towns.

**Sec. 16. Towns to raise money for schools; expenditure.** R. S. c. 15, § 13. 1905, c. 48, § 1. 1907, c. 111, § 1. 1909, c. 128. Every town shall raise and expend, annually, for the support of common schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue or fund from the state, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than eighty cents for each inhabitant, according to the census by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency, and all moneys provided by towns, or apportioned by the state for the support of common schools, shall be expended for the maintenance of common schools established and controlled by the towns by which said moneys are provided, or to which said moneys are apportioned; but nothing

in this section shall be so construed as to annul, or render void, the provisions made in section twenty-one of this chapter for the establishment and maintenance of union schools by adjoining towns.

See §§ 153, 154, 164; c. 8, §§ 20, 21; c. 17, § 56; 68 Me. 584; 72 Me. 166; 76 Me. 416; 92 Me. 327; 109 Me. 173.

**Sec. 17. Expenditures by towns failing to account for permanent school funds.** R. S. c. 15, § 14. All towns incorporated since seventeen hundred and eighty-eight, not formerly parts of other towns, which fail to account for the permanent school fund arising from sale or lease of school lands in said towns, shall annually raise and expend for the maintenance of common schools not less than forty-five dollars in addition to the amount required by law to be raised and expended for the support of said schools.

**Sec. 18. School money, how paid by towns.** R. S. c. 15, § 15. 1905, c. 48, § 2. 1913, c. 122. 1915, c. 291. No money appropriated by law for public schools shall be paid from the treasury of any town, except upon written order of its municipal officers; and no such order shall be drawn by said officers except upon presentation of a properly avouched bill of items, said bill of items having first been approved by a majority of the members of the superintending school committee and certified by the superintendent of schools. The unexpended balance of all moneys raised by towns, or received from the state, for the payment of wages and board of teachers, fuel, janitors' services, conveyance or tuition and board of scholars, shall be credited to the school resources for the year following that in which said unexpended balance accrued.

**Sec. 19. School fund and mill tax to be withheld from delinquent towns.** R. S. c. 15, § 16. 1905, c. 48, § 3. 1909, c. 59. 1913, c. 181. When the governor and council have reason to believe that a town has neglected to raise and expend the school money required by law, or to employ teachers certified as required by law, or to have instruction given in the subjects prescribed by law, or to provide suitable text-books in the subjects prescribed by law, or faithfully to expend the school money received from the state, or in any way, to comply with the law prescribing the duties of towns in relation to public schools, they shall direct the treasurer of state to withhold from the apportionment of state school funds made to that town such amount as they may deem expedient and the amount so withheld shall not be paid until such town shall satisfy said governor and council that it has expended the full amount of school money as required by law and that it has complied in all ways with the law prescribing the duties of towns in relation to public schools; and whenever such town shall fail, within the year for which the apportionment is made, so to satisfy the governor and council, the said amount withholden shall be forfeited and shall be added to the permanent school fund for the year next succeeding.

**Sec. 20. Equal school privileges shall be provided for all pupils.** R. S. c. 15, § 17. 1909, c. 29. 1915, c. 89. The school moneys of every town shall be so expended as to give as nearly as practicable the same aggregate annual length of terms in all its schools, and every town shall make provision

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for the maintenance of all its schools for not less than thirty weeks annually. Any town failing to maintain its schools as provided in this section, shall be debarred from drawing its state school moneys until it shall have made suitable provisions for so maintaining them thereafter.

**Sec. 21. Union schools may be maintained by adjoining towns; management of such schools.** R. S. c. 15, § 18. Adjoining towns, upon the written recommendation of the school committees of said towns, may by concurrent action maintain union schools for the benefit of parts of said towns constituting on the first day of March, eighteen hundred and ninety-four, union school districts, or may establish such schools, and shall contribute to their support each in proportion to the number of scholars in each of said towns attending such schools. Said schools shall be under the management of the school committee of the town in which their schoolhouses are located.

**Sec. 22. Purposes for which school fund shall be used. Parent or guardian may provide text-books; second-hand books shall not be purchased.** R. S. c. 15, § 19. 1905, c. 48, § 4. 1909, c. 131. Towns shall expend the entire amount of the school fund and mill tax received from the state together with the amount arising from the eighty cents per capita as provided in section sixteen of this chapter, and the funds arising from the various sources enumerated in the first four lines of said section, and the funds arising from the provisions of section seventeen of this chapter, for the payment of teachers' wages and board, fuel, janitor's services, conveyance of scholars and tuition and board of scholars as provided in section two and section sixty-seven of this chapter and shall provide school-books, apparatus and appliances for the use of pupils in the public schools, including all free high schools, at the expense of said town, and shall also pay for the necessary repairs of school buildings and the insurance on the same, if any, improvement and maintenance of school yards and playgrounds out of a sum or sums of money raised and appropriated for that purpose, which shall be assessed like other money and shall be in addition to and independent of the amount which towns are required by law to raise, assess and expend for the support of common schools; provided, however, that any parent or guardian of any pupil in the public schools may at his own expense procure for the separate and exclusive use of such pupil the text-books required to be used in such schools, and no second-hand books shall be purchased for the use of any school; whoever violates this provision shall forfeit not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved.

See §§ 162, 163.

**Sec. 23. Distribution of books, etc.** R. S. c. 15, § 20. School committees shall make such rules and regulations not repugnant to law, as they deem proper, for the distribution and preservation of school-books and appliances furnished at the expense of the town.

**Sec. 24. Damages for injuring or destroying, recovered of parent or guardian.** R. S. c. 15, § 21. When a pupil in the public schools loses, destroys, or unnecessarily injures any such school-book or appliance, furnished such pupil at the expense of said town, his parent or guardian shall be notified, and if the loss or damage is not made good to the satisfaction

of such committee within a reasonable time, they shall report the case to the assessors, who shall include in the next town tax of the delinquent parent or guardian the value of the book or appliance so lost, destroyed or injured, to be assessed and collected as other town taxes.

**Sec. 25. Cities and towns may raise money for evening schools.** R. S. c. 15, § 22. Any city or town may, in addition to the sum raised for the support of the common schools, raise and appropriate money for the support of evening schools, which shall admit persons of any age, shall teach only the elementary branches, and shall be under the direction and supervision of the superintending school committee.

See § 137.

**Sec. 26. Instruction in industrial or mechanical drawing.** R. S. c. 15, § 23. Any city or town may annually make provision for free instruction in industrial or mechanical drawing, to persons over fifteen years of age, either in day or evening schools, under direction of the superintending school committee.

**Sec. 27. Manual training schools.** R. S. c. 15, § 24. Any city or town may, in addition to the sum raised for the support of the common schools, raise and appropriate money for the support of manual training schools and may receive gifts and bequests for the use, maintenance and support of such schools.

See §§ 135-138.

**Sec. 28. Such schools under direction of committee; rules and regulations.** R. S. c. 15, § 25. Such schools shall be under the control, direction and supervision of the superintending school committee, and shall admit such persons between the ages of six and twenty-one years, and shall give such courses of instruction as said committee may determine. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools.

**Sec. 29. Scholars at light stations.** R. S. c. 15, § 26. 1911, c. 161. Persons between the ages of five and twenty-one years living at any light station, fog warning station or life saving station, shall be admitted to any public school in the state without paying tuition; such scholars shall be entitled to all privileges and benefits, and be subject to the same conditions, rules and regulations as scholars residing in the town in which they attend school.

**Sec. 30. School age.** R. S. c. 15, § 27. 1911, c. 22. The age of pupils allowed to attend the public schools of the state is hereby fixed between the ages of five and twenty-one years; and every child between the said ages shall have the right to attend the public schools in the town in which his parent or guardian has a legal residence, subject to such reasonable regulations as to the numbers and qualifications of pupils to be admitted to the respective schools and as to other school matters as the superintending school committee shall from time to time prescribe.

**Sec. 31. Annual school returns to state superintendent.** R. S. c. 15, § 28. 1909, c. 91. The assessors or municipal officers of each town, shall, on or before the first day of each May, make to the state superintendent of public schools, a certificate, embracing the following items:

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

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

III. The amount of money actually expended for common schools during the preceding fiscal year of the town.

IV. The amount of school moneys unexpended at the expiration of the preceding fiscal year of the town.

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

**Sec. 32. Election of superintending school committee.** R. S. c. 15, § 29. Every town shall choose by ballot at its annual meeting, a superintending school committee of three, to hold office as provided in the following section and shall fill vacancies arising therein at each subsequent annual meeting. No person is ineligible to the office of superintending school committee, on account of sex.

See Const. of Me. Art. ix, § 1.

**Sec. 33. Superintending school committees, when first chosen, shall arrange terms of office; vacancies. No member shall be employed to teach in his own town.** R. S. c. 15, § 30. School committees first chosen shall designate by lot a member or members to hold office for one, two and three years respectively, in manner as follows: one for one year, one for two years and one for three years; and they shall certify such designation to the town clerk to be by him recorded; and thereafterwards one member shall be chosen by ballot at the annual meeting of the town, to hold office for three years. Said committee may fill vacancies occurring between annual meetings, and the term of office of any member of the committee so chosen shall expire at the next annual meeting. No member of the superintending school committee of any town shall be employed as a teacher in any public school in said town.

**Sec. 34. Sections 32 and 33 shall not apply to certain cities.** R. S. c. 15, § 31. The provisions of the two preceding sections shall not apply to cities whose charters specify the methods of election and term of office of a superintending school committee or board of education; nor to towns, cities and incorporated districts authorized by private and special laws to choose school committees other than those herein provided for.

**Sec. 35. Penalty for neglect to choose committee.** R. S. c. 15, § 32. A town failing to elect members of the superintending school committee as required by law forfeits not less than thirty, nor more than two hundred dollars.

**Sec. 36. Committee shall serve without pay; compensation of superintendent.** R. S. c. 15, § 33. Superintending school committees shall serve without pay, unless otherwise voted by the town, but the superintendent shall receive for his services such sum as the town shall annually vote therefor, which sum shall in no case be less than two dollars a day for every day of actual service and necessary traveling expenses.

**Powers and Duties of Superintending School Committees and  
Superintendents.**

**Sec. 37. Management of schools; election and discharge of superintendent.** R. S. c. 15, § 34. 1911, c. 173. 1913, c. 78. 1915, c. 129. The management of the schools and the custody and care, including repairs and insurance on school buildings, of all school property in every town, shall devolve upon the superintending school committee which shall annually, and as often as a vacancy shall occur, elect a superintendent of schools who shall not be a member of the committee, and, after the first day of July, nineteen hundred sixteen, no person shall be eligible to the office of superintendent of schools under the provisions of this section unless he shall hold a teacher's state certificate, or a state certificate of superintendence grade. After due notice and investigation the superintending school committee may for cause discharge a superintendent of schools and after protracted absence from duty on the part of said superintendent may declare a vacancy in his office. This section, so far as it relates to the manner of the election or employment of superintendents of schools shall not apply to cities, nor to towns authorized by special laws to employ or choose superintendents in manner otherwise than is herein provided.

100 Me. 136.

**Sec. 38. Duties.** R. S. c. 15, § 35. 1905, c. 48, § 5. Superintending school committees shall perform the following duties:

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

38 Me. 394.

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

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

3 Me. 453; 16 Me. 185.



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

38 Me. 391.

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

VI. Prescribe the sum, on payment of which persons of the required age, resident on territory, the jurisdiction of which has been ceded to the United States, included in or surrounded by the town may attend school in the town.

See c. 2, §§ 1, 5, 6.

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

**Sec. 39. Secret societies prohibited.** 1913, c. 34. No pupil of any public, elementary or secondary school shall participate in or be a member of any secret fraternity or secret society whatsoever that is in any degree a school organization. Superintending school committees shall enforce the provisions of this section and may expel or otherwise discipline any pupil for failure or refusal to comply with its provisions.

**Sec. 40. School physicians appointed.** 1909, c. 73, § 1. The superintending school committee of every city and town shall appoint one or more school physicians and shall assign one to the medical inspection of not over one thousand pupils of the public schools within its city or town, and shall provide them with all proper facilities for the performance of their duties as hereinafter prescribed; provided, however, that the said committee has been so authorized by vote of the town at a regular town meeting or at a special town meeting called for that purpose.

**Sec. 41. Duties of physician.** 1909, c. 73, § 2. Every school physician shall make a prompt examination and diagnosis of all children referred to him as hereinafter provided, and such further examination of teachers, janitors and school buildings as in his opinion the protection of the health of the pupils may require.

**Sec. 42. Treatment of pupils.** 1909, c. 73, § 3. The pupils so examined by school physicians, when treatment is necessary, shall not be referred to any school physician for such treatment unless such school physician is the regular family physician of such pupil; but shall be referred to the regular family physician of such pupil through the parents or guardian.

**Sec. 43. Examination of pupils after absence on account of sickness.** 1909, c. 73, § 4. 1915, c. 174. The superintending school committee shall cause to be referred to a school physician for examination and diagnosis every child returning to a school without a certificate from the board of health or family physician after absence on account of illness or whenever in the judgment of the teacher the circumstances of the absence were such as to require such a certificate, and every child in the schools under its jurisdiction who shows signs of being in ill health or of suffering from

infectious or contagious diseases, unless he is at once excluded from school by the teacher; except that in case of schools in remote and isolated situations, the school committee may make such other arrangements as may best carry out the purposes of sections forty to forty-seven, both inclusive.

**Sec. 44. Notice of disease or defects.** 1909, c. 73, § 5. The superintending school committee shall cause notice of disease or defects, if any, from which any child is found to be suffering, to be sent to his parents or guardians. Whenever a child shows symptoms of smallpox, scarlet fever, measles, chicken-pox, tuberculosis, diphtheria or influenza, tonsilitis, whooping-cough, mumps, scabies or trachoma, he shall be sent home immediately or as soon as safe and proper conveyance can be found, and the board of health and superintendent of schools shall at once be notified.

See c. 19, §§ 10, 50-63.

**Sec. 45. Examination of sight and hearing; notice of defect or disability to parent or guardian.** 1909, c. 73, § 6. The superintending school committee of every city or town shall cause every child in the public schools to be separately and carefully tested and examined at least once in every school year to ascertain whether he is suffering from defective sight, or hearing, or from any other disability or defect tending to prevent his receiving the full benefit of his school work, or requiring a modification of the school work in order to prevent injury to the child or to secure the best educational results. Tests of sight and hearing shall be made by the teachers or by the school physicians. The committee shall cause notice of any defect or disability requiring treatment to be sent to the parent or guardian of the child, and shall require a physical record of each child to be kept in such form as the state superintendent of public schools shall prescribe after consultation with the state board of health.

**Sec. 46. State superintendent of schools shall prescribe directions for tests.** 1909, c. 73, § 7. The state superintendent of public schools shall prescribe, after consultation with the state board of health, the directions for tests of sight and hearing, and shall prescribe and furnish to the school committees suitable rules of instruction, test cards, blanks, record books and other useful appliances for carrying out the purposes of the six preceding sections.

**Sec. 47. Expense that may be incurred by city or town.** 1909, c. 73, § 8. Expenses which a city or town may incur by virtue of the authority herein vested in the superintending school committee shall not exceed the amount appropriated for that purpose in cities by the city council and in towns by a town meeting. The appropriation shall precede any expenditure under the seven preceding sections, and the sum appropriated shall be deemed sufficient appropriation in the municipality where it is made. Such appropriation need not specify to what section it shall apply and may be voted as a total appropriation to be applied in carrying out the purposes of said sections.

**Sec. 48. Application of §§ 40 to 47.** 1909, c. 73, § 9. The provisions of the eight preceding sections shall apply only to cities and towns having a population of less than forty thousand inhabitants.

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**Sec. 49. Superintendent, secretary of committee; his duties.** R. S. c. 15, §§ 36, 39. 1905, c. 48, § 6. 1913, c. 112; c. 58, § 5. The superintendent of schools in every town shall be ex-officio, secretary of the superintending school committee, and shall perform such duties not herein enumerated as said committee shall direct.

I. He shall keep a permanent record of all its votes, orders and proceedings; he shall place all orders for materials and supplies purchased by vote of the committee and shall be its agent in keeping all financial records and accounts. He shall issue vouchers showing the correctness of bills contracted on account of school appropriations, but such bills shall not be allowed for payment by the municipal officers of towns unless they shall have been approved by a majority of the members of the superintending school committee.

II. He shall employ teachers, subject to the approval of the superintending school committee. Five days constitute the school week, and four weeks a school month.

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

IV. He shall return under oath to the school committee, in April annually, a certified list of the names and ages of all persons in his town from five to twenty-one years, corrected to the first day of said month, leaving out of said enumeration all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

**Sec. 50. Return to state superintendent of schools.** R. S. c. 15, § 37. 1911, c. 121. He shall annually make returns to the state superintendent of public schools, of the number of persons between the ages of five and twenty-one years, together with a certified list of the names and ages of such persons, corrected to the first day of April preceding the time of making such returns, and give full and complete answers to the inquiries contained in the blank forms furnished him by law; certify that such statement is true and correct, according to his best knowledge and belief; and transmit it to the office of the state superintendent on or before the first day of each May. He shall also furnish such other information relating to the public schools as the state superintendent shall at any time require of him. When the state superintendent of public schools on examination of the census returns of any town is of the opinion that the census has been inaccurately taken, he shall make a statement thereof to the governor and council who may require the census of such town to be retaken and returned and, if they think necessary, they may for this purpose appoint persons to perform this service; and such persons so appointed shall take the same

oath, perform the same service and receive the same compensation out of the same funds as the person or persons who took the school census in the first instance; and the school fund distributable in proportion to enumeration of scholars shall be distributed on the corrected returns.

**Sec. 51. Annual return of statistics.** R. S. c. 15, § 38. 1905, c. 48, § 7. 1913, c. 4. He shall, on or before the first day of August, annually, make under oath a full and complete return of all educational statistics for the year ending the first day of July next preceding, and any town that shall fail, through its school officers, to make the return required by this section shall be liable to the provisions of section nineteen of this chapter.

**Sec. 52. Flags to be furnished schools.** 1907, c. 182. 1915, c. 176. Superintendents of schools shall see that the flag is displayed from the public school buildings on appropriate occasions. They shall report annually to the towns the amount necessary to furnish the public schools with suitable flags and flagstuffs and towns shall annually appropriate a sufficient amount to defray the necessary cost of the display of the flag. The appropriation for this purpose shall be separate from and additional to all other appropriations for schools. It shall be the duty of instructors to impress upon the youth by suitable references and observances the significance of the flag, to teach them the cost, the object and principles of our government, the great sacrifices of our forefathers, the important part taken by the Union Army in the war of eighteen hundred sixty-one to eighteen hundred sixty-five, and to teach them to love, honor and respect the flag of our country that cost so much and is so dear to every true American citizen.

See c. 1, § 6, ¶ xix.

**Sec. 53. Exclusion of pupils from school on account of filth or disease; notice to parents.** 1909, c. 31, § 1. When a teacher becomes aware or suspects that any of the pupils attending his school are in a condition which renders them a source of offense or danger to the other pupils in school on account of filthiness, or because they are the bearers of vermin or parasites, or have an infectious or contagious disease of the skin, mouth or eyes, he shall notify the superintendent of schools. When a superintendent of schools knows or learns that any of the pupils attending any school within his jurisdiction, are affected with any of the conditions, infections, or diseases herein mentioned, he shall notify the parents to cleanse the clothing and the bodies of the children and to furnish them with the required home or medical treatment, for the relief of their trouble, and he may, when he deems it necessary, exclude such children from the schools temporarily or until they may be cured, cleansed and disinfected.

**Sec. 54. Duty of parents; penalty for neglect.** 1909, c. 31, § 2. Parents thus notified of the condition of their children shall forthwith have them and their clothing cleansed and shall promptly do what is necessary, or furnish them such medical treatment as may be required, to rid the children of vermin, parasites, or contagion; any parent who fails to do what is required so that the children may return to school with as little loss of time as is possible, shall be punished by a fine not to exceed five dollars for the first offense, and not to exceed ten dollars for a second or subsequent offense.

See c. 19, §§ 50-63.

### Superintendence of Schools Through the Union of Towns.

**Sec. 55. School committees of two or more towns may unite in employment of superintendent; proviso as to number of schools; union shall continue for three years.** R. S. c. 15, § 40. 1905, c. 55. 1909, c. 122, § 1. 1911, c. 92. 1913, c. 145, § 1. The superintending school committees of two or more towns, having under their care and custody an aggregate of not less than twenty, nor more than fifty schools, may unite in the employment of a superintendent of schools, provided they have been so authorized by a vote of their towns at the regular town meetings, or special town meetings called for that purpose. Provided further that such union shall not take effect until the state superintendent of public schools shall have approved the certificate of union as hereinafter provided; the committee of any town dissatisfied with the decision of the state superintendent may appeal to the governor and council who shall make the final decision relative thereto. Provided further, that, whenever it appears to the state superintendent of public schools, upon the representation of the school committees of certain towns that, owing to geographical situation or other reasons it is to the advantage of the state and of the said towns that a union shall include fewer than twenty or more than fifty schools, said state superintendent of public schools may approve the certificate of such union, and a union so formed shall, except for the number of schools, be governed by the conditions herein prescribed for unions of towns. A union of towns formed under the provisions of this section shall upon its first organization continue for a period of at least three years unless sooner dissolved by a two-thirds vote of the joint committee, but after the expiration of said three-year period any of the towns forming said union may at its annual meeting withdraw from said union and the remaining members may continue a union in accordance with the conditions herein prescribed as to the number of schools and upon the approval of a new certificate of union by the state superintendent of public schools. The joint committee of any union of towns may admit to said union any town or towns which have voted to join the said union; but such admission shall be subject to the conditions herein prescribed as to the number of schools and upon the approval of a new certificate of union by the state superintendent of public schools.

**Sec. 56. Joint superintending school committees; annual meetings; organization; duties; choice of superintendent.** R. S. c. 15, § 41. 1907, c. 101, § 1. 1909, c. 122, § 2. 1913, c. 138, § 1. The superintending school committees of the towns composing a union shall form a joint committee, and for the purposes of this section and the four following sections, said joint committee shall be held to be the agents of each town composing the union. Said joint committee shall meet annually at a day and place agreed upon by the chairmen of the committees of the several towns composing the union, and shall organize by the choice of a chairman and a secretary. They shall determine the relative amount of service to be performed by the superintendent in each town, including the minimum number of visits to be made each term to each school, fix his salary, apportion the amounts thereof to be paid by the several towns, which amounts shall be certified to the treasurers of said towns, respectively and to the state superintendent of

public schools, together with the amount apportioned to each town; provided, that the amount so certified shall be in proportion to the amount of service performed in the several towns. They shall choose by ballot a superintendent of schools for a term not exceeding five years, but the period of such election shall not exceed that for which the union of towns has been authorized.

**Sec. 57. I. Certificate as to election of superintendent; state aid.** R. S. c. 15, § 42. 1907, c. 101, § 2. 1909, c. 146. 1911, c. 191. 1913, c. 138, § 2. The chairman and secretary of said joint committee shall, upon the election of a superintendent of schools as provided by the preceding section, certify under oath to the state superintendent of public schools, upon the forms prescribed by him, all facts relative to said union and employment of a superintendent. Annually upon the first day of April and whenever a new superintendent is chosen said chairman and secretary shall make return of a similar certificate. Upon approval of said certificate the superintendent so employed shall, on presentation of proper vouchers, receive monthly out of the sum appropriated for superintendence of towns composing school unions and out of any moneys in the treasury not otherwise appropriated a sum equal to twice the aggregate sum paid by the towns composing the union, provided, that the amount so paid for the benefit of a single union of towns shall not exceed eight hundred dollars in one year, and provided further, that the annual appropriation for payments hereunder shall be deducted from state school funds.

**II. Superintendent of more than fifty schools; state aid.** 1909, c. 120, § 1. Whenever the chairman and secretary of school committees of towns and cities having under their care and custody an aggregate of more than fifty schools, shall certify under oath to the state superintendent of public schools, in the form prescribed by him, that a superintendent of schools has been employed by them for one year, and the salary that he has received, then upon the approval of said certificate by the state superintendent of public schools and presentation to the governor and council, a warrant shall be drawn upon the treasurer of state for the payment to the treasurer of that town or city, of a sum equal to three-fifths the amount expended by said town or city for said superintendence; provided, that the amount so paid for the benefit of a single town or city shall not exceed eight hundred dollars in one year.

**Sec. 58. I. Appropriation for salary of superintendent.** R. S. c. 15, § 43. 1907, c. 101, § 3. 1913, c. 145, § 2. The towns uniting for the purpose of employing a superintendent of schools shall appropriate for his salary their proportion of the sum paid said superintendent; and the amount to be paid by each town shall be determined by dividing the entire sum expended for superintendence among the towns composing the union in the proportion of the service performed in each town.

**II. Conference of instruction shall be held.** 1913, c. 138, § 3. The state superintendent of public schools shall annually hold a conference for the instruction of superintendents serving under the provisions of the three preceding sections; he may expend not exceeding five hundred dollars out of the appropriation for the superintendence of towns composing school

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unions, to assist in defraying the mileage expenses of those superintendents who live remote from the place of such conference; but no superintendent shall be entitled to any part of such expenses unless he shall regularly attend all sessions of such conference.

**Sec. 59. Qualifications of superintendents; their powers and duties.** R. S. c. 15, § 44. 1909, c. 120, § 2; c. 122, § 3. 1913, c. 138, § 4. Persons employed to serve as superintendents of schools under section fifty-six and section fifty-seven shall hold state certificates of superintendence grade which shall be issued upon such examination as may be prescribed by the state superintendent of public schools; they shall devote their entire time to superintendence, in the towns composing the union; provided, however, that they may, without violation of the provisions of this section, perform such educational service outside of the towns of their unions as may be performed with the approval of the state superintendent of public schools and with the consent of the committees employing them. The powers and duties of said superintendents shall be the same as those prescribed for town superintendents in this chapter.

**Sec. 60. Appropriation exclusive of amount required for common school purposes; forfeiture for violation.** R. S. c. 15, § 45. 1905, c. 48, § 8. 1909, c. 122, § 4. No town shall receive state aid under section fifty-seven unless its appropriation and expenditure for superintendence have been exclusive of the amount required by law for common school purposes. If any part of the money raised by the towns or union of towns, or paid to them by the state for superintendence, is expended for any other purposes than those provided for in said section, then each person so misappropriating said money shall forfeit double the sum so misapplied, to be recovered in an action of debt in the name and to the use of the town, by any inhabitant thereof; and no town or union of towns shall receive further aid under said section until the amount so misapplied has been raised and expended for superintendence by such town or union of towns.

**Sec. 61. State superintendent may provide for professional supervision in remotely situated plantations; may direct visits.** 1915, c. 179, § 1. Whenever the state superintendent of public schools shall find on investigation that any plantation is so situated that it is not practicable to form a union in accordance with the provisions of sections fifty-five to sixty, inclusive, he may, upon the petition of the superintending school committee of said plantation, place at the service of said committee the general agent for the schooling of the children in unorganized townships, who shall, when so assigned, serve as the superintendent of schools of said plantation; when the said agent shall so serve he shall have the same powers and shall perform the same service as superintendent of schools of towns; provided, however, that his visits to the schools of said plantation shall be at such intervals as may be directed by the state superintendent of public schools.

**Sec. 62. Payment by plantation to treasurer of state.** 1915, c. 179, § 2. Whenever the schools of any plantation shall be placed under the supervision of the general agent of unorganized township schools as provided by the preceding section, the treasurer of said plantation shall pay to the

treasurer of state a sum which shall be at the rate of twenty-five dollars annually for each of the schools of said plantation and the amount so received by the treasurer of state shall be added by him to the appropriation for the schooling of children in unorganized townships.

### Compulsory Education.

**Sec. 63. Towns may make by-laws concerning truants; approval.** R. S. c. 15, § 46. Towns may make such by-laws, not repugnant to law, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but such by-laws must be first approved by a judge of the supreme judicial court.

See c. 4, § 98, ¶ 1.

**Sec. 64. Violation of by-laws.** R. S. c. 15, § 47. Truant officers elected as provided in section sixty-eight shall alone make complaints for violations of said by-laws, and shall execute the judgments of the magistrate.

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**Sec. 65. Truant children may be placed in suitable institutions.** R. S. c. 15, § 48. Said magistrate, in place of fine, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose under section sixty-three.

**Sec. 66. Children between certain ages required to attend school unless excused or excluded by committee; penalty for neglect.** R. S. c. 15, § 49. 1905, c. 48, § 9. 1909, c. 57. Every child between the seventh and fifteenth anniversaries of his birth and every child between the fifteenth and seventeenth anniversaries who cannot read at sight and write legibly simple sentences in the English language, shall attend some public day school during the time such school is in session, and an absence therefrom of one-half day or more shall be deemed a violation of this requirement; provided, that necessary absence may be excused by the superintending school committee or superintendent of schools or teachers acting by the direction of either; provided, also, that such attendance shall not be required if the child obtained equivalent instruction, for a like period of time, in an approved private school or in any other manner approved by the superintending school committee; provided, further, that children shall not be credited with attendance at a private school until a certificate showing their names, residence and attendance at such school signed by the person or persons having such school in charge, shall be filed with the school officials of the town in which said children reside; and provided, further, that the superintending school committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend. All persons having children under their control shall cause them to attend



school as provided in this section, and for every neglect of such duty shall be punished by a fine not exceeding twenty-five dollars or shall be imprisoned not exceeding thirty days.

See c. 49, § 21.

**Sec. 67. Children may be allowed to attend school in adjoining town, on terms agreed upon; tuition.** R. S. c. 15, § 50. Children living remote from any public school in the town in which they reside may be allowed to attend the public schools, other than a high school approved as provided in section eighty-five, in an adjoining town, under such regulations and on such terms as the school committees of said towns agree upon and prescribe, and the school committee of the town in which such children reside shall pay the sum agreed upon, out of the appropriations of money raised in said town for school purposes. Except as above provided, a child attending a public school, other than a high school approved as provided in section eighty-five, in a town in which his parent or legal guardian does not reside, after having obtained the consent of the school committee of such town, shall pay, as tuition, a sum equal to the average expense of each scholar in such school.

**Sec. 68. Election of truant officers; their authority and duties; vacancies; penalty for neglect of duty.** R. S. c. 15, § 51. 1905, c. 48, § 10. 1909, c. 238. 1911, c. 113. 1913, c. 79. The superintending school committee of every city and town shall annually elect one or more persons, to be designated truant officers, who shall inquire into all cases of neglect of the duties prescribed in section sixty-six and ascertain the reasons therefor and shall promptly report the same to the superintending school committee, and such truant officers or any of them, shall, when so directed by the school committee or superintendent, in writing, prosecute in the name of the state any person neglecting to perform the duties prescribed in said section, by promptly entering a complaint before a magistrate; and said officer shall, when notified by any teacher that any pupil is irregular in attendance, arrest and take such pupil to school when found truant; and further such officers shall enforce the provisions of sections one hundred forty-nine to one hundred fifty-one, inclusive, of this chapter. Truant officers, when so directed in writing by the superintendent of schools or the superintending school committee of their respective towns may visit the manufacturing, mechanical, mercantile and other business establishments in their several cities and towns during the hours in which the public schools of such city or town are in session, and ascertain whether any minors under the age of fourteen years are employed therein, and shall report in writing any cases of such employment to the superintendent of schools or the superintending school committee of their city or town; and if any minors are employed therein contrary to the provisions of chapter forty-nine, they shall also report in writing such illegal employment to the commissioner of labor and industry. The owner, superintendent, overseer or agent of all manufacturing, mechanical, mercantile or other business establishments, upon request shall produce for the inspection of such truant officers all work permits and vacation permits required to be kept on file in such establishments under chapter forty-nine. Superintending school

committees shall elect truant officers at their first meeting after the annual meeting of the town; they shall fill any vacancies occurring during the year and they may fix the compensation of said officers and said compensation shall be paid from the appropriation made for the salaries of municipal officers. Any truant officer neglecting any duty required of him under the provisions of this chapter shall be liable to a fine of not less than ten, nor more than fifty dollars; and any town failing through its superintending school committee to meet said provisions shall be liable to the provisions of section nineteen of this chapter.

**Sec. 69. Habitual truant; truant officer shall make complaint. R. S. c. 15, § 52. 1913, c. 1.** If a child without sufficient excuse, shall be habitually and wilfully absent from school or shall fail without such excuse to attend school for five day sessions or for ten half-day sessions within any period of six months, he shall be deemed an habitual truant; and the superintending school committee shall notify him and any person under whose control he may be that unless he conforms to section sixty-six, the provisions of the two following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the truant officers or any of them shall, when so directed by the superintending school committee or superintendent, in writing, enforce said provisions by complaint.

**Sec. 70. Persons responsible for truancy punished. R. S. c. 15, § 53. 1905, c. 48, § 11.** Any person having control of a child, who is an habitual truant, as defined in the foregoing section, and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine not exceeding twenty dollars or shall be imprisoned not exceeding thirty days.

**Sec. 71. Habitual truants may be committed to state institutions; truant officer may execute warrants. R. S. c. 15, § 54. 1905, c. 48, § 12.** On complaint of the truant officer, an habitual truant, if a boy, may be committed to the state school for boys, or if a girl, to the state school for girls, or to any truant school that may hereafter be established. Municipal and police courts and trial justices shall have jurisdiction of such complaint and of the offenses described in sections sixty-six, sixty-eight and seventy. All warrants issued by said courts or trial justices upon such complaint, or for an offense committed under said sections, and all legal processes issued by said courts or trial justices for the purpose of carrying into effect the provisions of this section and of said sections sixty-six, sixty-eight and seventy, may be directed to and executed by the truant officer, or either of the truant officers, of the town where the offense is committed. All fines, collected under said two last named sections, shall be paid to the treasurer of the city or town in which the offense is committed, for the support of the public schools therein.

**Note.** Probation officers have authority of truant officers, c. 137, § 23.

### Free High Schools, Academies and Seminaries.

**Sec. 72. State aid to free high schools.** R. S. c. 15, § 55. 1911, c. 109. No town shall receive state aid for the maintenance of a free high school unless its appropriation and expenditure for such school has been exclusive of the amounts required by law for common school purposes.

**Sec. 73. Classification of high schools.** 1909, c. 71, § 1. No school shall be regarded as a high school within the meaning of any of the provisions of this chapter unless such school shall be included in the following classes:

Class A. This class shall include such schools as maintain at least one approved course of study through four years of thirty-six weeks each and of standard grade, together with approved laboratory equipment, and shall employ at least two teachers; provided, the town, precinct or union maintaining such school shall appropriate and expend for instruction therein at least eight hundred and fifty dollars annually exclusive of all tuition received.

Class B. This class shall include such schools as maintain one approved course of study through at least two years of thirty-six weeks and of standard grade, together with approved equipment, provided, the town, precinct or union maintaining such school shall appropriate and expend for instruction therein at least five hundred dollars annually exclusive of all tuition received.

Class C. This class shall include such schools as maintain at least one approved course of study through four years of thirty weeks each; provided, the town, precinct or union maintaining such school shall appropriate and expend for instruction therein at least four hundred and fifty dollars annually exclusive of all tuition received.

**Sec. 74. Reimbursement of towns.** 1909, c. 71, § 2. A town, precinct or union maintaining a high school, as defined in the preceding section, shall be reimbursed by the state for two-thirds of the amount paid for instruction in such school; but in no case shall more than five hundred dollars be paid by the state to a town, precinct or union in any one year.

**Sec. 75. Town not obliged to pay tuition under sections 85 and 86.** 1909, c. 71, § 3. A town, precinct or union maintaining a high school, as provided in Class A of section seventy-three, shall not be obliged to pay tuition under sections eighty-five and eighty-six of this chapter. A town, precinct or union maintaining a high school, as provided in Class B of section seventy-three shall not be obliged to pay tuition for any pupil until he has completed the first two years of the course of the Class B school, and for only two years of subsequent work. A town, precinct or union maintaining a high school, as provided in Class C of section seventy-three, shall be obliged to pay tuition for such portion of a four years course as may be determined by the state superintendent of public schools.

**Sec. 76. Schools shall be inspected annually.** 1909, c. 71, § 4. 1915, c. 193. All schools of secondary grade receiving state aid shall be inspected under the direction of the state superintendent of public schools, and for this purpose he shall be authorized to expend not to exceed two thousand two hundred dollars annually, which sum shall be paid from the state appropriation for the support of high schools; and he shall determine what

schools are included in the classification of section seventy-three, what schools maintain the courses of study, what schools are entitled to state aid and what schools maintain approved courses for the reception of tuition scholars.

**Sec. 77. When state aid is payable.** 1909, c. 196; c. 71, § 5. State aid for free high schools under the provisions of the four preceding sections shall be payable annually in the month of December.

**Sec. 78. Free high schools, number in any town limited; adjoining towns may maintain high schools; conveyance of pupils; towns shall receive and expend gifts, bequests and funds surrendered by academies; state aid; penalty for misapplication of money appropriated by state.** R. S. c. 15, § 56. 1909, c. 148. Any town may establish and maintain not exceeding two free high schools; and in such case shall receive the same state aid as if the expenditure for both schools had been made for one. Two or more adjoining towns may unite in establishing and maintaining a free high school, and both shall receive the same state aid as if such school had been maintained by one town. Any town may, in addition to the sums raised for the support of high and common schools, raise and appropriate a sum for the payment of conveyance of pupils attending secondary schools, said sum to be expended under the direction of the superintending school committee. Towns shall receive in trust and faithfully expend gifts and bequests made to aid in the maintenance of free high schools, and shall receive aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; and any town shall receive such state aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such town for educational purposes; but if any part of the money so paid by the state, is expended for any other purpose than the support of such free high schools, as provided by this section, then each person so misapplying said money forfeits double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant thereof; and no town shall receive further support from the state for any free high school, until the amount so received, but misapplied, has been raised and expended for such free high schools by such town.

**Sec. 79. Free high school precincts, their organization, and continuance from year to year; sections of adjoining towns may organize precincts.** R. S. c. 15, § 57. The inhabitants of any section of a town which fails or neglects to provide for the maintenance of free high schools, may organize a free high school precinct in the manner hereinafter provided, and may establish and maintain a free high school therein, and receive state aid the same as the town might have done; provided, that no more than two such free high schools shall be established in any town, and that the amount of aid extended to the precincts in any town shall not exceed the sum that the town might have received. On petition of any five voters resident in said section, reciting the limits of the precinct proposed, the municipal officers of the town shall call a meeting of the voters within said limits by causing notices, specifying the time, place and purposes of said meet-

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ing, to be posted in two or more conspicuous places within said limits seven days before the time appointed. Said meeting shall choose a moderator and a clerk who shall be sworn, and shall, by a majority vote of those present and voting, determine whether said precinct shall be organized. It shall choose an agent who shall be duly sworn. Such precinct may continue its organization from year to year by the holding of meetings called in the manner aforesaid, so long as the town shall neglect or refuse to support free high schools. Sections of adjoining towns may organize as herein provided, and unite in the support of such schools. But no more than two such precincts shall exist at the same time in any town.

**Sec. 80. Location of school; schoolrooms, how supplied and furnished. R. S. c. 15, § 58.** Any town, precinct or union of towns or precincts, voting to establish a free high school as herein provided, may locate the same permanently, or vote that the terms thereof be held alternately in such places within the town or towns, precinct or precincts, as may be selected, and as may accept said school. The town or precinct, in which said school is thus held, shall supply appropriate equipments, and furnish and warm a suitable building for the same; provided that any schoolhouse within such town or precinct may be used for such free high school, when not required for ordinary school purposes.

**Sec. 81. Course of study. Schools to be free to the youth in any town or union of towns, precincts or union of precincts; admission of pupils from without towns or precincts. R. S. c. 15, § 59.** The course of study in the free high schools, shall embrace the ordinary English academic studies which are taught in secondary schools, especially the natural sciences in their application to mechanics, manufactures and agriculture; but the ancient or modern languages and music shall not be taught therein except by direction of the superintending school committees having supervision thereof. Such schools, when established by any town or union of towns, shall be free to all the youth in such town or towns who have such scholastic attainments as will fit them to attend such schools with profit, and the superintendent, or superintending school committee, having supervision thereof shall make such examination of candidates for admission to said schools as they consider necessary.

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

such tuition as may be fixed by such committee, to the treasurer of the town in which the school is kept, when the school is maintained by a town or union of towns, or to the agent of the precinct in which the school is kept, when such school is maintained by a precinct or union of precincts.

**Sec. 82. Free high schools subject to the school laws, except in certain cases; their management and supervision. R. S. c. 15, § 60.** Free high schools, established and maintained under the foregoing provisions, are subject to the laws relating to common schools, so far as applicable, except as otherwise provided. When established and maintained by a town, they shall be under the supervision and entire management of the superintending school committee of such town. When established and maintained by a union of towns, such school shall be under the supervision and entire management of the school committees of such towns, who constitute a joint board for that purpose. When established and maintained by any precinct, such school shall be under the supervision of the superintending committee of such town, or of the state superintendent, when the precinct so elects, and under the financial management of the agent of the precinct, who, in connection with said committee or superintendent, shall employ teachers for the same. When established and maintained by precincts composed of sections of adjoining towns, such school shall be under the supervision of the superintending school committees of such towns, who constitute a joint board for that purpose, and under the financial management of the agents of both precincts, who, in connection with said committees, shall employ the teachers.

**Sec. 83. Towns may raise money to maintain free high schools. R. S. c. 15, § 61.** Towns and precincts may raise money for establishing and maintaining free high schools, and erecting buildings and providing equipments for the same, in the same manner as for supporting common schools and erecting schoolhouses.

**Sec. 84. Provisions for pupils in towns having no free high schools. R. S. c. 15, § 62. 1905, c. 48, § 13. 1911, c. 88. 1915, c. 66.** Any town which does not maintain a free high school of standard grade may, from year to year, authorize its superintending school committee to contract with and pay the superintending school committee of any adjoining town or the trustees of any academy located within such town or in an adjoining town, for the tuition of scholars within said town in the studies contemplated by the eleven preceding sections. When such contract has been made with the trustees of an academy a joint committee for the selection of teachers and the arrangement of the course of study in such academy shall include the superintending school committees of the contracting towns with an equal number of members of the board of trustees of such academy when such academy has less than twenty-five thousand dollars endowment. The expenditure of any town for tuition as provided in this section shall be subject to the same conditions and shall entitle such town to the same state aid as if it had made such expenditure for a free high school.

**Sec. 85.** A youth residing in a town not supporting a secondary school, may attend such school elsewhere; tuition shall be paid by town; free tuition while youth maintains satisfactory standards. R. S. c. 15, § 63. 1907, c. 73. 1909, c. 116. 1913, c. 57. 1915, c. 223. Any youth who resides with a parent or guardian in any town which does not support and maintain a standard secondary school, may attend any approved secondary school to which he may gain entrance by permission of those having charge thereof, provided the said youth shall attend a school or schools whose courses are approved by the state superintendent of public schools, and in such case the tuition of said youth, not to exceed thirty dollars annually for any one youth, shall be paid by the town in which he resides as aforesaid, and said tuition so paid, shall be made a part of the high school fund of the town receiving the same; and towns shall raise annually, as other school moneys are raised, a sum sufficient to pay such tuition charges; provided, however, that no youth shall be entitled to free tuition under the provisions of this section unless he shall have satisfactorily passed an examination in common school branches, said examination having been given under the direction of the superintendent of schools of the town wherein such youth resides, on papers procured from the state superintendent of public schools, or unless such youth shall have satisfactorily completed a standard common school course of study which has been approved by the state superintendent of public schools; except that any youth who has satisfactorily completed the course of a B or C class high school, as provided by section seventy-three, shall be entitled to his free tuition as hereinbefore provided for the completion of the four years of a standard secondary course without the examination herein prescribed; provided, further, that such free tuition privilege shall continue only so long as said youth shall maintain a satisfactory standard of deportment and scholarship. Any youth who otherwise meets the requirements of this section with reference to admission to secondary schools shall be entitled to the payment of his tuition, as herein provided, in any high school of the B or C class for such part of the course of such high school as may be approved as equivalent in grade to the corresponding years of a standard secondary course. Superintendents of schools shall issue certificates of free tuition privilege to persons who may be entitled to free tuition under the provisions of this section.

100 Me. 549; 101 Me. 553.

**Sec. 86.** Returns to state superintendent of public schools of expenditure for tuition. R. S. c. 15, § 64. 1909, c. 112. When any town shall have been required to pay and has paid tuition as aforesaid, the superintending school committee of such town shall make a return under oath to the state superintendent of public schools before the first day of September for the preceding school year, stating the name of each youth, for whom tuition has been paid, the amount paid for each, and the name and location of the school which each has attended, and thereupon shall be paid, annually in the month of December, from the state treasury out of the appropriation

for the support of free high schools, to each town paying tuition and making return as aforesaid, a sum equal to two-thirds of the amount thus paid by such town, not exceeding five hundred dollars.

See c. 4, § 31.

**Sec. 87. Returns to state superintendent of expenditure for free high schools; state superintendent to certify amounts to which towns are entitled; appeal to governor and council; penalty for defrauding state.** R. S. c. 15, § 65. 1909, c. 28. Superintendents shall, annually, before the first day of July, make returns under oath to the state superintendent of public schools on blanks prepared and sent out by him, of the amount appropriated and the amount expended by each town or precinct for instruction in such free high schools during the current year; also of the amount appropriated and the amount expended for common school purposes by each town maintaining the same; the number of weeks during which such schools have been taught; the wages paid each teacher; the number of pupils registered; the average attendance; the number of pupils in each branch of study pursued, and the amount received for tuition. If the state superintendent is satisfied that the provisions of sections seventy-two to eighty-four have been complied with, he shall certify to the governor and council the sum which each town or precinct is entitled to receive from the state. Any town or precinct, dissatisfied with his decision, may appeal to the governor and council, and the governor and council shall issue a certificate to the treasurer of the town or agent of the precinct, for such amount as they adjudge such town or precinct entitled to receive from the state treasury. Any person connected with the management of such free high schools, either as teacher, agent or superintendent, who in any way aids or abets in defrauding the state into the payment in support of said schools of more than is contemplated by this chapter, shall forfeit not less than five hundred dollars, or be imprisoned in the county jail not less than one year.

**Sec. 88. High school precinct taxes, how assessed and collected.** R. S. c. 15, § 66. When a free high school precinct votes to raise money for establishing and maintaining a free high school, its clerk shall forthwith, or within the time prescribed by the precinct, certify the amount thereof to the assessors of the town, and the time when it must be raised; and within sixty days after receiving such certificate they shall assess it as they do town taxes, on the polls and estates of the residents and owners in the precinct at the time of raising said money, whether wholly in their town or not, and on the non-resident real estate in the precinct. They shall then make their warrant in due form of law, directed to any collector of their town if any, if not to a constable, requiring him to levy and collect such tax and pay it to the town treasurer within the time limited in the warrant; and they shall give a certificate of the assessment to such treasurer, and may abate such taxes as in the case of town taxes.

12 Me. 258; 15 Me. 260; 28 Me. 203; 31 Me. 284; 35 Me. 397; 39 Me. 187; 41 Me. 505; 51 Me. 102; 60 Me. 280; 74 Me. 411.

**Sec. 89. Assessors authorized to assess overlay.** R. S. c. 15, § 67. The assessors may include in their assessment such sum over and above the sum committed to them to assess, not exceeding five per cent thereof, as a fractional division renders necessary, and certify that fact to the town treasurer.



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**Sec. 90. Expense of assessment.** R. S. c. 15, § 68. The town treasurer shall pay the expense of assessing and collecting any free high school precinct tax out of the money of the precinct, upon the order of the selectmen.

73 Me. 181.

**Sec. 91. Precinct taxes assessed without authority.** R. S. c. 15, § 69. Section thirty-one of chapter eleven, and all other sections relating to the same subject apply to taxes assessed by or for free high school precincts, so far as applicable; but the precinct and not the town is liable.

77 Me. 415.

**Sec. 92. Powers and duties of collectors; their compensation.** R. S. c. 15, § 70. The collector or constable, and the town treasurer, or treasurer and collector, if one person is both, each have the same powers and are subject to the same duties and obligations in relation to free high school precinct taxes, as to town taxes; and they and the assessors shall be allowed by the precinct for their services, a compensation proportionate to what they receive from the town for similar services.

31 Me. 281; 41 Me. 247; 67 Me. 240.

**Sec. 93. Money at disposal of agent.** R. S. c. 15, § 71. The money so raised and paid shall be at the disposal of the precinct agent, to be by him expended as provided in section eighty-two.

**Sec. 94. Trustees of academies, etc., may surrender property to establish free high schools.** R. S. c. 15, § 72. The trustees of any academy or other corporation formed for educational purposes may by a majority vote of such of said trustees as reside in the state, surrender the whole, or any part of the property belonging thereto, to the municipal officers of any town, or the trustees of any school fund in any town in which said academy or corporation is situated, for turning the same into a free high school as hereinafter provided, and said municipal officers or trustees, for the time being, shall be a board of trustees to take and hold said property for maintaining a free high school; and upon receiving said property, they shall use proper diligence to make the same produce income for the support of said free high school.

**Sec. 95. Property, how conveyed.** R. S. c. 15, § 73. When such vote is so passed, the treasurer of said trustees shall convey, assign and deliver to the municipal officers of said town, or the trustees of such fund, all property belonging to said academy or corporation for the purposes indicated by the preceding section.

**Sec. 96. Income of property, how applied; qualification of pupils, how determined.** R. S. c. 15, § 74. 1913, c. 70, § 1. The municipality accepting the property in trust, as named in section ninety-four, shall apply the income thereof towards the support of a free high school to be kept within said municipality, within the requirements of the laws relating to the establishment and maintenance of free high schools, and provide suitable accommodations for the same; the superintending school committee in said municipality shall determine the qualifications necessary to entitle any applicant to enter or attend said free high school, and no one shall attend it without certificate of said officers to that effect.

**Sec. 97. Tuition to be paid by non-residents.** R. S. c. 15, § 75. All scholars residing within the municipality aforesaid, having such certificate, may attend said school without tuition fee, and all scholars not residents of said municipality, may attend said school upon such terms and conditions as said superintending school committee may impose.

**Sec. 98. State aid to academies.** R. S. c. 15, § 76. 1907, c. 102, § 1. Whenever it shall be made to appear to the governor and council, from returns made as herein provided, that any incorporated academy in the state is prepared to give instruction equivalent to that required by law to be given in free high schools, that the pupils attending the said academy, are qualified to receive such instruction, and that the teachers in the said academy have the qualifications fitting them to give instruction in secondary school studies, such academy shall be entitled to receive annually from the state a sum not exceeding five hundred dollars in case it maintains an English secondary school course of study as prescribed by the state superintendent of public schools, or a sum not exceeding seven hundred and fifty dollars in case it maintains in addition to an English course, a college preparatory course, or a sum not exceeding one thousand dollars in case it maintains an English course, a college preparatory course and a training course for teachers; provided, that the courses of study herein named shall be subject to the approval of the state superintendent of public schools, and provided, that the amount paid by the state to any academy under this section shall be expended by the said academy for instruction during the year for which payment is made, and shall not exceed the total income of the said academy from all other sources; and provided, further, that in addition to the amount received from the state, a sum equal thereto shall be expended for instruction and maintenance of the academy during said year; and provided, further, that every academy receiving money from the state under this section shall provide instruction as contemplated by this section for not less than thirty weeks in each year; and provided further, that no academy shall be credited with maintaining a course of study under this section unless the said academy shall have an average of not less than twelve students in said course.

**Sec. 99. Mode of payment.** R. S. c. 15, § 77. The governor and council may draw warrants on the treasurer of state for the payment annually to the legal representatives of such academies, as shall be entitled to receive money from the state under the preceding section, at the times and in the manner provided by law for the payment of money in aid of free high schools, of the amounts to which they shall be severally entitled thereunder; provided, that no payment shall be made to any academy until the state superintendent of public schools shall have certified to the governor and council all the facts which by law are made necessary to entitle an academy to receive money from the state under the preceding section.

**Sec. 100. Conditions of state aid.** R. S. c. 15, § 78. 1913, c. 70, § 2. No town shall receive state aid under the provisions of section eighty-four of this chapter if a free high school of standard grade is maintained in such town.

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**Sec. 101. Incorporation.** R. S. c. 15, § 79. 1907, c. 91. No academy shall receive state aid under section ninety-eight unless incorporated prior to May one, nineteen hundred and seven.

**Sec. 102. Attendance.** R. S. c. 15, § 80. 1907, c. 102, § 2. No academy shall receive state aid under section ninety-eight unless the average attendance in said academy for the year preceding or for five years next preceding, shall exceed thirty students, and no academy shall receive to exceed five hundred dollars unless the average attendance in said academy for the year preceding shall exceed sixty students.

**Sec. 103. Income.** R. S. c. 15, § 81. 1915, c. 205. No academy shall receive state aid under section ninety-eight if said academy has an annual income from invested funds exceeding two thousand dollars; and no academy shall receive state aid to exceed five hundred dollars in any given year provided the said academy has an annual income from invested funds exceeding one thousand dollars; provided, however, that any academy with a larger average attendance than two hundred shall receive such aid not to exceed one thousand dollars if its annual income from invested funds, after deducting interest paid on its indebtedness, does not exceed two thousand dollars.

**Sec. 104. Institutions receiving state aid shall make report to superintendent of public schools; construction of terms.** R. S. c. 15, § 82. Every educational institution receiving state aid, and the officers and teachers of every academy receiving money from the state under the six preceding sections, shall annually, on or before the first day of January, report to the state superintendent of public schools the total and average attendance, an itemized account of all the moneys received and expended during the preceding year, the number of instructors, number and length of terms, with attendance for each, and answer such other questions as he shall require, and shall make such further report to him as he may from time to time require. Such reports shall be published in the annual report of the state superintendent of public schools. Every such educational institution failing to comply with the above requirements shall forfeit whatever aid or assistance it would otherwise receive from the state. Wherever in sections ninety-eight to one hundred and four, inclusive, the word "academy" occurs, it shall be construed to include "seminary or institute."

#### Duties and Qualifications of Instructors.

**Sec. 105. Presidents of colleges, tenure of office.** R. S. c. 15, § 83. Presidents of colleges are removable at the pleasure of the trustees and overseers, whose concurrence is necessary for their election.

**Sec. 106. Fees for degrees conferred.** R. S. c. 15, § 84. No officer of a college shall receive as perquisites any fees for a diploma or medical degree conferred by such college, but such fees shall be paid into the college treasury.

**Sec. 107. Teachers shall keep school register; not to be paid until register is completed.** R. S. c. 15, § 85. 1909, c. 74. Every teacher of a public school shall keep a register thereof, containing the names of all scholars who enter the school, their ages, the dates of each scholar's entering and

leaving, the number of days during which each attended, the length of the school, the teacher's wages, a list of text-books used, and all other facts required by the blank forms furnished him. Such register shall at all times be open to the inspection of the superintending school committee, and be returned to them at the close of the school. Teachers may be paid for their services at the close of each school month, but no teacher shall receive final payment for services for any term until the register herein described, properly filled, completed and signed, is deposited with the school committee, or with the person designated by them to receive it.

See c. 49, § 34; 63 Me. 244.

**Sec. 108. Instructors of colleges, etc., to inculcate morality, justice, truth, industry and patriotism; kindness to birds and animals shall be taught in public schools. R. S. c. 15, § 86.** The presidents, professors and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity and a universal benevolence; sobriety, industry and frugality; chastity, moderation and temperance; and all other virtues which ornament human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, secure the blessings of liberty, and to promote their future happiness; and the tendency of the opposite vices, to slavery, degradation and ruin; all teachers in the public schools of the state shall devote not less than ten minutes of each week of the school term, to teaching to the children under their charge, the principles of kindness to birds and animals.

78 Me. 511.

**Sec. 109. School holidays. Special observance of Washington's birthday and Columbus day. R. S. c. 15, § 88. 1905, c. 48, § 14. 1907, c. 48, § 1. 1909, c. 190, § 1. 1911, c. 23. 1913, c. 195.** The following days shall be observed as school holidays, namely: Washington's birthday, February twenty-two; Patriot's day, April nineteen; Memorial day, May thirty; Independence day, July four; Labor day, first Monday in September; Columbus day, October twelve; Christmas day, December twenty-five; Thanksgiving and Arbor day, as appointed by the governor and council. Provided, however, that Arbor day, shall not be recognized as a school holiday unless observed by teacher and pupils for the purpose for which it is designated by the governor and council. And provided, further, that Lincoln day shall be observed by devoting some part of the day to the study of the life and character of Abraham Lincoln. All teachers of public schools in the state may close their schools and draw pay the same as if their schools had been in session on any of the following days: Patriot's day, April nineteen; Memorial day, May thirty; Independence day, July four; Labor day, first Monday in September; Christmas day, December twenty-five; Thanksgiving day, as appointed by the governor and council. When any one of the above named holidays falls on a Sunday, the Monday following shall

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be observed as a school holiday, with all the privileges applying to any of the days above named. In addition to the foregoing each of the days hereinafter named shall, upon vote of the superintending school committee of any town, be observed by teachers and pupils of the public schools of said town by an exercise appropriate thereto, such exercise to be held during such part of the school session as the teacher of each school may designate. The exercises so held shall aim to impress on the minds of the youth the important lessons of character and good citizenship to be learned from the lives of American leaders and heroes and from a contemplation of their own duties and obligations to the community, state and nation of which they constitute a part. In the absence of any vote of the superintending school committee said days, hereinafter designated, shall be observed as legal school holidays with the closing of schools. The days thus designated for school observance upon vote of the superintending school committee of any town shall be as follows: Washington's birthday, February twenty-two; Columbus day, October twelve.

**Teachers' Associations.**

**Sec. 110. Teachers and school officers may form associations for improvement in art of teaching.** R. S. c. 15, § 89. Whenever not less than thirty of the teachers and school officers of any county shall have formed an association under rules of government approved by the state superintendent, of public schools, for the purpose of mutual improvement in the science and art of teaching, and of creating popular interest in, and diffusing a knowledge of the best methods of improving our public school system, by the holding of conventions at least once every year under the supervision of the state superintendent, the state shall defray the necessary expenses attending the holding of such conventions, for which purpose the sum of one thousand dollars is hereby annually appropriated to be deducted and set aside therefor by the treasurer of state from the annual school fund of the state; provided, however, that no more than two such associations shall be formed in any county, and that the expenses as aforesaid of no more than two conventions of any such association in any year shall be defrayed by the state.

**Sec. 111. Teachers may suspend schools during conventions.** R. S. c. 15, § 90. Teachers of public schools may suspend their schools for not more than two days in any year during the sessions of such conventions within their counties and also for not more than two days in any year during the sessions of any state teachers' convention approved by the state superintendent of public schools, unless otherwise directed in writing by the school officers, and attend said conventions without forfeiture of pay for the time of such attendance, provided they shall present to the officers employing them, certificates signed by the secretaries of such conventions and countersigned by the state superintendent of public schools, showing such attendance.

**Sec. 112. Governor to draw warrants to pay expenses.** R. S. c. 15, § 91. 1909, c. 30. The governor and council may draw warrants on the treasurer of state for the payment of bills for the expenses provided for in section

one hundred and ten, when such bills shall have been approved by the state superintendent of public schools, provided, however, that no bills shall be so paid except those for advertising such conventions, and for services and actual traveling expenses of speakers and lecturers not residing in the counties in which such conventions are held.

### **Schools in Plantations and Unorganized Townships.**

**Sec. 113. Powers of plantations to maintain schools.** R. S. c. 15, § 92. Plantations have the same powers and liabilities as towns for electing superintending school committees, superintendents of schools, treasurers and collectors, and for raising, assessing and collecting school money, to be apportioned and expended as in towns. The assessors of plantations may take a census of the inhabitants thereof, at the expense of the plantation, and when so taken, the money raised therein for schools shall be upon the basis of such census and not upon the census of the state.

See c. 4, § 140; 61 Me. 449.

**Sec. 114. School moneys of plantations, how expended.** R. S. c. 15, § 93. All moneys due plantations from the state treasury for school purposes, shall be paid to the treasurers of such plantations, under the same conditions as in case of towns, and the same shall be expended by such plantations, under the same restrictions and limitations as are required of towns.

**Sec. 115. Schooling of children in unorganized townships, provided for.** R. S. c. 15, § 94. 1909, c. 87, § 1. Whenever in any unorganized township in the state there shall be two or more children between the ages of five and twenty-one years, the state superintendent of public schools shall cause an enumeration of said children to be made and returned to him, and shall provide for the schooling of said children, either by establishing a school in the township, or by sending the children to schools in adjoining towns or plantations, or both, as shall by him be deemed expedient. In case any of said children are, by the state superintendent, sent to schools in adjoining towns or plantations, said children so sent shall have the same rights in such schools as children resident in said town or plantation. Provided, however, that in case the interest on the reserved fund in any unorganized township together with the amount arising from the per capita tax called for in this section, is not sufficient to provide schooling for the children of said township for at least thirty weeks in a year, the remainder of the expense shall be paid from the fund appropriated by section one hundred and eighteen. Provided, further, that no money shall be expended under this section for the benefit of any township until the inhabitants of said township shall have been assessed by the duly appointed agent therefor the sum of forty cents for each of said inhabitants resident therein on the first day of April, and said agent shall have made return of such assessment to the state superintendent of public schools.

109 Me. 176.

**Sec. 116. Return cost of schooling; payment from reserved land fund.** R. S. c. 15, § 95. The state superintendent of public schools shall certify to the governor and council the number and residences of the children

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

**Sec. 117. School agents, their appointment, authority and duties. Supply of text-books.** R. S. c. 15, § 96. 1909, c. 87, § 2. 1911, c. 24. The state superintendent of public schools may appoint agents for the several townships in which schools shall be established under section one hundred and fifteen, who shall, under the direction of the state superintendent, enumerate the pupils, assess and collect the per capita tax, employ the teacher and attend to all necessary details in connection with said school; for which purpose the state superintendent is hereby authorized to expend annually from the appropriation for the support of schools in unorganized townships a sum not exceeding two thousand two hundred dollars. Said agents in the collection of the per capita tax aforesaid, shall have the same powers and may use the same methods as collectors of taxes in towns are authorized to exercise and use for the collecting of personal and poll-taxes committed to them; said agents may act as truant officers in their several townships, and may in their discretion compel the regular daily attendance at school of every child in their townships between the seventh and seventeenth anniversaries of his birth by arresting and taking to school any child when absent therefrom, and any parent or guardian of any such child or children, wilfully refusing to allow said children under his control to attend school, or opposing said agent in arresting and taking said children to school, may be prosecuted by said agent in the name of the state before the nearest trial justice, and if found guilty shall forfeit a sum not exceeding twenty dollars for the use of the schools in the township wherein said children are residents, or shall be imprisoned for not exceeding thirty days. The state superintendent may supply schoolbooks for the schools established under said sections under such conditions as to the purchase and care thereof as he may deem proper.

**Sec. 118. Appropriation.** R. S. c. 15, § 97. 1913, c. 162. 1915, c. 73. For the purpose of carrying out the provisions of the three preceding sections, there is hereby appropriated the sum of twenty-five thousand dollars annually, which sum shall be deducted and set aside therefor by the treasurer of state from the annual school funds of the state.

109 Me. 172.

**Sec. 119. Youths in unorganized townships may attend any secondary school; tuition.** 1909, c. 62. Any youth who resides with a parent or guardian in any unorganized township in which schools are regularly maintained may attend any secondary school in the state to which he may gain entrance by permission of those having charge thereof, provided said school

shall be of standard grade approved by the state superintendent of public schools. In such case the tuition of such youth not to exceed thirty dollars annually shall be paid by the state under such provisions and regulations as may be made by the state superintendent and approved by the governor and council.

### State Superintendent of Public Schools.

**Sec. 120. Appointment and term of office.** R. S. c. 15, § 98. The governor with the advice and consent of the Council shall appoint a state superintendent of public schools, who shall continue in office three years, or during the pleasure of the executive; vacancies shall be filled by a new appointment for a like term.

**Sec. 121. Office at the capital.** R. S. c. 15, § 99. 1907, c. 171, § 1. 1909, c. 125, § 1. 1913, c. 12, § 1. An office shall be provided for him at the seat of government, where he shall perform his official duties, not meaning, however, to prohibit him from making such necessary journeys and performing such duties as are necessary or incidental to the immediate object of such journey; he shall there preserve all school reports of this state and of other states which he may receive, the returns from the various towns, and institutions of learning and such books, apparatus, maps, charts, works on education, plans for school buildings, models, and other articles of interest to school officers and teachers as may be procured without expense to the state.

**Sec. 122. Duties.** R. S. c. 15, § 100. 1915, c. 198. In addition to the duties elsewhere specifically imposed on him his duties are as follows:

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

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

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



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IV. To encourage the formation of county teachers' associations, approve rules of government therefor, and to supervise the conduct of conventions held by such associations. He shall also conduct summer training schools for teachers, whenever provision is made by the legislature for holding such schools.

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

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

VII. To prescribe the studies to be taught in the common schools, reserving to town committees the right to prescribe additional studies, and the course of study prescribed by the state superintendent of schools shall be followed in all public schools; provided, however, that upon the approval by the state superintendent of any course arranged by the superintending school committee of any town said course shall be the authorized course for said town.

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

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

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

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

**Sec. 123. Superintendent to furnish blanks for fiscal returns, and return list of towns making same. R. S. c. 15, § 101.** The state superintendent shall prepare and furnish to the town officers such blanks as he deems proper to secure the fiscal returns required in section thirty-one. He shall return to the treasurer of state on the first day of July annually, a list of such towns as have made such fiscal returns; and no school moneys shall be paid by the treasurer of state to any town, so long as it neglects to make such returns.

**Sec. 124. Superintendent to prepare and forward blanks for school returns.** R. S. c. 15, § 102. 1913, c. 99. He shall prepare and print blank forms for all other returns required by law, or deemed by him necessary, and shall, on the first day of each March, forward to the superintendents of schools of the several towns, blanks for the annual school return as provided in section fifty, and shall, on the first day of each May, forward to said superintendents blanks for the returns required by section fifty-one.

**Sec. 125. Notice to delinquent committees.** R. S. c. 15, § 103. He shall, on the first day of each June, notify the school committee of any town whose returns were not received at his office in May, and shall, annually, ascertain on the first day of July the number of children between five and twenty-one years of age, in the towns from which returns are received, and furnish a list thereof to the treasurer of state.

### State Examinations of Teachers.

**Sec. 126. State examinations of teachers.** 1913, c. 58, § 1. The state superintendent of public schools shall cause to be held at least once each year at such times and at such places as he may designate, public examinations of candidates for the position of teachers in the public schools.

**Sec. 127. Tests required.** 1913, c. 58, § 2. The examination herein provided for shall test the professional as well as the scholastic abilities of the candidates and shall be conducted by such persons or agents and in such manner as the state superintendent may determine. Due public notices of the times, places and other conditions of the examinations shall be given.

**Sec. 128. Certificates issued by state superintendent; knowledge of physiology and hygiene requisite.** Certificates may be granted without examination. R. S. c. 15, § 36, ¶ II. 1913, c. 58, § 3. 1915, c. 74. Certificates of qualification signed by the state superintendent of public schools shall be granted to all candidates who pass satisfactory examinations in such branches as are required or permitted by law to be taught in the public schools and who in other respects fulfil the proper requirements; provided, however, that no person shall be eligible for a certificate unless he is at least seventeen years of age and has completed not less than a standard secondary school course, or unless he shall present satisfactory evidence of such educational attainment otherwise secured as may be adjudged by the state superintendent of public schools to be the equivalent of said standard secondary school course. Such certificate shall be either probationary or permanent, and shall indicate the grade of schools which the person named therein is qualified to teach. No certificate shall be granted to any person to teach in the public schools of the state, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system. Provided, however, that the certificate may be granted without the examination herein prescribed to graduates of colleges and Maine state normal schools, or of other normal training schools having a two years' course for graduates of high schools or academies, and to teachers of two

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years' service and satisfactory fitness, on the presentation of such evidence of fitness and under such special conditions as the state superintendent of public schools may prescribe. Provided, further, that certificates may, under the rules prescribed by the state superintendent, be granted to persons holding state certificates granted by authority of other states. Provided, further, that any certificate granted under this or any preceding law may for sufficient cause be revoked and annulled.

**Sec. 129. List of persons certificated shall be kept.** 1913, c. 58, § 4. A list of persons so certificated shall be kept in the office of the state superintendent of public schools and copies of the same with such information as may be desired shall be sent to school committees and superintendents upon their request.

**Sec. 130. Persons not holding state certificate shall not be employed.** 1913, c. 58, § 5. No person shall be employed to teach in any school under the supervision and control of any local school board of any city, town or plantation of this state, who does not hold a state certificate as herein provided. Provided, however, that any person not holding a state certificate may be granted not more than one temporary non-renewable teaching permit for a period not to exceed one year, such permit to be issued upon examination by the superintendent of schools of the town in which such person is employed and the form of such permit shall be prepared by the state superintendent of public schools and shall be furnished by him upon application of the superintendent of schools of any town. No person shall be eligible to a teaching permit unless he shall meet the requirements of section one hundred and twenty-eight in relation to age and educational preparation. Provided, further, that all state certificates heretofore granted shall continue in force in accordance with the terms stated therein.

**Sec. 131. Penalty for teaching without certificate.** 1913, c. 58, § 6. Whoever teaches a public school without first obtaining a state teachers' certificate or a temporary teaching permit as herein provided, forfeits not exceeding the sum contracted for his daily wages, for each day he so teaches and is barred from receiving pay therefor.

**Sec. 132. Appropriation.** 1913, c. 58, § 7. For the necessary expenses of carrying out the provisions of the six preceding sections there may be annually expended the sum of one thousand dollars, which sum the treasurer of state shall deduct for said purpose from any school money raised for the support of common schools.

**Industrial Education.**

**Sec. 133. Duty of state superintendent of public schools.** 1911, c. 188, § 1. The state superintendent of public schools shall be charged with the duty of extending the investigation of methods of industrial education; he shall advise and aid in the introduction of industrial courses into free high schools and academies aided by the state and shall report on all special schools in which industrial education is provided. He shall inspect the courses of study offered in such free high schools and academies and he shall have authority to approve such courses in all schools aided by the state.

**Sec. 134. Manual training shall be introduced into all normal schools.** 1911, c. 188, § 2. 1913, c. 37, § 1. The trustees of the state normal schools shall cause to be introduced into all of the said normal schools such courses in manual arts, domestic science and agriculture as will enable their graduates to teach elementary courses in those subjects in the rural and grade schools. In not more than one of said schools the course in manual training shall be so extended as to offer opportunity to persons desiring to qualify as special teachers of that branch, and in not more than one the course in domestic science shall be so extended as to offer similar opportunity to persons desiring to qualify as special teachers thereof. For the two special courses thus offered the trustees are authorized to expend annually not to exceed six thousand dollars, which shall be additional to other sums appropriated for the support of said normal schools and which the treasurer of state shall deduct from any funds raised for the support of common schools.

**Sec. 135. State aid to towns maintaining manual training in elementary schools.** 1911, c. 188, § 3. Whenever the superintendent of schools of any town shall certify under oath to the state superintendent of public schools according to a form prescribed by him that instruction in manual training or domestic science has been provided pupils of elementary schools for the year preceding, then upon approval of such certificate by the state superintendent of public schools, state aid shall be paid to the amount of two-thirds the total salary paid each teacher; provided, that the amount so paid by the state for the employment of any one instructor shall not exceed eight hundred dollars in one year; and provided further, that the appropriation made by the town for this purpose shall be exclusive of any other sum received from the state for the support of common schools and of the minimum requirement raised by the town as prescribed by section sixteen of this chapter; and provided further, that the course of study, equipment and qualifications of instructors shall have been approved by the state superintendent of public schools.

**Sec. 136. State aid for maintaining manual training in high school or academy.** 1911, c. 188, § 4. The superintending school committee having charge of any free high school, or the trustees of any incorporated academy may provide for instruction therein in the principles of agriculture and the domestic and mechanic arts. Whenever it shall be made to appear to the governor and council, from returns made as herein provided, that in any free high school or academy instruction has been furnished during the preceding year in the principles of agriculture, the mechanic arts or domestic science, the governor and council shall direct the treasurer of state to pay to the town supporting such free high school, or to the treasurer of such academy, in addition to other state aid if any, a sum equal to two-thirds the total expenditure for instruction in each of said courses; provided, however, that no school shall receive a total in excess of five hundred dollars in any one year for the support of said courses; and provided, that state aid shall not be allowed for any course which has an average

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attendance of less than twelve students; and, provided further, that such aid shall not be granted unless the course of study, equipment and qualifications of instructors shall first have been approved by the state superintendent of public schools.

**Sec. 137. State aid to towns maintaining manual training in evening school.** 1911, c. 188, § 6. 1915, c. 90. Whenever the superintending school committee of any town shall have maintained during the school year an evening school as provided by section twenty-five, said town shall be reimbursed by the state a sum equal to two-thirds the amount paid for instruction in such evening school, provided there shall have been offered, in addition to the subjects elsewhere prescribed for evening schools, courses in the commercial branches, the domestic and manual arts or the elements of the trades, said courses to be subject to the approval of the state superintendent of public schools; no town shall be entitled to receive a reimbursement under the provisions of this section, unless the total average attendance in said courses shall equal not less than twenty-five per cent of the average attendance of the school.

**Sec. 138. State aid to towns maintaining general industrial schools; duty of school committee and superintendent of schools.** 1911, c. 188, § 7. The superintending school committee of any town when authorized by vote of the town shall establish and maintain as a part of the public school system of such town a general industrial school for the teaching of agriculture, household science, the mechanic arts and the trades. Such general industrial schools shall be open to pupils who have completed the elementary school course or who have attained the age of fifteen years. The authority and duties of the superintending school committee and of the superintendent of schools in relation to such industrial schools shall be the same as in the case of the common and high schools, but the support of such schools shall be derived from funds raised in addition to any sums appropriated for the support of common and high schools. Whenever it shall be made to appear to the governor and council that any town has provided instruction in the trades and industries in a general industrial school maintained therein for a period of thirty-six weeks during the school year, and employing at least one teacher whose work is devoted exclusively to such instruction, and having an average attendance of at least twenty pupils, the governor and council shall direct the treasurer of state to pay to the treasurer of such town a sum equal to two-thirds the total amount spent for instruction in said school, provided that not more than two thousand dollars shall be paid by the state to any one town in any year.

**Sec. 139. Deduction from school and mill fund; reports to the state superintendent of schools.** 1911, c. 188, § 8. 1913, c. 37, § 2. 1915, c. 143. For the purposes of the seven preceding sections there shall be deducted annually by the treasurer of state from the school and mill fund the sum of fifty thousand dollars and any unexpended balance of this amount shall be added to the permanent school fund. All reports required under said sections shall be filed annually with the state superintendent of public schools on or before the first day of July, and state aid shall be payable during the month of December next succeeding.

**Normal Schools, and Madawaska Training School.**

**Sec. 140. Five normal schools. Their objects.** R. S., c. 15, § 109. P. & S. L. 1905, c. 313. 1909, c. 44. 1913, c. 109, § 1. The Northern Normal School at Farmington, the Eastern Normal School at Castine, the Western Normal School at Gorham, the Washington State Normal School at Machias and the Aroostook State Normal School at Presque Isle, shall be conducted for the purposes and upon the principles herein set forth.

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

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

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

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

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

**Sec. 141. Courses of study.** R. S. c. 15, § 110. 1915, c. 91. The course of study shall occupy two years with suitable vacations, and, with the terms of admission, shall be arranged by said superintendent. The trustees may arrange for a course of study, occupying three or four years, for such students as elect to pursue the same, and they may give such credit as they may deem advisable for successful teaching experience.

**Sec. 142. Diplomas to be issued.** R. S. c. 15, § 111. Any student who completes the course of study prescribed, and otherwise complies with the regulations of the school, shall receive a diploma certifying the same.

**Sec. 143. Applicants for admission, qualification; tuition.** R. S. c. 15, § 112. 1909, c. 27. Applicants for admission shall be sixteen years of age if females, and seventeen if males, and shall signify their intention to become teachers and come under obligation to teach in this state for at least one year, and if they receive a diploma, two years after they have graduated; on these conditions they shall be received without charge for tuition.

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**Sec. 144. Trustees of normal schools, their appointment, powers and duties.** R. S. c. 15, § 113. 1905, c. 11. 1909, c. 103. 1913, c. 109, § 2. Said schools shall be under the direction of a board of five trustees, four of whom shall be appointed by the governor with the advice and consent of the council, for terms of four years, and not more than two of the four appointed members shall be of the same political party. The state superintendent of public schools is, by virtue of his office, a member of the said board of normal school trustees. Said board shall have charge of the general interests of said schools; shall see that the affairs thereof are conducted as required by law and by such by-laws as the board adopt; employ teachers and lecturers for the same; and, annually, on the first day of December lay before the governor and council, for the information of the legislature, a financial statement, furnishing an accurate detailed account of the receipts and expenditures for the school year preceding.

105 Me. 220.

Note. Authorized to take land for building for use of Western Normal School, at Gorham, P. & S. L. 1913, c. 47.

**Sec. 145. Madawaska Training School.** R. S. c. 15, § 114. The trustees of state normal schools shall maintain for not less than eight months annually, the Madawaska Training School, at Fort Kent, for the purpose of training persons to teach in the common schools of Madawaska territory, so called, which school shall be under their control and direction, in the same manner and to the same extent as the other state normal schools.

**Sec. 146. Appropriation for normal and training schools.** R. S. c. 15, § 115. 1909, c. 106. 1911, c. 186. 1913, c. 45. 1915, c. 175. For the support of the five normal schools and the Madawaska Training School, the sum of ninety thousand dollars is annually appropriated, to be expended under the direction of said trustees, which sum the treasurer of state shall deduct for said purpose from any school money raised for the support of common schools. The governor and council may from time to time, as they think proper, draw warrants therefor on said treasurer in favor of said trustees.

### Instruction for the Blind.

**Sec. 147. Blind children may be sent to Perkins Institute; no distinction made on account of wealth or poverty; expenses paid by state.** R. S. c. 15, § 116. 1913, c. 46. Upon the request of the parents or guardians, the governor may, with the approval of the council, send such blind children as he may deem fit subjects for education, for a term not exceeding ten years, and thereafter in the discretion of the governor and council, in the case of any pupil, to the Perkins Institute for the Blind at Watertown, Massachusetts; provided, however, that when the authorities in charge of said Perkins Institute for the Blind shall refuse for any reason to admit such blind children to said institute then the governor may, with the approval of the council, send such children so refused to any institution for the blind wherever located. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such

pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution shall be paid by the state; provided, however, that nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.

### Penal Provisions Affecting Schools.

**Sec. 148. Forfeitures, how recovered and appropriated; penalty, if town neglects to expend money.** R. S. c. 15, § 117. Forfeitures under this chapter, not otherwise provided for, may be recovered by indictment, and shall be paid into the treasury of the town where they occurred, for the support of schools therein, in addition to the amount required by law to be raised; but the costs of prosecution shall be paid into the county treasury; any town neglecting for one year, so to expend such money, forfeits an equal sum to any person suing therefor in an action of debt.

**Sec. 149. Penalty for disturbing schools.** R. S. c. 15, § 118. Whoever, whether a scholar or not, enters any schoolhouse or other place of instruction, during or out of school hours, while the teacher or any pupil is present, and wilfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures, or wilfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse, or in any way disturbing the school, forfeits not less than two, nor more than twenty dollars, to be recovered as aforesaid, or on complaint.

27 Me. 278; 35 Me. 197.

**Sec. 150. Parents or guardians liable in double damages for injuries.** R. S. c. 15, § 119. If a minor injures or aids in injuring any schoolhouse, outbuildings, utensils or appurtenances belonging thereto; defaces the walls, benches, seats or other parts of said buildings by marks, cuts or otherwise; or injures or destroys any school property belonging to a town, such town by a truant officer thereof, may recover of his parent or guardian, in an action of debt, double the damage occasioned thereby.

**Sec. 151. Penalty for defacing schoolhouses, outbuildings.** R. S. c. 15, § 120. Whoever defaces the walls, benches, seats, blackboards or other parts of any schoolhouse or outbuildings belonging thereto, by obscene pictures, language, marks or descriptions, shall be fined not exceeding ten dollars, on complaint made within one year.

See c. 126, § 23.

**Sec. 152. Innholders, stable keepers, and certain others, not to give credit to students.** R. S. c. 15, § 121. If an innholder, confectioner, or keeper of a shop, boarding-house, or livery stable, gives credit for food, drink or horse or carriage hire, to any pupil of a college or literary institution in violation of its rules, he forfeits a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the



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treasurer of such institution; half to its use, and half to the town where it is located; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

**State School Funds.**

**Sec. 153. Permanent school fund.** R. S. c. 15, § 122. The treasurer of state shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor, and of any other moneys appropriated for the same purpose; and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent of the amount of such fund, and one-half the sum received by the state from the tax on the franchises of savings banks, and one-half the sum assessed upon the deposits of trust and banking companies, shall be annually appropriated to the support of common schools, and after the deduction therefrom of all funds which the treasurer of state is by law authorized to deduct, the balance shall be distributed among the several towns according to the number of children therein between five and twenty-one years of age.

See §§ 132, 139, 166, 176; c. 9, §§ 60, 72, 73; 73 Me. 126; 109 Me. 172.

**Sec. 154. Treasurer to apportion school funds; basis when returns are not received; school funds not to be paid until return is made.** R. S. c. 15, § 123. The treasurer shall, immediately after the first day of July, apportion to the towns all the state school funds for the year, according to the list of children furnished by the state superintendent of public schools, as provided in section one hundred and twenty-five. The number of scholars belonging to a town from which either the school committee or the municipal authorities have failed to make the returns required by law, shall be reckoned by taking the number used as the basis of the last apportionment, and deducting all scholars set off to other towns, or incorporated into a new town within a year, and one-tenth of the remainder, and the residue shall be the basis of the new apportionment. Immediately after making the apportionment, the treasurer shall notify each town of its proportion; which shall not be paid to any town until its returns, both common school and fiscal, are made to the state superintendent of public schools, nor so long as any state tax assessed upon such town remains unpaid.

See §§ 16, 50.

**School Mill Fund.**

**Sec. 155. Mill tax.** R. S. c. 15, § 124. 1907, c. 111, § 2. A tax of one and one-half mills on a dollar shall annually be assessed upon all the property in the state according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

68 Me. 582, 586; 73 Me. 126; 109 Me. 172.

**Sec. 156. Assessment and collection.** R. S. c. 15, § 125. This tax shall be assessed and collected in the same manner as other state taxes, and be paid into the state treasury and designated as the school mill fund.

73 Me. 126.

**Sec. 157. Distribution.** R. S. c. 15, § 126. 1915, c. 150, § 1. This fund shall be distributed by the treasurer of state on the first day of December, annually, to the several cities, towns and plantations according to the number of scholars therein, as the same shall appear from the official return made to the state superintendent of public schools for the preceding year.

See §§ 132, 139, 166, 176.

**Sec. 158. Unexpended balance.** R. S. c. 15, § 127. All of the school mill fund not distributed or expended during the financial year, shall at its close be added to the permanent school fund.

73 Me. 126.

#### Common School Fund.

**Sec. 159. Tax for support of common schools.** 1909, c. 177, § 1. A tax of one and one-half mills on a dollar shall annually be assessed upon all of the property in the state according to the valuation thereof and shall be known as the tax for the support of the common schools.

109 Me. 171.

**Sec. 160. Assessment.** 1909, c. 177, § 2. This tax shall be assessed and collected in the same manner as other state taxes and shall be paid into the state treasury and designated as the common school fund.

109 Me. 171.

**Sec. 161. Distribution.** 1909, c. 177, § 3. 1915, c. 150, § 2. One-third of this fund shall be distributed by the treasurer of state on the first day of December, annually, to the several cities, towns and plantations according to the number of scholars therein, as the same shall appear from the official returns made to the state superintendent of public schools for the preceding year, and the remaining two-thirds of said fund shall be distributed by the treasurer of state on the first day of December, annually, to the several cities, towns and plantations according to the valuation thereof as the same shall be fixed by the state assessors, for the preceding year.

109 Me. 171.

**Sec. 162. Unexpended fund.** 1909, c. 177, § 4. All of said fund not distributed or expended during the financial year, shall at its close, be added to the permanent school fund.

109 Me. 171.

**Sec. 163. Expenditure of money for common schools.** 1909, c. 177, § 5. All moneys provided by towns, or apportioned by the state for the support of common schools, shall be expended for the maintenance of common schools, established and controlled by the towns by which said moneys are provided, or to which said moneys are apportioned.

109 Me. 171.

**Sec. 164. Money received by towns within § 16.** 1909, c. 177, § 6. Sums received by any city, town or plantation from the distribution provided by section one hundred sixty-one, shall be deemed to be raised by such city, town or plantation within the meaning of section sixteen of this chapter.

109 Me. 171.

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**Sec. 165. Sections 155-158 not affected.** 1909, c. 177, § 7. The six preceding sections shall not affect the provisions of sections one hundred and fifty-five to one hundred and fifty-eight, both inclusive, of this chapter.

**School Equalization Fund.**

**Sec. 166. School equalization fund set aside.** 1909, c. 198, § 1. 1911, c. 192, § 1. 1913, c. 182. 1915, c. 265. The treasurer of state shall immediately after the first day of July, annually deduct the sum of fifty thousand dollars from the state school funds and the same shall be set aside and denominated the school equalization fund which shall be used in the manner hereinafter designated for the purpose of aiding those towns wherein a rate of taxation considerably in excess of the average rate for the state fails to produce a school revenue sufficient to secure a reasonable standard of educational efficiency; provided, that the rate of taxation hereinbefore named for the purposes of this section and the two following sections shall be reckoned on the basis of the amount actually raised by taxation by the town for the support of common schools, exclusive of any amounts received from the state; provided further that no town shall receive an apportionment of the school equalization fund unless its municipal tax rate for all purposes shall be in excess of the average of such rates for all the towns of the state.

**Sec. 167. Special investigation by state superintendent of schools; special aid for raising standard of qualifications of teachers.** 1909, c. 198, § 2. 1911, c. 192, § 2. The state superintendent of public schools shall cause a special investigation to be made of the educational facilities of such towns as are included under the preceding section and, whenever it appears to the state superintendent that any town should receive special aid or encouragement for the purpose of raising the standard of qualifications of common school teachers or of increasing the length of the school year or otherwise adding to the efficiency of the common schools, he shall issue to the governor and council a recommendation relative thereto, and the governor and council may draw a warrant in favor of the treasurer of said town for the payment from the equalization fund of a sum which shall be expended under the direction of the superintending school committee of said town in accordance with the recommendation as made by the state superintendent of public schools and within the purposes of this section and the preceding section. The state superintendent of public schools may expend for the special investigation of educational facilities as herein provided a sum not to exceed two thousand dollars, which shall be deducted from the equalization fund; he shall annually publish in his printed report a complete statement relative to all disbursements as provided in this section and the preceding section.

**Sec. 168. Fund not expended, how disposed of.** 1909, c. 198, § 3. All of the school equalization fund not distributed nor expended during the financial year shall at its close be added to the permanent school fund.

Funds arising from sales of timber and grass on reserved lots, how and when applied to support of schools, c. 8, § 21.

Instruction in forestry in public schools, academies and colleges, c. 8, § 56.

**Teachers' Pensions.**

**Sec. 169. Teachers who may be entitled to an annual pension of \$250.** 1913, c. 75, § 1. Any person of either sex who, on the thirtieth day of September, nineteen hundred thirteen, or thereafter, shall have reached the age of sixty years and who for thirty-five years shall have been engaged in teaching as his principal occupation, and who shall have been employed as a teacher in the public schools, or in such other schools within this state as are supported wholly or at least three-fifths by state or town appropriation and are under public management and control, twenty years of which employment, including the fifteen years immediately preceding retirement, shall have been in this state, and who shall be retired by his employer or shall voluntarily retire from active service after completion of the school year next preceding the thirtieth day of September, nineteen hundred thirteen, shall, on his formal application, receive from the state for the remainder of his life an annual pension of two hundred and fifty dollars; provided, however, that after the thirtieth day of September, nineteen hundred thirteen, no such employment as teacher within this state shall be included in its provisions unless the teacher shall hold a state teachers' certificate issued under the authority of the state superintendent of public schools.

**Sec. 170. Teachers who may receive an annual pension of \$200.** 1913, c. 75, § 2. Any person of either sex who, on the thirtieth day of September, nineteen hundred thirteen, or thereafter, shall have reached the age of sixty years and who for thirty years shall have been engaged in teaching as his principal occupation and who shall have in all other respects met the requirements of the preceding section shall, on his formal application, receive from the state for the remainder of his life an annual pension of two hundred dollars.

**Sec. 171. Teachers who may receive an annual pension of \$150.** 1913, c. 75, § 3. Any person of either sex who, on the thirtieth day of September, nineteen hundred thirteen, or thereafter, shall have reached the age of sixty years and who for twenty-five years shall have been engaged in teaching as his principal occupation, and who shall have in all other respects met the requirements of section one hundred sixty-nine shall, on his formal application, receive from the state for the remainder of his life an annual pension of one hundred and fifty dollars.

**Sec. 172. Teachers who may receive half pension.** 1913, c. 75, § 4. Any person who otherwise meets the requirements of the three preceding sections, but shall have retired or shall have been retired prior to the school year next preceding the thirtieth day of September, nineteen hundred thirteen, shall be entitled to receive a pension under the provisions of this section and the three preceding sections, except that the amount of the pension allowed to such person shall be one-half of any amount designated under the foregoing sections.

**Sec. 173. State superintendent shall certify persons entitled to pensions; suspension of payment when person resumes teaching.** 1913, c. 75, § 7. On or before the thirty-first day of December, nineteen hundred and thirteen, and quarterly thereafter, the state superintendent of public schools

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shall certify to the governor and council the names of the persons who are entitled to pensions under the provisions of the preceding sections and the amounts thereof, and the governor and council shall draw warrants on the treasurer of state for payments from the school pension fund in favor of said persons for said amounts. The payments of any pension shall be suspended whenever the person to whom said pension has been granted resumes teaching in any private or public school.

**Sec. 174. Pensions are exempt from claims of creditors.** 1913, c. 75, § 8. All pensions granted or payable under the provisions of the five preceding sections shall be and are hereby made exempt from levy and sale by virtue of an execution and from all process and proceeding to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claim against, or debt or liability of a teacher or pensioner.

**Sec. 175. State superintendent shall formulate rules.** 1913, c. 75, § 6. The state superintendent of public schools shall formulate rules and regulations for carrying into effect the provisions of the six preceding sections.

**Sec. 176. Appropriation.** 1913, c. 75, § 5. For the purposes of the seven preceding sections the sum of twenty-five thousand dollars is annually appropriated, which sum the treasurer of state shall deduct for said purposes out of the school and mill funds and the sum so appropriated and deducted shall be denominated the school pension fund.

**Sec. 177. Unexpended fund added to school fund.** 1913, c. 75, § 9. All of said school pension fund not distributed or expended for any financial year, shall, on the first day of July next following, be added to the permanent school fund.

## CHAPTER 17.

**Parishes and Religious Societies, Meeting-houses. Ministerial and School Lands, and Funds Arising Therefrom.**

Sections 1-23	Parishes and Religious Societies.
Sections 24-32	Independent Local Churches.
Sections 33-34	Protection of Property dedicated to Pious Uses.
Sections 35-49	Meeting-houses.
Sections 50-63	Ministerial and School Lands and Funds arising therefrom.

**Parishes and Religious Societies.**

**Sec. 1. Mode of calling a meeting to form a parish.** R. S. c. 16, § 1. Any persons of lawful age, desirous of becoming an incorporated parish or religious society, may apply to a justice of the peace, who shall issue his warrant to one of them, directing him to notify the other applicants to meet at some proper place expressed in such warrant; and he shall give notice of such meeting seven days at least before holding the same, by posting a notification thereof on the outer door of the meeting-house or place of public worship of such society, if any, otherwise at such place as the justice appoints.

66 Me. 107.

**Sec. 2. Organization; name.** R. S. c. 16, § 2. Such persons so assembled may choose a clerk and other needful parish officers, and shall thereupon be a corporation, bear the name which they assume, and have all the powers of parishes and religious societies.

19 Me. 21; 66 Me. 107.

**Sec. 3. May hold property, and pass by-laws.** R. S. c. 16, § 3. Every parish may take by gift or purchase any real or personal estate, until the clear annual income thereof amounts to three thousand dollars; convey the same, and establish by-laws not repugnant to law.

66 Me. 107.

**Sec. 4. Meetings, how called.** R. S. c. 16, § 4. The annual or other meetings of such parish may be called by its assessors, or clerk, to be held at the time when, and place in the town where, they are usually held; they shall be notified as prescribed in section one, or in the manner agreed on by its vote; and at such meeting, they may choose a clerk, who shall be sworn, two or more assessors, a collector, treasurer, standing committee and all other needful officers. The assessors shall manage the prudential concerns of the parish, when no other persons are appointed for that purpose, and shall be sworn.

6 Me. 450; 66 Me. 107.

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**Sec. 5. Powers of moderator.** R. S. c. 16, § 5. The moderator of any meeting shall preserve order, manage the business, and administer the oath to the clerk and assessors.

66 Me. 107.

**Sec. 6. Meetings called on request of members.** R. S. c. 16, § 6. When five members of any parish in writing request the assessors to call a meeting, or to insert any particular article in the warrant therefor, they shall do so.

**Sec. 7. Meetings called, if assessors refuse.** R. S. c. 16, § 7. If they unreasonably refuse, any justice of the peace on like application may issue his warrant to one of the applicants, who shall notify such meeting as prescribed in section one, or as agreed on by parish vote.

**Sec. 8. When no meeting for three years.** R. S. c. 16, § 8. When there has been no meeting of such parish or society for three years, a meeting may be called as provided in section forty-four.

**Sec. 9. Authority to raise money.** R. S. c. 16, § 9. 1915, c. 286, § 1. Every parish, at a legal meeting, may raise money for the support of the public ministry of religion, for building, repairing or removing houses of public worship, and for other necessary parish charges.

6 Me. 173.

**Sec. 10. Assessment on pews.** R. S. c. 16, § 10. When a house of public worship belongs to a parish, or it and the fee of the land, on which it stands, is vested in trustees for the use of a parish, such parish may assess any money raised as aforesaid, wholly or partly, on the pews or seats, whether owned by members of such parish or religious society or not; and the owners may be present and vote in raising such money.

5 Me. 220.

**Sec. 11. Payment enforced by sale of pews.** R. S. c. 16, § 11. When taxes on pews and seats remain unpaid for six months after their assessment, the treasurer shall sell them at auction, first posting notice thereof at the principal outer door of such house of worship, three weeks before the time of sale, stating the numbers, if any, of the pews or seats and the amount of tax on each; and shall execute and deliver a deed thereof to the purchaser, and pay to the owner the overplus, after deducting the amount of tax and incidental charges.

**Sec. 12. Pew owner may give notice of his intention not to occupy; rights of pew owner thereafter.** R. S. c. 16, § 12. Whenever a parish or church raises its current expenses by assessment on its pews, any pew owner therein who shall not occupy his pew, either by himself or family, or rent the same, may give a written notice to the clerk of the parish or church, or to the parish committee or assessors, of his intention not to occupy said pew for one year following the next annual meeting of said parish or church, in which case said pew owner shall not be liable for any tax assessed on said pew during said year, neither shall he act and vote at said annual meeting unless he retains a pew for the occupancy of himself and family, and the parish or church may let said pew during said year,

and appropriate the rent to the current expenses of the parish or church, and said parish or church shall not sell said pew for taxes assessed during that year.

**Sec. 13. Parishes may procure insurance; in case of loss, how applied.** R. S. c. 16, § 13. A parish in the actual occupancy of a church, meeting-house or other building used for religious purposes may insure it against loss by fire. And in case of such loss, the company insuring it shall not deny the occupancy of the parish, its legal existence or its right to maintain an action on the policy. The money so recovered shall be held by the parish in trust for repairing or restoring the building, and shall be so applied.

**Sec. 14. Admission to a parish.** R. S. c. 16, § 14. A person of either sex, of lawful age, may become a member of a parish or religious society by vote thereof at a legal meeting.

**Sec. 15. Persons deemed members; dissolution of membership.** R. S. c. 16, § 15. Any such person residing in a local parish holding funds derived from this state or Massachusetts, shall be deemed a member of it until he dissolves the connection; such person having resided in such parish one year, after he has arrived at majority, without either giving written notice to its clerk of his consent to be a member thereof, or paying a tax or subscription according to the mode that said parish has adopted to raise money, shall be deemed to have thereby dissolved his connection therewith; and said connection shall remain dissolved, and said person shall not be taxable until he renews the connection by giving written notice to its clerk of his consent to be a member of said parish; any person residing in a local parish may become a member of such parish not deriving funds from the state, by giving written notice to its clerk of his intention to do so within one year after he is of age or removes thereto.

2 Me. 70; 7 Me. 416.

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

6 Me. 266, 451.

**Sec. 17. Qualification to vote at parish meetings.** R. S. c. 16, § 17. No such person shall vote in meetings of any territorial parish who is not the owner or occupant of a pew in its house of worship, or a contributor to its support.

**Sec. 18. Territorial parishes continued.** R. S. c. 16, § 18. No territorial parish is hereby dissolved; and when one or more parishes are set off from a town, or incorporated therein, as aforesaid, the remainder is the first parish.

**Sec. 19. Officers of churches, are corporations for certain purposes; organization and powers.** R. S. c. 16, § 19. 1915, c. 256. The church wardens of Episcopal churches, the stewards or trustees of the Methodist Episcopal church, and the deacons of all other Protestant churches, are so



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far corporations as to take, in succession, all grants and gifts of real and personal estate made to their churches, or to them and their successors; and if the ministers, elders or vestrymen are joined with them in such grants or gifts, the two classes of officers shall be corporations for that purpose. For the purpose of organizing any such corporation, one or more members of said corporation may call a meeting thereof by a notice posted upon the outer door of the meeting-house or place of public worship of their parish or society at least seven days before the time of holding such meeting; or, if there is no such meeting-house or place of public worship, by a notice posted in two public and conspicuous places in the town wherein said parish or society is located. At such meeting the corporation may organize, adopt a corporate name, and elect such officers as its by-laws shall prescribe. Said corporations shall have the powers granted to parishes by section three of this chapter, and may make such contracts in relation to such estate, its improvement or disposal, as they may be authorized under the rules of their church, or instructed by the church or society for which they hold such estate in trust, to make, which contracts may be enforced by or against them, as in other cases; provided, however, that no disposal of such estate shall be made, inconsistent with the terms of the grant by which it is held. Trustees of the local Methodist Episcopal churches are created a corporation with all the rights and privileges of corporations, subject to the restrictions contained in the book of discipline of the Methodist Episcopal church.

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

**Sec. 20. Ministers and officers of religious societies, their powers.** R. S. c. 16, § 20. The ministers of a parish or religious society, and the deacons, elders, trustees, stewards and other presiding officers of a religious society or church, having by its usages no settled minister, may take, in succession, any estate granted to the minister and his successors, or for the use of the ministry, or poor of the church; and may prosecute and defend all suits respecting it; but they shall not so take, while the clear annual income of prior grants is three thousand dollars.

4 Me. 375; 5 Me. 221; 19 Me. 291; 26 Me. 512; 66 Me. 108.

**Sec. 21. Power to convey lands, limited.** R. S. c. 16, § 21. No conveyance of such estate by a minister shall be valid longer than he is in the ministry; or by such deacons or other officers, longer than they are in office, if made by them without consent of the church, or by church wardens without the consent of the vestry.

66 Me. 108.

**Sec. 22. Parish records open to inspection.** R. S. c. 16, § 22. The records of a parish shall be open to the inspection of its members and to clerks of other parishes; and each clerk shall furnish attested copies thereof, on request, for a reasonable compensation.

**Sec. 23. Overseers of monthly Quaker meetings to hold grants as a corporation.** R. S. c. 16, § 24. The overseers of each monthly meeting of Quakers may take and hold, in succession, all grants of real, personal or mixed estate made to them, for the use of their monthly meetings, the preparative meetings constituting them, or the poor thereof; also all grants

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

### Independent Local Churches.

**Sec. 24. Churches may be incorporated.** R. S. c. 16, § 25. Any independent local church now existing, or that may hereafter be organized in the state, may be incorporated according to the provisions of this and the seven following sections.

**Sec. 25. Notice of the meeting.** R. S. c. 16, § 26. When three or more members of such church, who are voters according to section twenty-six, shall apply in writing to any justice of the peace in the county for the purpose of incorporating said church, said justice shall issue his warrant addressed to one of said applicants, stating the time, place and purposes of the meeting and directing him to notify the members of said church, by posting a certified copy of said warrant in a conspicuous place near the main entrance to the usual place of meeting of such church and in one other public and conspicuous place in the same town, for seven days, at least, prior to said meeting.

**Sec. 26. Qualification of voters; manner of organizing into a body corporate.** R. S. c. 16, § 27. The resident members of such church twenty-one years of age and upward, shall be voters at such meeting and in all meetings of the corporation. Such voters, assembled at the time and place notified, shall elect a moderator to preside over said meeting. They shall then by ballot, proceed to vote upon the question whether the church will become incorporated hereunder. If two-thirds of the ballots cast shall be in favor of the church becoming incorporated, it shall thereupon become a body corporate with all the powers, rights and duties incident to corporations, with the right to take by gift, purchase, devise or bequest such personal and real property as may be useful for carrying on its local work, and may dispose of the same at pleasure, have perpetual succession, a corporate seal, and change the same at pleasure.

**Sec. 27. Election of officers.** R. S. c. 16, § 28. They shall, by ballot, elect a clerk, treasurer, a business committee of not less than three, nor more than seven members who are voters, and such other officers as they may deem necessary.

**Sec. 28. Certificate to be filed in office of secretary of state; change of name.** 1911, c. 164, § 3. The clerk, treasurer and a majority of the business committee of every independent local church incorporated under the foregoing provisions, shall prepare a certificate in form approved by the attorney-general setting forth the name of such church, the town or city where located, and the number and names of its business committee, and

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shall sign and make oath to it and shall file the same in the office of the secretary of state; the secretary of state shall keep a list of the same in a book prepared for that purpose showing the name, location and date of organization of such church corporation. The name of any incorporated church may be changed by vote in a legal meeting, and notice thereof shall be given to the secretary of state with the same effect as prescribed by statute for changing the names of corporations.

See c. 51, § 51.

**Sec. 29. Duties of officers may be prescribed by by-laws; notice of meetings.** R. S. c. 16, § 29. Such church by its by-laws may prescribe the duties of the several officers and the manner of executing the same. When no provision is made by any vote or by-law of the church for calling meetings, they shall be called by the business committee by posting notices of the time, place and purposes of said meeting, in the same manner and for the same time as is prescribed in section twenty-five. And meetings shall also, in the same manner, be called by said committee, upon the written request of at least six members of the church qualified to vote.

**Sec. 30. Persons contributing to support of church may participate in meetings.** R. S. c. 16, § 30. Such church may by its by-laws extend to all persons not members of the church, who are twenty-one years of age and upward and who regularly contribute toward the expenses of the church, the right to attend and participate in the annual and special meetings of the church, when action is to be taken relative to the use and appropriation of funds toward which they have contributed or toward which they have pledged contributions, and meetings called for the purpose of obtaining or dismissing a pastor.

**Sec. 31. Persons holding property in trust may convey same to church.** R. S. c. 16, § 31. The deacons of such church or any other person or persons holding real or personal estate in trust for the use of such church, may convey such property to such incorporated church, and said church shall hold the same subject to the uses and trusts under which it was held by such deacons and other person or persons.

**Sec. 32. Parish authorized to convey property to church.** R. S. c. 16, § 32. Any parish or religious society, connected with the church which becomes incorporated under the provisions hereof, may at a meeting duly warned and called for such purpose by a two-thirds vote, authorize one or more persons in its name and behalf to convey to such church any real or personal estate which it may hold for the use of such church, and such church shall thereafter hold such property to the same uses and trusts as when held by such parish or society.

### **Protection of Property Dedicated to Pious Uses.**

**Sec. 33. Property dedicated to pious uses, having no legal custodians and becoming wasted, may be sold by order of court.** R. S. c. 16, § 33. Where any property in the state, dedicated and ordained for pious uses, has no proper or legal custodian, so that it is becoming wasted and the utility thereof is lost, upon the application of any person, patriotic or religious society interested in having such property preserved and applied to the uses for

which it was originally intended, or for some public or patriotic purpose, the attorney-general shall file a bill in equity, in the nature of an information, against such property and all persons interested therein, praying for the appointment of trustees to care for such property and for the proper application and disposal thereof, and the court may order such notice as seems proper, and may appoint receivers or trustees therefor, and upon final decree, may order the care, custody, sale, application or disposal of such property as will best serve the purposes for which it was originally intended, or some public or patriotic purpose. The court may convey or transfer such property to any religious or patriotic body, to be held and applied for the purposes of such trust as the court may declare; and it shall have power to treat, care for and dispose of the same in furtherance of such pious, public or patriotic uses as may seem best suited to the case and situation.

103 Me. 348; 106 Me. 133.

**Sec. 34. Trust funds may be transferred.** 1913, c. 155. Any corporation, trustees, unincorporated body or association by whom funds or property are now held, or to whom they have been or shall hereafter be entrusted by will or otherwise for any religious, moral, educational or benevolent purpose, may transfer and deliver to any other corporate body or trustees existing for the same or similar purposes, such funds or property as is now or shall hereafter come into their or its possession, or shall have been given to it or them, to be administered in the manner and for the purposes provided by the donor. Provided, however, that no transfer of such funds shall be made without the approval of a justice of the supreme judicial court or the judge of probate for the county in which the donor resides or resided at the time of his decease.

### Meeting-houses.

**Sec. 35. Parish may become owner of pews; proceedings.** R. S. c. 16, § 34. 1911, c. 164, § 1. When it is deemed expedient by any organized parish or incorporated church to become the owner of the pews in any meeting-house used by it as a place of regular worship, a meeting of the owners and occupants thereof may be called, as provided in section six, and a majority of such pew owners and occupants may vote to convey the pews by them owned or occupied to such parish or incorporated church. If the owners or occupants of any of the pews in such meeting-house are unknown to the assessors they shall give notice, additional to that provided herein, by publishing the call for such meeting in some newspaper published in the county where such meeting-house is located at least seven days before the time appointed for said meeting.

**Sec. 36. Owner of pew dissenting, proceedings.** R. S. c. 16, § 35. 1911, c. 164, § 2. Any owner or occupant of a pew in such meeting-house who expresses his dissent from such vote in writing to the clerk of the parish or incorporated church within one month from the time of holding such meeting, shall have his pew appraised, as provided in section thirty-nine, and the appraised value shall be tendered to him in satisfaction of his claim for compensation and he shall then deliver a deed of such pew to the parish

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or incorporated church. If such dissent is not so expressed such pew shall be forever forfeited to the parish or incorporated church.

**Sec. 37. Persons may incorporate to hold a meeting-house.** R. S. c. 16, § 36. Any persons, for the purpose of erecting a meeting-house, or the majority in interest of the owners of a meeting-house, not a parish, may incorporate themselves as parishes may; and choose all officers and do all other acts that a parish may lawfully do.

66 Me. 400.

**Sec. 38. Owners may repair or dispose of meeting-houses; warrant for calling meeting.** R. S. c. 16, § 37. A majority of the pew owners or proprietors of a meeting-house, present at a legal meeting called for that purpose, may repair, remodel, or sell and convey their house or the land used with it, or remove or rebuild it. Any meeting relating thereto may be called as provided in section forty-one, or by publishing the warrant in a newspaper printed in the county, at least fourteen days before the meeting.

**Sec. 39. Appraisal; proceeds of sale, how disposed of; pews, how disposed of, in case of repairing or rebuilding; taxes may be raised and agents appointed to make sale.** R. S. c. 16, § 38. Before such alteration or sale is made, an appraisal of the relative value of the pews shall be made by three discreet persons, under oath, to be elected by ballot at a legal meeting of said owners or proprietors. If a sale of said house and land is made, it may be private or public, as such meeting determines, and the proceeds shall be applied to pay the expenses of said sale and the debts and just claims against the property; and the balance shall be paid to the pew owners or proprietors, in proportion to their interests by the appraisal. If the meeting-house is altered or rebuilt, the appraisers, after the work is completed, shall assign pews to the former pew holders, to conform as nearly as practicable to those previously held by them; and the other pews may be sold to defray the expenses of the repairs and alterations, or be otherwise disposed of as the proprietors or pew owners determine. They may choose officers, raise and assess taxes on the pews, collect them for making such repairs and alterations, do all things that a parish may do, and appoint some suitable agent or agents to make such sale and conveyance, or repairs and alterations, and a treasurer or trustees to receive and distribute the proceeds of sale in manner aforesaid.

**Sec. 40. Proprietors dissenting, entitled to appraised value of their interest; limitation and forfeiture.** R. S. c. 16, § 39. When it is decided to repair, remodel or rebuild a meeting-house, any owner or proprietor dissenting from the action of the majority and declining to take an interest in the house as altered, may demand and receive of such majority the appraised value of his interest after deducting his proportion of debts against the property, to be recovered in an action for money had and received; which shall not be commenced until thirty days after such demand, nor after the lapse of a year after notice is posted for three successive weeks on the meeting-house door and some other conspicuous place in its precinct, stating the persons to whom the money is to be paid, the amount payable to each, and the time limited for payment. If said sums are not demanded within said time, they are forfeited to the majority for parish uses. But

this section does not apply to any case where the repairs decided upon are only such as are necessary to keep such meeting-house in a tenantable condition.

**Sec. 41. Owners of meeting-houses and pews therein, may incorporate.** R. S. c. 16, § 40. The owners of a meeting-house or building for public worship, and the pew owners, may be incorporated, when any three or more of them apply therefor to a justice of the peace, who shall issue his warrant to one of them, stating the time, place and purpose of the meeting, and directing him to notify said owners by posting a certified copy of it for fourteen days on the principal outer door of such building and in one or more other public places in the same town.

80 Me. 31.

**Sec. 42. Proceedings.** R. S. c. 16, § 41. When so assembled, they may choose a moderator and clerk, who shall perform the usual duties of such officers; and thereupon said owners shall be a corporation, and be known by such name as they adopt, and they may agree on the mode of calling future meetings.

80 Me. 31.

**Sec. 43. Corporate rights and powers.** R. S. c. 16, § 42. Such corporation, by a major vote of its members, may use and control the meeting-house or building for public worship partly or wholly owned by them, as they please; but nothing in this and the two preceding sections shall affect the rights of owners of houses of worship, built by different religious denominations.

59 Me. 252; 80 Me. 31.

**Sec. 44. Meetings of owners of meeting-houses, how called.** R. S. c. 16, § 43. When there has been no meeting of the incorporated pew owners, or proprietors or owners of a meeting-house, or building for public worship, for three years, a meeting may be called on application of three or more members thereof to a justice of the peace, who shall issue his warrant to one of them, stating the time, place and purposes of the meeting, directing him to notify such meeting by posting a certified copy of said warrant, three weeks before the time of meeting, on the principal outer door of such building, and in one or more public places in the same town, and publishing it in a newspaper published in the county, if any, otherwise in an adjoining county or in the state paper.

**Sec. 45. Division of time between different denominations.** R. S. c. 16, § 44. When a house of public worship is owned by persons of different denominations, and when an organized society, or its members, own five pews therein, one or more of the minority owning not less than five pews may apply to a justice of the peace to obtain a division of the time of occupying the house; and he shall call a meeting of the owners by posting a notice in a public place in or about the house, thirty days at least before the meeting, stating the time, place and object thereof.

59 Me. 252.

**Sec. 46. Mode of proceeding.** R. S. c. 16, § 45. At such meeting, the owners, who are not applicants, or if they refuse or neglect, the justice who called the meeting, may designate another justice, and the two may appoint

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

59 Me. 252.

**Sec. 47. Proportion of minority to be appraised.** R. S. c. 16, § 46. The board shall appraise the value of the minority's proportion of the house, make a record of their proceedings, and within ten days cause it to be transcribed into the records of such town.

59 Me. 252.

**Sec. 48. Expenses, how paid.** R. S. c. 16, § 47. All their reasonable expenses shall be paid by the persons who requested the division; but the above provisions shall not affect any agreement now in force as to the mode of occupying such house.

**Sec. 49. Minority may occupy their proportion of time, unless majority will purchase.** R. S. c. 16, § 48. The minority may occupy the house for their allotted time, unless the majority purchase their interest, by paying the minority the sum at which it was appraised by the board; but if the minority decline so to sell, they shall not avail themselves of the four preceding sections.

*Note.* Pews and rights in houses of public worship are real estate: deeds of same, where recorded, c. 78, § 38.

### Ministerial and School Lands, and Funds Arising Therefrom.

**Sec. 50. Fee in ministerial lands, how vested.** R. S. c. 16, § 49. Where lands have been granted or reserved for the use of the ministry, or first settled minister, or for the use of schools, in any town, and the fee in these lands has not vested in some particular parish therein, or in some individual, it shall vest in the inhabitants of such town and not in any particular parish therein, for such uses.

See c. 8, §§ 15-27; 15 Me. 420; 97 Me. 337; 108 Me. 30.

**Sec. 51. Selectmen, town clerk and treasurer, to be trustees.** R. S. c. 16, § 50. The municipal officers, town clerk and treasurer of each town where no other trustees are lawfully appointed for that purpose, shall be a corporation and trustees of such ministerial and school funds, with the usual powers granted to similar corporations.

75 Me. 86; 108 Me. 30.

**Sec. 52. Trustees shall choose officers annually.** R. S. c. 16, § 51. They shall annually elect a president, clerk and treasurer; the treasurer shall give bond with sureties sufficient in the opinion of the trustees, for the faithful discharge of his duty; and the clerk shall be sworn.

75 Me. 88; 108 Me. 30.

**Sec. 53. Powers.** R. S. c. 16, § 52. They may sell and convey all such ministerial and school lands belonging to and lying in their town; and the

treasurer's deed thereof, executed by order of the trustees, shall pass the estate.

29 Me. 46; 75 Me. 88; 108 Me. 30.

**Sec. 54. Investment of funds.** R. S. c. 16, § 53. As soon as may be, they shall place the proceeds of sale at interest secured by mortgage of real estate of twice the value of the principal, or by bond or note with sufficient sureties, or invest them in bank stock or public securities.

108 Me. 30.

**Sec. 55. Trustees may hold estate for use of the ministry and schools.** R. S. c. 16, § 54. They may, by gift, grant or otherwise, take and hold for the use of the ministry in their towns, real and personal estate, the annual income of which does not exceed one thousand dollars; and for the use of schools may take and hold estate, the annual income of which does not exceed the sum which their town is bound to raise for the same use.

108 Me. 30.

**Sec. 56. Income of fund applied to support of schools.** R. S. c. 16, § 55. The income of the fund, arising from the sale of lands under section fifty-three, and from the rents and profits of real and personal estate held under section fifty-five, shall be annually applied to the support of public schools in the town, and expended like other school moneys.

97 Me. 337; 108 Me. 30.

**Sec. 57. Transfer of funds by trustees.** R. S. c. 16, § 56. The trustees of any ministerial or school fund in this state, incorporated by the legislature of Massachusetts, may by the consent of the town for whose use the fund was established, transfer it to the municipal officers, clerk and treasurer thereof, who are hereby made trustees of the same; and the income shall be annually applied and expended as provided in the preceding section.

**Sec. 58. Trustees to account annually.** R. S. c. 16, § 57. At each annual meeting of their town, the trustees shall exhibit an account of their proceedings, and a statement of the funds, receipts and expenditures, and of the application thereof to said uses.

**Sec. 59. If lands are vested in a parish, the assessors, clerk and treasurer to be trustees.** R. S. c. 16, § 58. When such lands are vested in a parish, the assessors, clerk and treasurer, where no other trustees are appointed for that purpose, shall be a corporation and trustees of such ministerial fund with like powers and under like liabilities, as the municipal officers, town clerk and treasurer; pay the annual income of such lands and of the proceeds of their sale according to the terms of the grants and reservations by which they were so vested; and at each annual meeting for choice of parish officers, exhibit an account of their proceedings, and a statement of funds, receipts and expenditures.

**Sec. 60. First meeting of trustees, how called.** R. S. c. 16, § 59. The first meeting in any year of the trustees constituted by sections fifty-one and fifty-nine, may be called by seven days' personal notice of the time and place thereof, given by one of them to all the others.

**Sec. 61. Lots reserved for public uses, located by supreme judicial court.** R. S. c. 16, §§ 60, 61. When in the grant of any townships or parts of



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townships certain portions are reserved for public uses, and such portions have not been located in severalty prior to the incorporation of the same into a town, the supreme judicial court in the county where the land lies, on application of the assessors of the town, may appoint three disinterested persons of the county, and issue to them its warrant under seal of the court, requiring them, as soon as may be, to locate such reserved portion according to the terms of the grant, and if the use or purpose of the reservation is prescribed in the grant, they shall set off and locate the lots accordingly, designating the use or purpose for which each lot is so reserved and located. Said committee before acting under such warrant, shall be sworn to the faithful discharge of the duty assigned them, and a certificate thereof shall be indorsed on the warrant.

**Sec. 62. Notice of appointment and meeting.** R. S. c. 16, § 62. They shall give notice of their appointment, and of the time and place of their meeting to execute the same, by publishing the same in some newspaper in the state to be designated by the court, and by posting written notifications in two or more public places in the same town, at least thirty days before making such location.

**Sec. 63. Return of the doings of the committee.** R. S. c. 16, § 63. They shall make return of said warrant and their doings thereon, to the next supreme judicial court in the county, after having completed the service; which, being accepted by the court and recorded in the registry of deeds in the county or registry district where the land is situated, within six months, shall be a legal assignment and location of such reserved proportions, for the uses designated; and thereafter the lands so set off and located, shall be under the care and oversight of the trustees of the ministerial and school funds of the town, with all the powers and subject to the duties prescribed in this chapter, including the power to sell and convey the same.

See c. 8, § 24.

## CHAPTER 18.

## Practice of Medicine, Surgery, Dentistry and Optometry.

- Sections 1-8 Promotion of Medical Education.  
Sections 9-17 Registration of Physicians and Surgeons.  
Sections 18-23 Registration of Nurses.  
Sections 24-40 Registration of Dentists.  
Sections 41-55 Registration in Optometry.  
Sections 56-62 Registration of Veterinary Surgeons.

## Promotion of Medical Education.

**Sec. 1. A body may be delivered to physician, for scientific purposes. R. S. c. 17, § 1.** If any resident of the state, requests or consents that after his death, his body may be delivered to a regular physician or surgeon, for the advancement of anatomical science, it may be used for that purpose, unless some kindred or family connection makes objection.

**Sec. 2. Board constituted for collection, distribution and delivery of dead human bodies; its authority and duties. R. S. c. 17, § 2.** The professors of anatomy, the professors of surgery and the demonstrators of anatomy in the medical schools of the state, which are now or may hereafter become incorporated by act of the legislature, shall be and are hereby constituted a board for the collection, distribution and delivery of dead human bodies hereinafter described, to and among such persons as under the provisions of this chapter are entitled thereto. The said board shall have full power to establish rules and regulations for its government, and to appoint and remove officers, and shall keep full and complete minutes of its transactions, and records shall also be kept under its direction of all bodies received and distributed by said board, and of the persons to whom the same are distributed, which minutes and records shall be open at all times to the inspection of each member of said board, the attorney-general and the county attorney of any county within the state.

**Sec. 3. Board of distribution shall be notified of deaths occurring in almshouses, prisons, etc.; notice not given if body is claimed by family. Superintendents and medical staff of insane hospitals authorized to hold autopsies. R. S. c. 17, § 3. 1911, c. 187.** All public officers, agents and servants of any and every county, city, town and other municipality, and of any and every almshouse, prison, morgue, hospital or any other public institution having charge or control over dead human bodies required to be buried at the public expense, are hereby required to notify immediately the said board of distribution, or such person or persons as may from time to time be designated by said board, or its duly authorized officer or agent, whenever any such body or bodies come into his or their possession, charge or control, and shall, without fee or reward, deliver such body or bodies to said board, or its duly authorized officer or agent, and permit

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and suffer the said board or its agents, or the physicians and surgeons from time to time designated by it or them, who comply with the provisions of this chapter, to take and remove any and all such bodies to be used within the state for the advancement of medical education; but no such notice need be given and no such body shall be delivered, if any person, satisfying the authorities in charge of said body that he or she is a member of the family or next of kin to the deceased, shall claim the body for burial, but it shall be surrendered to him or her for interment, and no notice shall be given and no body delivered to said board or its agents, if such deceased person was a traveler and not a vagabond, who died suddenly, in which case the said body shall be buried; provided, however, that the superintendent and medical staff of the Augusta State Hospital, and the superintendent and medical staff of the Bangor State Hospital, having charge or control over dead human bodies required to be buried at public expense, when no person satisfies the superintendent of either insane hospital and the hospital trustees that he or she is a member of the family of, or some family connection or next of kin to the deceased, and wishes to claim the body for burial, may for the advancement of science hold an autopsy and examine the body of such person, notwithstanding any provisions of this chapter.

110 Me. 393.

**Sec. 4. Distribution of bodies.** R. S. c. 17, § 4. Said board or its duly authorized agent may take and receive such bodies, so delivered as aforesaid, and shall upon receiving them after seven days from the date of decease distribute and deliver them to or among the schools, physicians and surgeons aforesaid in the following manner. Those schools needing bodies for lectures and demonstrations shall first be supplied as fast as practicable, the number assigned to each to be based upon the number of students in actual attendance, which number shall be returned to the board at such times as it shall direct. The board of distribution may from time to time designate physicians or surgeons who shall receive said bodies, applications to be considered in the order of their receipt by said board.

**Sec. 5. Bodies shall be enclosed from public view; carriers shall obtain receipts.** R. S. c. 17, § 5. The said board may employ a carrier or carriers for the conveyance of said bodies, and the said bodies shall be well enclosed within a suitable encasement, and carefully deposited free from public observation. Said carrier shall obtain receipts by name, or, if the deceased is unknown, by a description, for each body delivered by him, which receipt shall state the source from which said body was received, and shall deposit said receipts with the secretary of said board.

**Sec. 6. School or persons receiving such bodies, shall give bond for proper disposal of same; duty of treasurer of state; penalty for trafficking in dead bodies outside of the state.** R. S. c. 17, § 6. No school, physician or surgeon shall be allowed or permitted to receive any such body or bodies until a bond shall be given to the treasurer of state by such physician or surgeon, or by and in behalf of such school, to be approved by a justice of a court of record in and for the county in which such physician or surgeon resides, or in which such school is situated; such bond shall be in the

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

**Sec. 7. Expenses, how paid.** R. S. c. 17, § 7. Neither the state nor any county or municipality, nor any officer, agent or servant thereof, shall be at any expense by reason of the delivery or distribution of any such body, but all the expenses thereof, and of said board of distribution, shall be paid by those receiving the bodies, in such manner as shall be specified by said board of distribution.

**Sec. 8. Fine for neglect to discharge duties.** R. S. c. 17, § 8. Any person having duties enjoined upon him by the provisions of the six preceding sections, who shall neglect, refuse or omit to perform the same as required by the provisions of said sections, shall, on conviction thereof, be liable to a fine of not less than one hundred, nor more than five hundred dollars for each offense.

### Registration of Physicians and Surgeons.

**Sec. 9. Appointment of board of registration of medicine; vacancies; removal of members.** R. S. c. 17, § 9. 1909, c. 239. The governor with the advice and consent of the council, shall appoint a board of registration of medicine consisting of six persons, residents in the state, who shall be graduates of a legally chartered medical college or university having authority to confer degrees in medicine, and who shall have been actively engaged in the practice of their profession for a period of five years. Two persons qualified as aforesaid, shall be appointed members of said board on or before the first day of July of every alternate year after the first day of July, eighteen hundred and ninety-five, to hold office for six years from the first day of July following said appointment. No member of said board shall belong to the faculty of any medical college or university. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office for cause, by the governor, with the advice and consent of the council.

See c. 117, §§ 54, 55.

**Sec. 10. Meetings for choice of officers; regular meetings; seal.** R. S. c. 17, § 10. 1915, c. 275, § 2. The members of said board shall meet on the second Tuesday of July of each alternate year after the year eighteen hundred and ninety-five, at such time and place as they may determine,

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and shall elect a chairman and secretary who shall hold their respective offices for the term of two years. The said board shall hold regular meetings, one in March, one in July and one in November of each year, and such additional meetings at such times and places as it may determine. Said board shall cause a seal to be engraved and shall keep correct records of all its proceedings, and may make such minor rules and regulations as it shall deem necessary for the successful enforcement of its authority and the performance of its duties.

**Sec. 11. Registration of physicians and surgeons; disposal of fees. R. S. c. 17, § 11. 1911, c. 31, § 1.** Any person shall, upon the payment of a fee of fifteen dollars, be entitled to examination, and if found qualified by a majority of the members of the board present shall be registered as a physician or surgeon, and shall receive a certificate thereof under the seal of the board, and signed by the chairman and secretary, which shall state the facts and must be publicly displayed at the person's principal place of business as long as said person continues such practice for gain or hire. Any person refused registration may be re-examined at the regular meeting of said board, within two years of the time of such refusal, without additional fee and thereafter may be examined as often as he may desire upon payment of the fee of fifteen dollars for each examination. All fees received by the board hereunder shall be paid by the secretary thereof into the treasury of the state once in each month.

**Sec. 12. All applicants shall be examined for registration; qualifications of applicants; conduct of examinations; rules for reciprocity of licensure with boards of other states. R. S. c. 17, § 12. 1911, c. 31, § 2.** The board shall examine all applicants for registration as licensed physicians or surgeons. Each applicant shall, at least seven days before the date of his examination, present to the secretary of the board an application under oath or affirmation, containing satisfactory proof that said applicant is twenty-one years of age, of good moral character and a graduate of some reputable medical school or college in good standing, having power to confer degrees in medicine, and maintaining a standard of preliminary education and of medical instruction approved by the board, which said standard shall at least require that the applicant for admission to said medical school or college shall present to said school or college, before beginning the study of medicine therein, the diploma of a high school or equivalent school having a course of study requiring an attendance through four school years, or a certificate of having passed a satisfactory examination before the state superintendent of schools, or like state officer, in the studies embraced in the curriculum of such high school or other equivalent school. He shall also present such other facts as the board in its blank application may require, and must pay the fees provided in the preceding section. Examinations shall be in whole or in part in writing and shall be of a thorough and practical character. They shall embrace the general subjects of anatomy, physiology, pathology, bacteriology, sanitation, chemistry, materia medica and therapeutics, surgery, the principles and practice of medicine, obstetrics, and such branches of medical science as the board may deem necessary for the applicant to be versed in. The board may make such

rules and regulations as may be necessary for reciprocity of licensure with the boards of other states which maintain a standard of education at least equal to their own; but no such rules shall become operative until they have been approved by a justice of the supreme judicial court.

**Sec. 13. Record kept which shall be open to inspection; annual report.** **R. S. c. 17, § 13.** The board shall keep a record of the names and residences of all persons registered hereunder and a record of all moneys received and disbursed by said board, and said records or duplicates thereof shall always be open to inspection in the office of the secretary of state during regular office hours. Said board shall annually on or before the first day of January in each year, make a report to the governor containing a full and complete account of all its official acts during the preceding year, also a statement of its receipts and disbursements and such comments or suggestions as it may deem essential.

**Sec. 14. Investigation of complaints; certificates may be revoked.** **R. S. c. 17, § 14. 1911, c. 31, § 3.** The board, its members or agents shall investigate all complaints, and all cases of non-compliance with or violation of the provisions of this chapter relating to the registration of physicians and surgeons, and shall bring all such cases to the notice of the proper prosecuting officers. Said board, after a conviction before a proper court, for crime in the course of professional business, of any person to whom a certificate has been issued by them, and after hearing, may by vote of two-thirds of the entire board revoke the certificate and cancel the registration of the person to whom the same was issued. Said board may also suspend or revoke any certificate by a two-thirds vote of the entire board, in any case where such certificate has been wrongfully obtained or for any fraud connected with the said registration.

**Sec. 15. No person shall practice medicine who has not been registered; unless registered shall not use title; penalty for violation; prima facie evidence.** **R. S. c. 17, § 15. 1911, c. 31, § 4.** Unless duly registered by said board, no person shall practice medicine or surgery, or any branch thereof, or hold himself out to practice medicine or surgery or any branch thereof for gain or hire within the state, by diagnosing, relieving in any degree, or curing, or professing or attempting, to diagnose, relieve or cure, any human disease, ailment, defect or complaint, whether physical or mental, or of physical or mental origin, by attendance, or by advice, or by prescribing, or furnishing any drug, medicine, appliance, manipulation, method, or any therapeutic agent whatsoever or in any other manner, unless otherwise provided by statute of this state. Unless duly registered by said board, no person shall prefix the title "Doctor" or the letters "Dr.," or append the letters "M. D.," to his name, or use the title of doctor or physician in any way, excepting that any member of the Maine Osteopathic Association may prefix the title "Doctor" or the letters "Dr.," to his name, when accompanied by the word "Osteopath." Whoever not being duly registered by said board practices medicine or surgery, or any branch thereof, or holds himself out to practice medicine or surgery, or any branch thereof in any of the ways aforesaid, or who uses the title "Doctor" or the letters "Dr." or the letters "M. D." in connection with his name, contrary to the pro-

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visions of this section, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars for each offense, or by imprisonment for three months, or by both fine and imprisonment; the prefixing of the title "Doctor" or the letters "Dr." or the appending of the letters "M. D." by any person to his name, or the use of the title of doctor or physician in any way by any person not duly registered as hereinbefore described, shall be prima facie evidence that said person is holding himself out to practice medicine or surgery contrary to the provisions of this section; provided, that nothing herein contained shall prevent any person who has received the doctor's degree from any reputable college or university, other than the degree of "Doctor of Medicine" from prefixing the letters "Dr." to his name, if he is not engaged, and does not engage, in the practice of medicine or surgery, or the treatment of any disease or human ailment.

77 Me. 334; 96 Me. 257.

**Sec. 16. Certain officers, physicians, exempt.** R. S. c. 17, § 16. 1911, c. 31, § 5. The seven preceding sections shall not apply to commissioned officers of the United States army, navy or marine hospital service, or to a physician or surgeon who is called from another state to treat a particular case and who does not otherwise practice in this state, nor to prohibit gratuitous service or the rendering of assistance in emergency cases; nor to clairvoyants or persons practicing hypnotism, magnetic healing, mind cure, massage, christian science, osteopathy, or any other method of healing or prescribing, if no poisonous or dangerous drugs are employed nor surgical operations performed; provided, such clairvoyants and other persons do not violate any of the provisions of the preceding section in relation to the use of "M. D.," "Dr.," or the title of doctor or physician.

96 Me. 259.

**Sec. 17. Compensation and traveling expenses of board.** R. S. c. 17, § 17. 1905, c. 54. 1911, c. 31, § 6. The compensation, incidental and traveling expenses of the board shall be approved by the board, audited by the state auditor, and paid from the state treasury, provided, that the amounts so paid shall not exceed the amount received by the treasurer of state from the board in fees as herein specified, and so much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of the board as aforesaid.

See c. 117, § 54.

### Registration of Nurses.

**Sec. 18. Appointment of board of registration of nurses; qualifications of members; tenure of office; vacancies; removal of members.** 1915, c. 139, § 1. The governor with the advice and consent of the council, shall appoint a board of registration of nurses, consisting of four nurses and one physician, all of whom shall be residents of the state and engaged in professional work. The nurses so appointed shall have been graduated each from a different training school, connected with a hospital of good standing, presided over by a graduate nurse, giving at least a two years' general course in theory and practice of nursing in the wards, and shall have had at least

five years' experience from date of graduation in professional nursing of the sick, and shall have been registered under the provisions of section twenty or twenty-one of this chapter. The physician so appointed shall have been graduated at least five years, shall be a member of the Maine Medical Association, and shall be associated with a general hospital maintaining a training school for nurses. There shall be at all times at least two members of the board who shall have had two or more years' experience in educational work among nurses. The members of the board shall be appointed for terms of three years. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he or she fills; any member may be removed from office for cause, by the governor, with the advice and consent of the council. On request of the board the superintendent of public buildings shall provide a suitable room in the state house for its meetings.

See c. 117, §§ 54, 55.

**Sec. 19. Organization of board; quorum; records; duty of secretary as to renewal of certificates of registration; annual report.** 1915, c. 139, §§ 2, 8. The board shall, at each annual meeting, elect from its number a president, and a secretary who shall also be treasurer. The board may adopt a seal and pin, which shall be placed in the care of the secretary, and may adopt such by-laws, rules and regulations for the transaction of the business of the board and the government and management of its affairs, not inconsistent with the laws of this state and of the United States, as it may deem expedient. Three members of said board shall constitute a quorum; special meetings shall be called upon request of any two members. The secretary shall keep a record of all meetings of the board, including a register of the names of all nurses duly registered under sections twenty and twenty-one, which shall be open to the public at all reasonable times; he shall furnish a certificate of registration to each of such nurses, which may be renewed at the expiration of five years, upon payment of one dollar to the secretary of the board; the applicant for renewal of a certificate shall give at least three months' notice, by registered letter, of the expiration of said certificate, and shall submit an affidavit showing his or her identity. The board shall submit to the governor on or before the first day of January in each year, a general statement of the work of the board for the year preceding; including therein a statement of the number of applicants received during the year, the number approved, and the number rejected.

**Sec. 20. Time of examinations fixed; notice; eligibility for examination; subjects in which applicants shall be examined.** 1915, c. 139, § 4. At each annual meeting and at such special meetings as said board may deem necessary to hold for that purpose, the board shall examine all applicants for registration, to determine their qualifications for the efficient nursing of the sick, and shall decide upon the qualifications of every such applicant and give notice of their decision within three months from the date of such examination. Notice of each meeting, whether annual or special, shall be given by publication at least one month previous to each meeting in such



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newspapers and nursing journals as the board may determine. Application for registration shall be made upon blanks furnished by the board and shall be signed and sworn to by applicant. Any person twenty-one years of age or over, and of good moral character, who shall show to the satisfaction of the board that he or she is a resident of the state, is a graduate of a training school for nurses in good standing, which gives at least a two years' course in a public or private hospital, in which a general course of instruction in the theory and practice of medical, surgical and obstetrical nursing, or in case of male nurses, of genito-urinary work instead of obstetrics, is given, or has had such experience obtained by affiliation or post-graduate work, shall be eligible for such examination upon payment of a fee of five dollars, to be deposited upon the filing of the application for examination. The board shall provide a schedule of the subjects upon which applicants shall be examined for registration. The examination shall be oral and written and shall include the subjects of elementary anatomy and physiology, materia medica, medical, surgical and obstetrical nursing, dietetics, home sanitation and nursing. If such applicant shall pass said examination to the satisfaction of the board, he or she shall receive a certificate of registration.

**Sec. 21. Registration without examination.** 1915, c. 139, § 5. Any resident of the state twenty-one years of age or over, and of good moral character, applying for registration within two years from the third day of July in the year nineteen hundred and fifteen, who shall, by affidavit or otherwise, show to the satisfaction of the board that he or she is a graduate of a training school for nurses, which gives at least a two years' course in a public or private hospital, where a general course of instruction is given, or that he or she was, on said third day of July, a student in such a training school for nurses, and afterwards was graduated therefrom, shall be eligible for registration without examination, upon the payment of a fee of five dollars. The board may register in like manner without examination, upon payment of a fee of like amount, any person who has been registered as a professional nurse in another state under laws, which in the opinion of the board, maintain a standard substantially similar to that maintained in this state, and which extends a similar privilege to nurses registered in this state.

**Sec. 22. Registration may be canceled.** 1915, c. 139, § 6. Said board may cancel the registration of any person who has been convicted of any felony, or of any crime or misdemeanor in the practice of the profession of nursing.

**Sec. 23. Unlawful to practice professional nursing without certificate after certain date; penalty.** 1915, c. 139, § 7. No person shall practice professional nursing in this state as a registered nurse without having a certificate of registration. A nurse who has received such certificate and pin shall be styled and known as a "Registered Nurse," and no other person shall assume such title, use the pin, the abbreviation "R. N." or any other words, letters or figures to indicate that the person using the same is a registered nurse. Whoever violates any provision of the five preceding sections, or wilfully makes a false representation to said board in applying for a certificate of registration, shall be punished by fine of not more than

one hundred dollars; provided, that nothing in this section or in the five preceding sections shall apply to the acts of any person nursing the sick, who does not represent himself or herself to be a registered nurse. The board shall cause to be presented to the proper prosecuting officer evidence of any violation of this section or of the five preceding sections, and may incur any necessary expenses in the performance of this duty, which expenses shall be paid out of the receipts of said board.

### Registration of Dentists.

**Sec. 24. Lawful practitioners of dentistry.** 1913, c. 53, § 1. Only those persons who were in the lawful practice of dentistry on the thirteenth day of March, nineteen hundred and thirteen, and those who may thereafter receive certificates as hereinafter provided, shall be deemed lawful practitioners of dentistry in the state.

**Sec. 25. Appointment of board of dental examiners; vacancies; removal.** 1913, c. 53, §§ 2, 3, 4. The governor with the advice and consent of the council, shall appoint a board of dental examiners, consisting of five members of the dental profession, who shall be graduates of a reputable dental college, and who shall have been in the actual practice of dentistry in this state for at least five years immediately preceding the appointment. One member shall be appointed annually, as the terms of the present members expire, to hold office for five years from the first day of January. After five years from the thirteenth day of March, nineteen hundred and thirteen, no person shall be eligible to appointment on said board who shall have served ten years or more on a dental examining board in this state. Any vacancy in said board shall be filled by the appointment of a person qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. The governor, with the advice and consent of the council, may remove any member of said board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

**Sec. 26. Election of officers; quorum; annual report; records shall be public.** 1913, c. 53, § 5. The board shall, at its annual meeting, elect from its members, a president and a secretary. They shall hold at least one meeting annually at the state house between the first day of May and the first day of August, to examine applicants for certificates to practice dentistry in the state; three members shall constitute a quorum. They may make such rules, not contrary to law, as they may deem necessary for the performance of their duties, and shall conduct theoretical and practical examinations upon such subjects pertaining to dentistry as are hereinafter prescribed. They shall annually make a report of their proceedings to the governor, and shall furnish to the secretary of state a list of persons to whom certificates have been granted during the year. A record of proceedings kept by the secretary of the board, shall be open for public inspection at reasonable times.

See c. 117, §§ 54, 55.

**Sec. 27. Qualifications of applicant for examination.** 1913, c. 53, § 6. All persons applying for examination and a certificate to practice dentistry in this state, shall be twenty-one years of age, of good moral character,

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and shall have received a preliminary education equivalent to that required for graduation from high schools in this state, and shall be graduates of a dental college or dental department of a medical college or university, duly authorized to grant degrees in dentistry.

**Sec. 28. Applications for examination; subjects included in examination; re-examinations.** 1913, c. 53, § 7. Not less than ten days prior to the date upon which an examination is held, each applicant for certificate to practice dentistry shall file an application for examination and pay to the secretary of this board a fee of twenty dollars and present himself for examination at the first regular meeting of the board after such application is filed. Such fee shall not be refunded unless from sickness or other good cause appearing to the satisfaction of the board, such applicant was prevented from attending and completing such examination. The examination shall be practical and theoretical. The theoretical examination may be written or oral, or both, at the option of said board, and shall include the subjects of anatomy, physiology, chemistry, histology, bacteriology, pathology, materia medica, therapeutics, anaesthetics, anaesthesia, operative dentistry, crown and bridge work, prosthetic dentistry, orthodontia and oral hygiene. The board shall also require as part of the examination a demonstration of the candidate's skill in operative dentistry and mechanical dentistry. An applicant who fails to pass the first examination to the satisfaction of the board shall be entitled to one re-examination without charge, and the fee for any subsequent examination shall be ten dollars.

**Sec. 29. Certificate under seal; to be displayed.** 1913, c. 53, §§ 8, 16. Said board shall issue under its seal, to all persons who shall successfully pass said examination, its certificate to practice dentistry in this state, signed by its president and secretary. Whoever engages in the practice of dentistry in this state shall keep his certificate in a conspicuous place in the operating room or rooms in which he practices.

**Sec. 30. Certificate may be issued to practitioners from other states.** 1913, c. 53, § 9. 1915, c. 307. The board may at its discretion without the examination as hereinbefore provided, issue its certificate to any applicant therefor who shall furnish proof, satisfactory to the board, that he has been duly licensed to practice dentistry in another state after full compliance with the requirements of its dental laws; provided, however, that if licensed to practice dentistry in said other state after the first day of January, nineteen hundred thirteen, his professional education shall not be less than is required in this state, and provided that such applicant shall have been at least five years in actual practice in the state in which said license was granted. Every certificate so given shall state upon its face the grounds upon which it is granted, and the applicant may be required to furnish his proof upon affidavit. The fee for such a certificate shall be twenty dollars.

**Sec. 31. Fee for a duplicate certificate.** 1913, c. 53, § 10. An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of five dollars.

**Sec. 32. Dentist may prescribe drugs or medicines, etc.** 1913, c. 53, § 11. A dentist or dental surgeon shall have the same rights to prescribe

drugs or medicines, perform such surgical operations, administer general and local anaesthetics and use such appliances as may be necessary to the proper treatment of the special class of diseases mentioned in sections twenty-four to forty, both inclusive, as is enjoyed by registered physicians in this state.

**Sec. 33. Board may revoke certificate obtained by fraud. 1913, c. 53, § 13.** Said board may revoke a certificate obtained by fraud or misrepresentation, or if the person named therein uses intoxicants or drugs to such an extent as to render him unfit to practice dentistry, or is guilty of immoral or unprofessional conduct, or convicted of felony.

**Sec. 34. No certificate shall be revoked without hearing. 1913, c. 53, § 14.** No action to revoke a certificate shall be taken until the accused shall be furnished a statement in writing of the charges against him and notice of the time and place of a hearing thereon. The statement of charges and notice shall be served personally upon the accused or mailed to his last known address at least twenty days prior to the hearing. The accused may be present at the hearing in person and may be represented by counsel. If upon such hearing the board finds the charges are true, it may revoke the certificate of the accused. Such revocation shall deprive the person named in the certificate of all rights and privileges acquired thereby, and said board shall not re-empower anyone, whose certificate has been revoked for any of the above causes, to practice dentistry within one year after such revocation, and then only upon sufficient assurances and guarantees to said board, of correct future conduct. A second revocation of any certificate shall be perpetual.

**Sec. 35. Appeal from decree of revocation. 1913, c. 53, § 15.** A person whose certificate has been revoked may file with the secretary, within thirty days after the decision of the board, a written notice of appeal therefrom. Upon receiving such notice the secretary shall transmit the record of the proceedings to the governor and attorney-general; and they shall review the proceedings as disclosed by the record, and their decision affirming or over-ruling the action of the board shall be final.

**Sec. 36. Term "Practicing dentist" defined; persons excepted. 1913, c. 53, §§ 17, 18.** A person shall be regarded as practicing dentistry who is manager, proprietor, operator, or conductor of a place for performing dental operations, or who for a fee, salary or other reward paid or to be paid either to himself or to another person, performs dental operations of any kind, treats diseases or lesions of human teeth or jaws, attempts to correct malpositions thereof, or who uses the words dentist, dental surgeon, the letters D. D. S. or D. M. D., or any other letter or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry; provided, that nothing in sections twenty-four to forty, both inclusive, shall apply to a legally qualified physician or surgeon, unless he is practicing dentistry as a specialty, or to a legal practitioner of dentistry of another state making a clinical demonstration before a dental society, convention or association of dentists.

**Sec. 37. Penalty for practicing dentistry without certificate, or under a false name, or making false representations; subsequent convictions, penal-**

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**ties. 1913, c. 53, § 19.** Whoever practices dentistry without obtaining the certificate required by law, or whoever, being manager, proprietor, operator or conductor of a place for performing dental operations, employs a person who is not a lawful practitioner of dentistry in this state, to do dental operations as defined in section thirty-six of this chapter, or permits such persons to practice dentistry under a false name, or assumes a title or appends or prefixes to his name the letters which falsely represent him as having a degree from a dental college, or who impersonates another at an examination held by the board of dental examiners, or who knowingly makes a false application or false representation in connection with such examination, shall be punished by fine of not less than one hundred, nor more than three hundred dollars, or by imprisonment for not less than thirty days, or by both fine and imprisonment. A subsequent conviction shall be punished by the maximum penalties prescribed in this section, and the offender be required to furnish a recognizance conditioned to refrain from further unlawful practice.

**Sec. 38. Members of board shall investigate complaints. 1913, c. 53, § 20.** Each member of the board of dental examiners is constituted an agent, who shall investigate all complaints, and all cases of non-compliance with or violation of the provisions of law relating to the registration of dentists and shall bring all such cases to the notice of the proper prosecuting officers.

**Sec. 39. Diplomas shall not be transferred, or fraudulently altered; penalty. 1913, c. 53, § 21.** Whoever sells or offers to sell a diploma conferring a dental degree or a certificate granted pursuant to the laws of this state, or who procures such certificate or diploma with intent that it shall be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or certificate was conferred, or who with fraudulent intent alters such diploma or certificate, or uses or attempts to use the same when altered, or whoever attempts to bribe a member of the board of dental examiners by the offer or use of money or other pecuniary reward or by other undue influence, shall be punished by fine of not less than one hundred, nor more than two hundred dollars, or by imprisonment for not less than thirty days nor more than sixty days, or by both fine and imprisonment. A subsequent conviction shall be punished by the maximum penalties prescribed in this section.

**Sec. 40. Penalty for other violation; duty of prosecuting officers. 1913, c. 53, §§ 22, 23.** Whoever violates any provision of the sixteen preceding sections, for the violation of which no penalty has been prescribed, shall be punished by fine of not less than fifty, nor more than three hundred dollars, or by imprisonment for not less than ten, nor more than thirty days. A subsequent conviction shall be punished by the maximum penalties prescribed in this section. The several prosecuting officers of this state, on notice from any member of the board, shall institute prosecutions for offenses under the sixteen preceding sections.

### Registration in Optometry.

**Sec. 41. Appointment of board of registration in optometry; tenure; vacancies; removal of members.** 1909, c. 105, § 1. The governor with the advice and consent of the council, shall appoint a board to be known as the Maine State Board of Registration and Examination in Optometry, consisting of five persons, three of whom shall have been resident opticians, engaged in the actual practice of optometry in this state for a period of five years prior to their appointment; one, an oculist who in like manner has been engaged in the practice of his profession for five years prior to his appointment; and one, a physician in actual practice; not more than three members of the board shall belong to the same political party. They shall be appointed for terms of three years each, as the terms of the present members expire, and each shall hold office until his successor is appointed and qualified. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office for cause, by the governor, with the advice and consent of the council. The board shall have a common seal.

**Sec. 42. Officers; meetings.** 1909, c. 105, § 2. The board shall annually elect from its members a president and a secretary, who shall be treasurer; they shall severally have authority, during their term of office, to administer such oaths and take such affidavits as are required by the provisions of the thirteen following sections, certifying thereto under their hand and the seal of the board. The board shall meet at least once in each year at Augusta; and, in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall constitute a quorum. The secretary shall keep a full record of the proceedings of said board, which shall be open to public inspection at all reasonable times. The board shall from time to time establish and record, in a record kept for that purpose, a schedule of the minimum requirements which must be complied with by applicants for examination before they can be examined or receive a certificate. In like manner the board shall establish and put on record a schedule of the minimum requirements and rules for the recognition of schools of optometry, so as to keep the requirements of proficiency up to the average standard of other states. But no rule or requirement shall be made that is unreasonable, or that contravenes any provision of the thirteen following sections.

See c. 117, §§ 54, 55.

**Sec. 43. Examination before beginning practice; fees; registration.** 1909, c. 105, § 3. Every person before beginning the practice of optometry in this state shall pass an examination before the state board of registration and examination in optometry. Such examination shall be confined to such knowledge as is essential to the practice of optometry. Any person, having signified to said board his desire to be examined, shall appear before the board at such time and place as they may designate, and before such examination shall pay to said board the sum of five dollars, and if he shall successfully pass said examination shall pay to said board a further sum of ten dollars, on the issuance to him of a certificate. All persons

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successfully passing such examination shall be registered in a record which shall be kept by the secretary of said board, as licensed to practice optometry, and shall also receive a certificate of such registration to be signed by the president and secretary of said board.

**Sec. 44. Practice of optometry defined.** 1909, c. 105, § 4. The practice of optometry is defined as follows: The employment of mechanical means for testing and measuring the refractive and accommodative conditions of the eye, without the employment of drugs or medicine, and the measuring and grinding of lenses, the fitting, bending and adjusting of spectacles and eyeglasses with lenses for the betterment of vision; provided, that the fitting or peddling of spectacles and eyeglasses by itinerant opticians prior to the third day of July, nineteen hundred and nine, shall not be construed to mean the practice of optometry within the meaning of this section.

**Sec. 45. Unlawful to practice unless registered; exceptions.** 1909, c. 105, §§ 5, 6. No person shall practice optometry in this state, unless he shall first obtain a certificate of registration from the state board of registration and examination in optometry, and file the same with the clerk of the supreme judicial court of the county in which he proposes to practice, as hereinafter provided; but sections forty-three to fifty-five, both inclusive, shall not apply to physicians and surgeons authorized to practice medicine and engage therein under the laws of the state, nor to resident merchants so long as they sell spectacles as any other piece of merchandise without representation of qualification in the practice of optometry on the part of the seller.

**Sec. 46. Certificate may be issued to certain persons without examination.** 1909, c. 105, § 7. Upon application and the payment of the sum of five dollars said board shall issue, without the prescribed examination, to persons practicing optometry in those states which, in the opinion of the board, maintain a standard in the requirements of the practice of optometry equal to the standard of this state, a certificate to practice in this state, which certificate shall be filed in the same manner as that issued to residents of the state; provided, however, that such certificate shall be issued only to the residents of such states as allow similar privileges to residents of this state.

**Sec. 47. Certificate recorded by clerk of courts.** 1909, c. 105, §§ 10, 14. Every person receiving a certificate under the provisions of section forty-three shall present the same for record to the clerk of the supreme judicial court of the county in which he intends to practice, and the clerk shall record the same. Whoever neglects or refuses to file such certificate for record, within thirty days after the issuance thereof, forfeits the same.

**Sec. 48. Clerk shall issue license.** 1909, c. 105, § 12. The clerk of the supreme judicial court of the county in which an applicant so intends to practice, shall issue to the person presenting such certificate a license over his official seal in the following form:

State of Maine, County of \_\_\_\_\_ ss:  
I, \_\_\_\_\_, clerk of the supreme judicial court of \_\_\_\_\_ county,  
in the State of Maine, do hereby certify that \_\_\_\_\_ has complied with  
the laws of Maine relating to the practice of optometry in the county and  
state aforesaid.

Witness my hand and seal of said court this \_\_\_\_\_ day of \_\_\_\_\_, Clerk.

Sec. 49. New license. 1909, c. 105, § 11. Whenever the holder of an optometrist's license, changes his residence from one county to another in this state, he shall obtain a new license in the county where he proposes to reside, by filing with the clerk of the supreme judicial court for such county the license obtained by him in the county in which he last resided, in the same manner as on the presentation of his certificate from the state board of registration and examination in optometry, and the clerk shall issue to him a new license.

**Sec. 50. Certificate displayed in office.** 1909, c. 105, § 15. Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted. Whenever practicing the profession of optometry outside of, or away from said office or place of business, he shall deliver to each customer or person so fitted with glasses, a bill of sale, which shall contain his signature, home post-office address, and the number of his certificate of registration.

Sec. 51. Duplicate lists of certificates and licenses shall be furnished. 1909, c. 105, § 13. The clerk of courts in each county shall furnish annually on the first day of January to the state board of registration and examination in optometry, upon blanks furnished by such board, a duplicate list of all certificates received and licenses issued by him during the preceding year, and shall include therein the date of issue of such license, and the name and residence of the person receiving the same.

Sec. 52. Annual report. 1909, c. 105, § 16. The board shall make an annual report of its proceedings to the governor on the first Monday in January of each year, which shall contain an account of all moneys received and disbursed by them.

**Sec. 53. Annual license fee.** 1909, c. 105, § 17. Every registered optometrist shall annually, before the first day of April, pay to the state board of registration and examination in optometry the sum of two dollars as a license fee for such year; and in case of default in such payment by any person his certificate may be revoked by the board.

Sec. 54. Refusal to grant certificate. 1909, c. 105, § 18. The board may refuse to grant a certificate to any person guilty of felony, gross immorality or habitual drunkenness, or affected with contagious or infectious disease; and may, after notice and hearing, revoke a certificate and any license which may have been granted thereon, for like cause.

Sec. 55. **Penalty; prima facie evidence of engaging in practice.** 1909, c. 105, §§ 19, 20. Whoever engages in the practice of optometry in this state without first having obtained a license as provided in section forty-eight or as provided in section forty-nine in case of a change of residence,



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shall be deemed guilty of a misdemeanor, and shall be punished by fine of not less than fifty dollars, nor more than two hundred dollars. To open an office for the purpose of practicing optometry or to announce to the public in any way an intention to practice optometry in any county in the state shall be prima facie evidence of engaging in the practice of optometry within the meaning of this section.

**Registration of Veterinary Surgeons.**

**Sec. 56. Appointment of board of veterinary examiners; vacancies; removal of members.** 1905, c. 17, § 1. The governor with the advice and consent of the council, shall appoint a board of veterinary examiners, consisting of three veterinary surgeons, residents in the state, who shall be graduates of a legally chartered veterinary college or university having authority to confer degrees in veterinary surgery, and who shall have been actively engaged in the practice of their profession for a period of at least five years. One member shall be appointed annually, as the terms of the present members expire, and hold office for three years. Any vacancy in said board shall be filled by the appointment within thirty days after such vacancy occurs, of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office for cause, by the governor, with the advice and consent of the council.

**Sec. 57. Organization and officers; president may administer oaths and take testimony; annual report.** 1905, c. 17, §§ 2, 8. 1913, c. 208, § 1. The board shall organize annually in the month of May by the election from its members of a president and a secretary who shall be treasurer, and may adopt such rules, not in conflict with the laws of the state, as they may deem proper to carry into effect the provisions of the five following sections. They shall adopt a seal which shall be affixed to all certificates issued by them in accordance with section sixty. The president of said board may administer oaths and take testimony for the proper enforcement of the five following sections and the rules established by said board. The treasurer shall annually, on the first day of April make written report to the governor and council of all receipts and expenditures of said board.

See c. 117, §§ 54, 55.

**Sec. 58. Practitioners to obtain a certificate.** 1905, c. 17, §§ 3, 4. 1907, c. 89, §§ 1, 2. 1911, c. 18, § 1. 1913, c. 208, §§ 2, 3. It shall be unlawful for any person not previously registered to practice veterinary surgery, medicine, or dentistry, or any branch thereof, within the state, without having obtained a certificate from the state board of veterinary examiners and being registered as provided in section sixty. Any person shall be regarded as practicing veterinary surgery, medicine, or dentistry, or any branch thereof, within the meaning of this section, who has publicly professed to be a veterinary surgeon, or has prescribed for sick or injured animals and accepted fees for such services, or has attached to his name the title "V. S." or "Veterinary Surgeon," or any veterinary title ordinarily used. Nothing in this section shall be construed as prohibiting the performance of services rendered by anyone in the case of emergency, or prohibiting any person

from practicing veterinary medicine, surgery, or dentistry, on any animal belonging to himself; nor shall this section be construed as prohibiting castration of animals by any resident of this state.

**Sec. 59. Meetings of the board. Examination of applicants.** 1905, c. 17, §§ 5, 10. 1907, c. 89, § 3. 1913, c. 208, § 4. The board shall meet as a board of examiners in the city of Augusta, on the second Monday in January and July of each and every year, when there are applicants for examination, and at such other times and places as they may find necessary for the performance of their duties. All persons who commence the practice of veterinary surgery, medicine, or any branch thereof, within the state, after the first day of May, nineteen hundred and five, shall pass an examination to the satisfaction of the board. Applicants for examination shall file with the secretary of the board their written request for such examination, and pay to the treasurer of said board a fee of five dollars before taking such examination.

**Sec. 60. Board of examiners shall issue certificates; certificates shall be recorded.** 1905, c. 17, § 6. 1913, c. 208, § 5. The board of veterinary examiners shall issue certificates signed by the president and secretary, to all persons passing the examination required under the preceding section, authorizing the holder to practice veterinary surgery, medicine, or dentistry, or any branch thereof, within the state. Said certificate shall be recorded in the office of the clerk of the supreme judicial court in the county wherein the holder resides at the time of passing said examination, and in the absence of the original certificate an attested copy of such record shall be received as evidence in all courts within the state, of the right of the person therein named to practice veterinary surgery, medicine, or dentistry, or any branch thereof, within the state. Any veterinarian, not a graduate of some legally chartered veterinary college or university, desiring to render professional services for the State of Maine, in any of its departments, shall at the request of the live stock sanitary commissioner, submit himself to an examination before said board as to his fitness to perform the service.

**Sec. 61. Board of examiners shall keep record.** 1905, c. 17, § 7. The board of veterinary examiners shall keep a record of all practitioners who shall qualify under the provisions of the preceding section; and register therein the name, age, and time spent in the study and practice of veterinary surgery, medicine and dentistry, and, if a graduate, the name and location of the school or college granting his diploma. Such record shall be open to public inspection at all times, within reasonable hours, at the office of the secretary of the board.

**Sec. 62. Penalty.** 1905, c. 17, § 9. 1907, c. 89, § 4. 1913, c. 208, § 6. Any person who shall practice veterinary surgery, medicine, or dentistry, or any branch thereof, in the state without complying with the provisions of the six preceding sections shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not more than thirty days.

## CHAPTER 19.

### The Public Health and the Prevention of Contagious Diseases.

Sections	1- 24	The State Board of Health.
Sections	25- 35	Registration of Undertakers.
Sections	36- 38	State Laboratory of Hygiene.
Sections	39- 45	Local Boards of Health.
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Sections	122-124	Treatment of Persons suffering from Opiates.

### The State Board of Health.

**Sec. 1. State board of health; appointment; election of secretary. R. S. c. 18, § 1.** The state board of health as heretofore established shall consist of six members, appointed by the governor, with the advice and consent of the council, and a secretary elected as hereinafter provided. The governor, with the advice and consent of the council, shall annually appoint a member of said board to hold office for six years from the thirty-first day of January of each year; any vacancy occurring during a term among the members so appointed shall be filled in like manner for the remainder of the term. The members so appointed by the governor shall elect a secretary, who shall, by virtue of such election, become a member of the board, and its executive officer. The board may elect one of their own number secretary, in which case his term of office as a member by appointment of the governor shall expire, and the governor, with the advice and consent of the council, shall appoint another member to complete the full number of the board.

**Sec. 2. Duties of board; biennial report. R. S. c. 18, § 2. 1915, c. 338, § 1.** The state board of health shall have the general supervision of the interests of health and life of the citizens of the state. They shall study the vital statistics of the state, and endeavor to make intelligent and profitable use of the collected records of deaths and of sickness among the people; they shall make sanitary investigations and inquiries respecting the causes of disease and especially of communicable diseases and epidemics, the causes of mortality, and the effects of localities, employments, conditions, ingesta, habits and circumstances on the health of the people; they shall investigate the causes of disease occurring among the stock and domestic animals in the state, and the methods of remedying the same; they shall

gather such information in respect to all these matters as they may deem proper for diffusion among the people; they shall, when required or when they shall deem it best, advise officers of the government, or other boards within the state, in regard to the location, drainage, water supply, disposal of excreta, heating and ventilation of any public institution or building; they shall from time to time examine and report upon works on the subject of hygiene for the use of the schools of the state; they shall have general oversight and direction of the enforcement of the statutes respecting the preservation of health; and they shall as soon as practicable after the close of each year which is indicated by an odd number, report to the governor and council their doings, investigations and discoveries during the biennial period just ended, with such suggestions as to legislative action as they may deem necessary.

**Sec. 3. Meetings of board; quorum; may choose president and adopt rules and by-laws; may conduct investigations.** R. S. c. 18, § 3. 1915, c. 338, § 2. The board shall meet quarterly and at such other times as they may deem expedient. Their meetings may be held in Augusta or in such other places as the exigencies or circumstances of their service may require. Suitable accommodations for the meetings of the board, and office room for its secretary shall be provided at the state capitol. A majority shall be a quorum for the transaction of business. They shall choose annually one of their number to be their president, and may adopt rules and by-laws subject to the provisions of this chapter. They may send the secretary, or a representative of the board, to any part of the state, when deemed necessary to conduct an investigation within the scope of their prescribed work, and they may send the secretary or other representative of the board to places outside of the state when it may be deemed necessary for the purpose of making investigations or of conferring with other state or municipal public health authorities at meetings or conventions when said meetings convene for the consideration and discussion of measures for the improvement of the public health.

**Sec. 4. Tenure of secretary; his duties.** R. S. c. 18, § 4. The secretary shall hold his office as long as he shall faithfully discharge the duties thereof; he may be removed for just cause at a regular meeting of the board, by vote of a majority of the members. He shall keep his office at the state capitol, and shall perform the duties prescribed by law, or required by the board. He shall keep a record of the transactions of the board; shall have the custody of all books, papers, documents and other property belonging to the board, which may be deposited in his office; shall, as far as practicable, communicate with other state boards of health, and with the local boards of health within this state; shall keep and file all reports received from such local boards of health and all correspondence of the office appertaining to the business of the board. He shall, as far as possible, aid in obtaining contributions to the library and museum of the board. He shall prepare blank forms of returns, and such instructions as may be necessary, and forward them to the local boards of health throughout the state. He shall collect information concerning vital statistics, knowledge respecting diseases, and all useful information on the subject of hygiene, and, through

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an annual report, and otherwise, as the board may direct, shall disseminate such information among the people.

See c. 64, § 18.

**Sec. 5. Salary; expenses of members allowed.** R. S. c. 18, § 5. The secretary shall receive an annual salary which shall be fixed by the state board of health. The board shall quarterly certify the amount due him, and on presentation of said certificate the governor shall draw his warrant on the treasurer of state for the amount. The members of the board shall receive no compensation for their services, but their traveling and other necessary expenses while employed on the business of the board shall be allowed and paid.

**Sec. 6. Annual appropriation.** R. S. c. 18, § 6. 1909, c. 48, § 1. 1913, c. 43. The sum of seven thousand dollars shall be annually appropriated to pay the salary of the secretary, meet the contingent expenses of the office of the secretary, and the expenses of the board, which shall not exceed the sum appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary.

**Sec. 7. Certain officers and others required to furnish information.** R. S. c. 18, § 7. In order to afford to this board, better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, all officers of the state, the physicians of all incorporated companies, and the president or agent of any company chartered, organized or transacting business under the laws of this state, as far as practicable, shall furnish to the state board of health any information bearing upon public health which may be requested by said board for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.

**Sec. 8. Register of persons affected with tuberculosis.** 1909, c. 78, § 1. The state board of health shall keep a register of all persons in the state who are known to be affected with tuberculosis. The board shall have sole and exclusive control of said register, and shall not permit inspection thereof nor disclose any of its personal particulars, except to its own agents or to local officials when in the interest of the public health and safety it is deemed necessary to do so.

**Sec. 9. Tuberculosis, an infectious disease; duty of physician; duty of officer having charge of hospital.** 1909, c. 78, § 2. Tuberculosis is hereby declared to be an infectious and communicable disease, dangerous to the public health. Every physician in the state shall report in writing, to the secretary of the state board of health within forty-eight hours after the fact comes to the knowledge of said physician, the name, age, sex, color, occupation, place where last employed, if known, and address, of every person known by said physician to have tuberculosis. Such report shall be made on forms furnished by the state board of health. The name of the householder where the tuberculous person lives or boards, and such other facts as may be called for on the blank reports so furnished shall also be included in the report. The chief officer having charge for the time being of any hospital, dispensary, asylum, sanatorium or other similar private or public institution in the state shall report to the state board of health in like man-

ner the name, age, sex, color, occupation, place where last employed, if known, and previous address of every patient having tuberculosis who comes into his care or under his observation, within forty-eight hours thereafter. Such physician or chief officer shall also give notice to the secretary of the state board of health of the change of address of any tuberculous patient who is, or has lately been under his care if he is able to give such information.

Note. Town and city clerks to send copy of certificate of death from tuberculosis, to health officer or secretary of local board of health, c. 64, § 23.

**Sec. 10. Notice of vacancy of apartment occupied by person having tuberculosis.** 1909, c. 78, § 3. Whenever any apartment or premises are vacated by the death or removal therefrom of a person having tuberculosis, the attending physician, or if there be no such physician, or if the physician be absent, the owner, lessee, occupant, or other person having charge of said apartments or premises, shall notify the health officer or secretary of the local board of health of the town, of said death or removal, within twenty-four hours thereafter, and such apartments or premises so vacated shall not again be occupied until duly disinfected, cleansed or renovated as hereinafter provided.

See c. 16, § 44.

**Sec. 11. No infected articles shall be removed from apartments until disinfected; methods of disinfection prescribed by state board of health.** 1909, c. 78, § 4. 1913, c. 67. When notified as provided in the preceding section, that any apartments or premises have been vacated, the health officer or secretary of the local board of health or his agent, shall within twenty-four hours thereafter visit said apartments or premises, and shall order and direct that, except for the purposes of cleansing or disinfection, no infected article shall be removed therefrom until properly and suitably cleansed or disinfected; and said local board of health shall determine the manner in which such apartments or premises shall be disinfected, cleansed, or renovated in order that they may be rendered safe and suitable for occupancy. If the health authorities determine that disinfection is sufficient to render them safe and suitable for occupancy, such apartments or premises together with all infected articles therein, shall immediately be disinfected by the health authorities at public expense, or, if the owner prefers, by the owner at his expense, to the satisfaction of the health authorities; but the methods or processes of disinfection and the material or agencies with which it shall be done shall be those which are advised by the state board of health for work of that kind in connection with tuberculosis.

**Sec. 12. If orders are not complied with, apartments may be placarded.** 1909, c. 78, § 5. In case the orders or directions of the local board of health requiring the disinfection, cleansing, or renovation of any apartments or premises or any articles therein as hereinbefore provided, shall not be complied with within forty-eight hours after such order or directions shall be given, the health officer may cause a placard in words and form substantially as follows to be placed upon the door of the infected apartments or premises:

"Tuberculosis is a communicable disease. These apartments have been occupied by a consumptive and may be infected. They must not be occupied until the order of the health officer directing their disinfection or reno-

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vation has been complied with. This notice must not be removed under penalty of the law except by the local board of health or other duly authorized official."

**Sec. 13. Persons having tuberculosis, shall exercise care; duty of board of health.** 1909, c. 78, § 6. Any person having tuberculosis, who shall dispose of his sputum, saliva, or other bodily secretion or excretion so as to cause offense or danger to any person or persons in the same room or apartment, house, or part of a house, shall, on complaint of any person or persons subjected to such offense or danger, be deemed guilty of a nuisance; and any person subjected to such a nuisance may make complaint in person or writing to the local board of health of any town where the nuisance complained of is committed. The local board of health upon receiving such complaint shall investigate, and if it appears that the nuisance complained of is such as to cause offense or danger to any person in the same room, apartment, house, or part of a house, they shall serve a notice upon the person so complained of, reciting the alleged cause of offense or danger, and requiring him to dispose of his sputum, saliva, or other bodily secretion or excretion in such manner as to remove all reasonable cause of offense or danger. Any person failing or refusing to comply with orders or regulations of the local board of health of any town, requiring him to cease to commit such nuisance, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by fine of not more than ten dollars.

**Sec. 14. Duty of physician.** 1909, c. 78, § 7. Any physician attending a patient having tuberculosis shall take all proper precautions, and shall give proper instructions to provide for the safety of all individuals occupying the same house or apartment, and if no physician be attending such patient this duty shall devolve upon the local board of health; all duties imposed upon physicians by sections eight to eighteen, both inclusive, shall be performed by the local board of health in all cases of tuberculosis not attended by a physician, or when the physician fails to perform the duties herein specified, and shall so report.

**Sec. 15. Precautionary measures; cases of needy patients.** 1909, c. 78, § 8. The precautionary measures carried out by physicians, local boards of health, and others to prevent the transmission of infection to other persons shall be in accordance with the advice given by the state board of health in its printed circulars, and reports to the state board of health shall include a statement of what procedures and precautions have been taken to prevent the spread of infection. In cases of needy patients who are not able to provide themselves with proper spit-cups and other supplies or material in the opinion of the attending physician needed to prevent the communication of infection, the physician may send a requisition to the local board of health of the town in which the tuberculous patient lives, for such supplies and material to aid him in preventing the spread of the disease, and all local health officers or secretaries of local boards of health shall honor, so far as possible, any requisition signed by the attending physician, and the bill for these supplies shall be paid by the town.

See § 71.

**Sec. 16. Penalty for false statement by physician.** 1909, c. 78, § 9. Any physician, or person practicing as a physician, who shall knowingly

report as affected with tuberculosis any person who is not so affected, or who shall wilfully make any false statement concerning the name, age, sex, color, occupation, or other facts called for on the blanks prepared by the state board of health, of any person reported as affected with tuberculosis, or who shall certify falsely as to any of the precautions taken to prevent the spread of infection, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than one hundred dollars.

**Sec. 17. Cases of recovery reported.** 1909, c. 78, § 10. Upon the recovery of any person having tuberculosis, the attending physician shall make a report of this fact to the secretary of the state board of health, who shall record the same in the records of his office, and shall relieve said person from further liability to any requirements imposed by the nine preceding sections.

**Sec. 18. Penalty.** 1909, c. 78, § 11. Any person violating any provision of the ten preceding sections shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished, except as herein otherwise provided, by a fine of not less than five dollars nor more than fifty dollars.

**Sec. 19. Cases of suspected poisoning to be reported.** 1913, c. 82, § 1. Every physician attending upon or called to visit a person whom he believes to be suffering from poisoning from lead, phosphorus, arsenic or mercury, or their compounds, or from anthrax, or from compressed air illness, or any other ailment or disease contracted as a result of such person's occupation or employment, shall, within ten days after his first attendance upon such person, send to the state board of health a written notice, stating the name, post-office address and place of employment of such person, the nature of the occupation and the disease or ailment from which, in the opinion of the physician, the person is suffering, with such other specific information as may be required by the board.

**Sec. 20. Cases of supposed lead poisoning, how investigated.** 1913, c. 82, § 2. In like manner, as is provided in the preceding section, every case of lead poisoning and of suspected lead poisoning, which has resulted from the use of water, which contains lead or is suspected of containing lead, shall be reported to the state board of health; and when such reports are received, the said board shall assist, by laboratory work and otherwise, the attending physician to determine whether the case is one of lead poisoning, and if so, the source of the poison.

**Sec. 21. Penalty; prosecutions.** 1913, c. 82, §§ 3, 4. Any physician who fails to perform the duty imposed by the two preceding sections within the time therein limited, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than five, nor more than ten dollars. The state board of health and the county attorney of the county wherein any such physician resides shall prosecute all violations of said sections which shall come to the knowledge of them or either of them.

**Sec. 22. State board of health may establish system of inspection; authority of inspectors; rules and regulations for guarding against introduction of diseases.** R. S. c. 18, § 8. 1909, c. 48, § 2. 1913, c. 149. 1915, c. 338, § 3. The more effectually to protect the public health the state



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

**Sec. 23. Rules must be approved by governor and council; publication; supersede all local rules. R. S. c. 18, § 9.** Any rules and regulations adopted by the state board of health in the premises shall be immediately submitted by it to the governor and council and unless approved in writing by the governor and council within thirty days after such submission, such rules and regulations shall thereafter become ineffective. Should the governor and council disapprove any rules and regulations so submitted to them within the thirty days and so notify the secretary of the state board of health in writing, the rules and regulations so disapproved shall upon such notification immediately become ineffective and void. Such rules and regulations, if of general application, shall be published in the state paper; but whenever in the judgment of the board it shall be necessary to do so, special rules and regulations, or orders relating to said diseases may

be made for any town, village or city without such publication, and the service of copies of such rules, regulations or orders upon such town, village or city through the officers thereof shall be a sufficient notice thereto; and the rules, regulations or orders of the state board of health made in accordance with the provisions of this section shall, for the time being and until the same are revoked, supersede all local rules, regulations, by-laws or ordinances that may be inconsistent or in conflict therewith.

**Sec. 24. Enforcement of regulations; penalty for refusing to obey rules; authorities required to cooperate with board.** R. S. c. 18, § 10. All health officers, local boards of health, municipal officers, sheriffs, constables, police officers and marshals shall enforce the rules and regulations of the state board of health made as provided in the two preceding sections in every particular affecting their respective localities and duties; and any person who shall neglect or refuse to obey the said rules and regulations, or who shall wilfully obstruct or hinder the execution thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment. And all authorities of every county, city, town and village corporation, all local boards of health, and all officers and persons in charge of the institutions, buildings and vehicles mentioned in section twenty-two shall cooperate with the state board of health in carrying out the provisions of this section and the two preceding sections; and in case such cooperation be refused, withheld or neglected, the said board may execute its orders and directions by agents of its own appointment; and all expenses incurred by members of the state board of health or by duly appointed agents of said board under the provisions of this section shall be paid by the state, the bills first being approved by the governor and council.

Note. Authority of state board of health as to construction of mausoleums and burial vaults, c. 21, §§ 21-25; as to prevention of diseases arising from impure milk, c. 37, §§ 7-11.

### Registration of Undertakers.

**Sec. 25. Business of undertaker and practice of embalming regulated; age and qualification; examination.** R. S. c. 18, § 11. 1911, c. 181, § 1. Any person wishing to become an undertaker or an embalmer of dead human bodies, or to engage in the business of caring for and preparing dead human bodies for burial, transportation or cremation, as a regular and permanent business or profession, shall be at least twenty-one years of age with not less than a grammar school education, and shall have practiced embalming dead human bodies for at least twelve months, or shall have had at least one month's practical instruction in embalming and disinfecting under a licensed embalmer; he shall have an intelligent comprehension of such rudiments of anatomy, and of the characteristics of, and the dangers from contagious and infectious diseases, and of the actions and uses of disinfectant agencies, as the state board of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners appointed under the following section, before he is permitted to practice said business or profession within the state.

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**Sec. 26. Board of examiners; tenure; vacancies.** R. S. c. 18, § 15. 1911, c. 181, § 5. The board of examiners shall consist of four members; the secretary of the state board of health shall be a member ex-officio, and shall also be secretary of the board of examiners; three other members, one of whom shall be a member of the state board of health, and the others, practical undertakers and embalmers, shall be appointed by the governor with the advice and consent of the council, at the expiration of the terms of the members now serving, and shall hold office for three years. In case of a vacancy due to death, resignation, or other cause, the vacancy shall be filled by an appointment for the unexpired term, as is provided for original appointments.

See c. 117, §§ 54, 55.

**Sec. 27. Examinations for license; board may revoke license.** R. S. c. 18, §§ 12, 13, 14. 1911, c. 181, §§ 2, 3, 4. Examinations for licenses shall be given by the board of examiners at least twice a year, at such times and places as they may determine. The examination papers shall contain such questions relating to the subject of embalming and disinfecting as the board may deem necessary to determine the qualifications of the applicant, and if found qualified, a certificate of a licensed embalmer shall be issued to the applicant, under which he shall have legal authority to prepare bodies dead of infectious or contagious disease for transportation, and to do any work coming within the province of said vocation. The board of examiners may revoke, for cause, any license issued by it, and failure to comply with the law and the regulations of the state board of health shall be deemed sufficient cause for the revocation of a license.

**Sec. 28. Blanks and forms of procedure.** R. S. c. 18, § 16. 1911, c. 181, § 6. The state board of health may adopt such blanks and forms of procedure as it may deem necessary and best to carry out the provisions of sections twenty-five to thirty-four, both inclusive, and shall keep on file a list of all registered and licensed embalmers and a record of examinations, together with the examination papers, all of which shall be open to public inspection.

**Sec. 29. Record kept by board of examiners; report to state board of health.** R. S. c. 18, § 17. 1911, c. 181, § 7. The board of examiners shall keep a record, containing the names and residences of all persons licensed hereunder, and a record of all moneys received and disbursed by said board, and said records, or duplicates thereof, shall always be open to inspection in the office of the secretary of the state board of health during regular office hours. The board of examiners shall report to the state board of health, on or before the first day of May in each year, a full and complete account of all its official acts during the year, together with a statement of the receipts and disbursements of the board and such comment as may be deemed proper.

**Sec. 30. Fees.** R. S. c. 18, § 18. 1911, c. 181, § 8. The fee for examination under section twenty-seven shall be five dollars; for the issuing or renewal of any license under section thirty-one one dollar and for the revival and renewal of any license two dollars. The money thus received shall constitute a permanent fund for carrying on the work of the board;

and the expenses for printing, stationery, and postage, and all other expenses necessarily incurred under sections twenty-five to thirty-four, both inclusive, and the compensation of the members of the board of examiners, shall be paid therefrom.

**Sec. 31. Expiration and renewal of license.** 1911, c. 181, § 9. 1915, c. 310. All licenses which have been, or may be issued to undertakers by the board of examiners, shall expire on the thirty-first day of December annually, provided, that the licenses hereafter issued shall be valid and shall not expire until the last day of the following year. Any person holding an embalmer's license issued under the provisions of section twenty-seven may have the same renewed by making and filing with the secretary of said board of examiners an application therefor within thirty days preceding the expiration of his or her license, upon blanks prescribed by said board and upon payment of one dollar renewal fee; provided, however, that any person neglecting or failing to have his or her license renewed as above, may have the same renewed by making application therefor within thirty days after date of expiration, and upon payment of two dollars revival and renewal fees.

**Sec. 32. List of licensed embalmers, supplied to transportation companies.** 1911, c. 181, § 10. In the month of January of each year, the secretary of the board of examiners shall supply each licensed embalmer, and the secretary of the state board of health shall supply the various transportation companies within this state, with a list of all embalmers holding licenses, then in force, giving the names of such persons, their business addresses and the numbers of their licenses.

**Sec. 33. Holder of license shall be notified of the expiration of same; holder of license, not renewed, shall be notified.** 1911, c. 181, § 11. The secretary of the board of examiners shall, at least ten days prior to the expiration of any license, mail to the holder of any license about to expire a notice, advising him to that effect, and enclosing a blank application for renewal thereof. The secretary of said board shall also mail a notice to each holder of a license that has not been renewed in accordance with the foregoing provisions, advising him of the expiration of his license, and of the penalty of embalming dead human bodies without holding a license, and the condition and terms upon which his license may be revived and renewed. All notices required to be mailed by provisions of this section shall be directed to the last known post-office of the party to whom the notice is addressed.

**Sec. 34. Injection of fluid in case of accidental or sudden death, regulated.** R. S. c. 18, § 19. 1911, c. 181, § 12. No person shall inject into any cavity or artery of the body of any person who has died from an accidental or sudden death or under suspicious circumstances, any fluid or substance until a legal certificate of the cause of death from the attending physician or coroner has been obtained, nor until a legal investigation has determined the cause of death. If a criminal cause of death is alleged or suspected, no fluid or other substance shall be injected into a body until the cause of death is legally established.

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**Sec. 35. Penalty for violation.** 1911, c. 181, § 13. Whoever violates any provision of the ten preceding sections, or any rule or regulation prescribed by the state board of health for the preparation, embalming, shipping or burial of any dead human body shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, or imprisonment in the county jail for not less than ten days, nor more than sixty days, and the county attorney of the county in which violation occurs shall prosecute all such persons.

**State Laboratory of Hygiene.**

**Sec. 36. State laboratory of hygiene, authorized.** R. S. c. 18, § 21. The state board of health may establish and equip with the proper and necessary apparatus, instruments and supplies a state laboratory of hygiene, for the chemical and bacteriological examination of water supplies, milk and food products, and the examination of cases and suspected cases of diphtheria, typhoid fever, tuberculosis, glanders and other infectious and contagious diseases.

**Sec. 37. Appointment of director; his duties; annual report; services shall be free.** R. S. c. 18, § 22. The state board of health shall appoint a director of such laboratory, who shall hold that position at the pleasure of the board. He shall keep a record of all specimens sent to him for examination, and examine these specimens without unnecessary delay, and do such other work, and make such other investigations relating to the public health as said board may from time to time direct. He shall annually in the month of January make a full report to the board of all matters pertaining to the laboratory, and shall make such other and special reports as the board may require. The kind and amount of the work he shall do and the compensation therefor shall be fixed by said board. The services of the laboratory and all investigations therein made shall be free to the people of the state.

**Sec. 38. Appropriation.** R. S. c. 18, § 23. 1907, c. 26. 1913, c. 40. 1915, c. 274. The sum of six thousand five hundred dollars a year is hereby appropriated to pay for the services of the director, and of such assistants as may be necessary, to procure the necessary supplies, and to meet the other necessary expenses of said laboratory, which sum shall be expended under the supervision of the state board of health.

**Local Boards of Health.**

**Sec. 39. Local boards of health, established; appointment; tenure; vacancies.** R. S. c. 18, § 24. There shall be a local board of health in each city and town in the state, to be composed of three members appointed by the municipal officers, anything in the charter of such city to the contrary notwithstanding; the board first appointed in any town shall be appointed to serve, one for three years, one for two years, and one for one year, and thereafterwards the municipal officers in each town shall annually before the fifteenth day of April, appoint a member of such board to serve three years, and to hold office until another is appointed in his stead. Any vacancy arising from any cause, shall be filled for the unexpired term at the first meeting thereafter, of the municipal officers. If for any reason, the

appointments are not made at said date, the same shall be made as soon as may be thereafter.

**Sec. 40. State board of health may appoint local boards, if towns fail to appoint.** R. S. c. 18, § 25. If the municipal officers of any city or town shall fail to appoint a local board of health, or to fill any vacancy in said board, in accordance with the provisions of the preceding section, the secretary of the state board of health may in writing request such municipal officers to make such appointment, and if the municipal officers shall neglect or refuse to do so for a period of thirty days after receiving such written request, the state board of health may appoint such local board of health, or fill any vacancy therein.

**Sec. 41. Annual meetings.** R. S. c. 18, § 26. Before the fifteenth day of May in each year, the board of health shall meet for the transaction of business, and shall choose a chairman and secretary from their number.

**Sec. 42. Duties of officers.** R. S. c. 18, § 27. The chairman shall preside at all meetings of the board. The secretary shall, in a book kept for that purpose, make and keep a record of all the proceedings at the meetings and of all transactions, doings, orders and regulations of the board of health. The secretary shall be also the executive officer of the board when a health officer is not appointed.

**Sec. 43. Health officer, appointment, qualification, duties and salary.** R. S. c. 18, § 28. The municipal officers may appoint a health officer, who shall be a well-educated physician, who shall be the sanitary adviser and executive officer of the board, and who shall hold office during the pleasure of the board. The municipal officers shall establish his salary or other compensation, and shall regulate and audit all fees and charges of persons employed by each board of health, in the execution of the health laws and of their regulations.

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**Sec. 44. Report to state board.** R. S. c. 18, § 29. The health officer, or where there is no health officer appointed, the secretary of each local board of health, at least once in each year, shall report to the state board of health their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said board. He shall also make special reports whenever required to do so, by the state board of health. He shall, within one week following their meeting and election of officers, report to the secretary of the state board of health, the name and address of each member of the local board, of the chairman and secretary, and of the health officer when one is appointed.

**Sec. 45. Powers and duties.** R. S. c. 18, § 30. 1909, c. 130. 1915, c. 338, § 4. Each local board of health constituted under section thirty-nine shall:

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

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

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III. Guard against the introduction of contagious and infectious diseases, by the exercise of proper and vigilant medical inspection and control of all persons and things coming within the limits of its jurisdiction from infected places, or which for any cause, are liable to communicate contagion; give public notice of infected places, by displaying red flags or by posting placards on the entrances of the premises; require the isolation of all persons and things that are infected with, or have been exposed to, contagious or infectious diseases, and provide suitable places for the reception of the same; and furnish medical treatment and care for persons, sick with such diseases who cannot otherwise be provided for; prohibit and prevent all intercourse and communication with, or use of, infected premises, places and things, and require, and if necessary, provide the means for the thorough cleansing and disinfection of the same before general intercourse therewith, or use thereof, shall be allowed. And it shall report to the state board of health promptly, facts which relate to infectious and epidemic diseases, occurring within the limits of its jurisdiction and shall report to said board every case of such infectious or contagious diseases as the rules and regulations of said board shall require. Those diseases which the rules and regulations of the state board of health may require to be reported shall be known, under the terms of this chapter, as notifiable diseases. Diseases which the state board of health may promulgate as those which shall be quarantined or isolated shall be known as quarantinable diseases.

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

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

**Powers and Duties of Local Boards of Health, and Prevention of Infectious Diseases.**

Sec. 46. Notice to owner of any infected house, etc., requiring same to be disinfected. R. S. c. 18, § 31. When any local board of health is of opinion that the cleansing and disinfecting of any house, building, car, vessel

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

**Sec. 47. Penalty for failure to comply with notice.** R. S. c. 18, § 32. If the person to whom notice is given, fails to comply therewith, he shall be liable to a penalty of not less than five, nor more than ten dollars for every day during which he continues to make default; and the local board of health shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent or occupier in default, by an action of special assumpsit.

**Sec. 48. Notice of existence of any infectious disease.** R. S. c. 18, § 33. 1909, c. 78, § 12. 1915, c. 338, § 5. Whenever any householder knows or has reason to believe that any person within his family or household has smallpox, diphtheria, scarlet fever, cholera, typhus or typhoid fever, cerebro-spinal meningitis, measles, membranous croup, so-called, whooping-cough, or any other disease which is made notifiable by the rules and regulations of the state board of health, he shall within twenty-four hours, give notice thereof to the health officer of the town in which he resides, and such notice shall be given either at the office of the health officer, or by letter or telephone, the communication to be mailed or delivered to him within the time above specified, and in case there is no health officer, to the secretary of the local board of health, either at his office or by communication as aforesaid.

**Sec. 49. Infected person shall not be removed without permission of board.** R. S. c. 18, § 34. 1915, c. 338, § 6. No householder in whose dwelling there occurs any of the notifiable diseases, shall permit any person suffering from any such disease, or any clothing or other property to be removed from his house, without the consent of the board, or of the health officer, and the said board or health officer, shall prescribe the conditions of removal.

**Sec. 50. Children, affected, shall not attend school, etc.** R. S. c. 18, § 35. No parent, guardian or other person, shall carelessly carry about children or others affected with infectious diseases, or knowingly or wilfully introduce infectious persons into other persons' houses, or permit such children under his care, to attend any school, theatre, church or any public place.

**Sec. 51. Physician shall give notice of existence of contagious disease.** R. S. c. 18, § 36. 1915, c. 338, § 7. Whenever any physician knows or has reason to believe that any person whom he is called upon to visit, has or is infected with any of the notifiable diseases, such physician shall forthwith give notice thereof to the secretary of the local board of health, or the health officer of the town in which such person lives.

**Sec. 52. Proceedings in cases of violation of § 51.** R. S. c. 18, § 37. The secretary or health officer of each local board of health in the state,



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

**Sec. 53. Persons affected with smallpox, etc., shall not mingle with the public.** R. S. c. 18, § 38. 1915, c. 338, § 8. No person affected with smallpox, scarlet fever, diphtheria, or other quarantinable disease, and no person having access to any person affected with any of the said diseases, shall mingle with the general public until such sanitary precautions as may be prescribed by the local board of health shall have been complied with.

**Sec. 54. Convalescents and nurses shall not leave premises without certificate from health officer.** R. S. c. 18, § 39. 1915, c. 338, § 9. Persons recovering from smallpox, scarlet fever, diphtheria or other diseases for which disinfection may be required by the state board of health, and nurses who have been in attendance on any person suffering from any such disease, shall not leave the premises until they have received from the board of health or health officer, a certificate that they have taken such precautions as to their persons, clothing and all other things which they propose bringing from the premises as are necessary to insure the immunity from infection of other persons with whom they may come in contact, and no such person shall expose himself in any public place, shop, street, inn or public conveyance without having first adopted such precautions.

**Sec. 55. Disinfection, excreta, bedding, etc.** R. S. c. 18, § 40. 1915, c. 338, § 10. Nurses and other attendants upon persons sick with smallpox, scarlet fever, diphtheria or other quarantinable disease, shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be ordered in writing, by the local board of health.

**Sec. 56. Use of bedding and clothing until disinfected, prohibited.** R. S. c. 18, § 41. 1915, c. 338, § 11. No person shall give, lend, transmit, sell or expose any bedding, clothing, furniture or other article which has been used by persons affected with smallpox, scarlet fever, diphtheria, or other disease for which disinfection may be required by the state board of health, or from rooms which have been occupied by such persons, without first having said articles disinfected to the satisfaction of the local board of health.

**Sec. 57. Bedding and clothing may be destroyed.** R. S. c. 18, § 42. Any local board of health may direct the destruction of any bedding, clothing or other articles, which have been exposed to infection.

**Sec. 58. Children who have been exposed to contagion, shall be excluded from public schools.** R. S. c. 18, § 43. Whenever smallpox, diphtheria, scarlet fever or other contagious disease, shall appear in a town, the local board of health shall immediately notify the teachers of the public schools in the neighborhood, of the fact, and all teachers and school officers when thus notified, or when otherwise they shall know or have good reason to

believe that any such disease exists in any house in the neighborhood, shall exclude from the schoolhouse, all children and other persons living in such infected houses or who have called or visited at such houses, until such time as the local board of health shall certify that such children or other persons may safely be readmitted.

**Sec. 59. Schoolhouses, when infected, shall be closed.** R. S. c. 18, § 44. 1915, c. 338, § 12. When persons from houses or places which are infected with any of the diseases for which disinfection may be required by the state board of health, have entered any schoolroom, or when, from any other cause, the schoolroom has probably become infected, the teacher shall dismiss the school, and notify the school officers and local board of health, and no school shall be again held in such schoolroom until the room has been disinfected to the satisfaction of the local board of health, and the school officers and board of health shall cause the room to be disinfected as soon as possible.

**Sec. 60. When any cellar, etc., become unfit for occupancy, notice shall be served on the owner, to cleanse the same; if owner fails, board may cleanse, at owner's expense.** R. S. c. 18, § 45. The board, when satisfied upon due examination, that a cellar, room, tenement or building in its town, occupied as a dwelling-place, has become, by reason of want of cleanliness, or other cause, unfit for such purpose, and a cause of sickness to the occupants or the public, may issue a notice in writing to such occupants, or the owner or his agent, or any of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling-place, until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied, without putting the same in proper sanitary condition, he shall forfeit not less than ten, nor more than fifty dollars.

**Sec. 61. Persons infected, shall not be allowed to enter any conveyance without notice to owner.** R. S. c. 18, § 46. No person having smallpox, diphtheria, scarlet fever, cholera or other disease dangerous to public health, shall enter, nor shall any person allow any one under his charge who has any such disease, to enter any conveyance without having previously notified the owner or person in charge of such conveyance, of the fact of his having such disease.

**Sec. 62. When such conveyance has been so used, it shall be disinfected.** R. S. c. 18, § 47. The owner or person in charge of any such conveyance shall not, after the entry of any person so infected into his conveyance, allow any other person to enter it, without having sufficiently disinfected it under the direction of the local board of health, or the supervision of the health officer.

**Sec. 63. Houses shall be disinfected, where contagion has existed.** R. S. c. 18, § 48. 1915, c. 338, § 13. No person shall let or hire any house or room in a house in which any of the diseases have existed for which dis-

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infection may be required by the state board of health, without having caused the house and the premises used in connection therewith, to be disinfected to the satisfaction of the local board of health.

**Sec. 64. Officers shall not be obstructed in performance of duty.** R. S. c. 18, § 49. Any member of a local board of health, or any health officer or other person employed by the local board of health, may, when obstructed in the performance of his duty, call to his assistance, any constable or other person he thinks fit, and every such constable or person so called upon, shall render assistance.

**Sec. 65. Penalty for violations.** R. S. c. 18, § 50. 1911, c. 108. Whoever wilfully violates any provision of the twenty-six preceding sections, or of said regulations and by-laws, or neglects or refuses to obey any order or direction of any local board of health or health officer authorized by said provisions, the penalty for which is not herein specifically provided, or wilfully interferes with any person or thing, to prevent the execution of the provisions of said sections or of said regulations and by-laws, shall be punished by a fine of not more than fifty dollars; judges of municipal and police courts and trial justices, shall have jurisdiction original and concurrent with the supreme judicial and superior courts, of all offenses under said sections.

**Sec. 66. Antitoxin, in certain cases, shall be furnished free.** 1909, c. 55, § 1. To provide for the control of diphtheria and other contagious diseases, local boards of health shall furnish antitoxin free to all indigent persons suffering from such diseases, in such manner as the state board of health may direct.

**Sec. 67. Contracts for supply of antitoxin.** 1909, c. 55, § 2. The state board of health shall make contracts with reputable manufacturers for the sale of antitoxin to the local boards of health in such manner as is deemed best and most economical for the several towns, and may arrange several towns and plantations into groups for the purchase of antitoxin when it appears that such arrangement would be the best, most convenient and most economical for them.

**Sec. 68. Antitoxin shall be furnished physicians.** 1909, c. 55, §§ 3, 4. The antitoxin shall be kept by the secretary or chairman of the local board, and shall be furnished physicians upon application on blanks provided and furnished by the state board. The local board shall provide a repository for antitoxin which may be furnished to physicians at the same rates as furnished by the state board of health, and to their patients on prescriptions. The local board of health in any town furnishing an indigent person residing in another town antitoxin upon application, as above provided, shall be reimbursed by the town where the patient belongs. The state shall reimburse cities or towns furnishing antitoxin to any person having no legal residence in any city or town within the state.

108 Me. 495.

**Sec. 69. Precautions against infected persons.** R. S. c. 18, § 51. When any person is or has recently been infected with any disease or sickness dangerous to the public health, the local board of health of the town where he is, shall provide for the safety of the inhabitants, as they think best, by removing him to a separate house, if it can be done without great danger

to his health, and by providing nurses and other assistants and necessities, at his charge or that of his parent, if able.

19 Me. 223; 28 Me. 257; 45 Me. 409; 52 Me. 119; 66 Me. 60, 72; 67 Me. 371; 99 Me. 19, 214; 102 Me. 38; 108 Me. 493.

**Sec. 70. Board of health shall assist persons placed in quarantine.** 1909, c. 25, § 1. Whenever any person or family is placed in quarantine by a board of health, to protect the public against smallpox, scarlet fever, diphtheria, or any other dangerous or contagious disease, said board shall assist such person or family, if indigent or in a needy condition while in quarantine, in such a manner as in the judgment of the board may be deemed wise and necessary.

**Sec. 71. Expenses incurred shall be deemed legitimate, and charged to town.** 1909, c. 25, § 2. 1915, c. 181. All expenses including all supplies of food and medicine, including antitoxin, incurred in carrying out the provisions of the preceding section, or incurred in furnishing families or persons affected with tuberculosis with burnable spit-cups or other supplies needed to prevent the spread of infection, or such part thereof as the board may determine, shall be deemed a legitimate expenditure for the protection of the public health and shall be charged to the account of incidental expenses of the town, but not to any pauper account, nor shall any person so quarantined and assisted, be considered a pauper, or be subject to disfranchisement for that cause unless such persons are already paupers as defined by the revised statutes. All, or such portion of, such expenses as the board of health may determine are not a legitimate expenditure for the protection of the public health, may be recovered from the person quarantined, or whose family is quarantined, or from his parent, if able: otherwise from the town to which he belongs. The provisions of this section shall not release the state from the obligations which are imposed upon it by sections twenty-five to twenty-eight, both inclusive, of chapter twenty-nine.

108 Me. 494; 113 Me. 319; see §§ 15, 66.

**Sec. 72. Precautions against persons arriving from infected places.** R. S. c. 18, § 52. When an infectious or malignant distemper is known to exist in any place out of the state, the local board of health of any town in the state, may, by giving such public notice therein as they find convenient, require any person coming from such place to inform one of them or the town clerk of his arrival and from what place he came; and if he does not, within two hours after arrival, or after actual notice of such requirement, give such information, he forfeits one hundred dollars to the town.

**Sec. 73. Restrictions on such persons; may be removed if refractory; penalty if they return.** R. S. c. 18, § 53. The local board of health may prohibit any such person, from going to any part of their town where they think that his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road which they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of one of said local board of health, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the state; and if during the prevalence of such distemper in the place where he resides, he returns to any town in the state, without

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the license of its local board of health, he forfeits not exceeding four hundred dollars.

**Sec. 74. Precautions authorized in border towns.** R. S. c. 18, § 54. The local board of health of any town near or adjoining the state line, may, by writing under their hands, appoint suitable persons to attend at any places by which travelers may pass into such town from infected places in other states or provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by one of said board; and any such passenger who without such license travels in this state, except to return by the most direct way to the state or province whence he came, after he has been cautioned to depart by the persons so appointed, forfeits not exceeding one hundred dollars.

### Removal of Infected Persons and Goods.

**Sec. 75. Process for removal or separate accommodation of infected persons.** R. S. c. 18, § 55. Any two justices of the peace may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the local board of health of the town where he is; or to impress and take convenient houses, lodgings, nurses, attendants, and other necessities for the accommodation, safety and relief of the sick.

66 Me. 72, 314.

**Sec. 76. Process for securing infected articles.** R. S. c. 18, § 56. When on application of the local board of health of a town, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods therein, are infected with any malignant contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as said justice thinks necessary, to secure such infected articles, and to post said men as a guard over the place where the articles are lodged, who shall prevent any persons from removing or approaching such articles, until due inquiry is made into the circumstances.

**Sec. 77. Justice may by warrant require officers to remove them to suitable places.** R. S. c. 18, § 57. He may by the same warrant, if it appears to him necessary, require said officer, under the direction of the local board of health, to impress and take convenient houses or stores for the safe keeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the local board of health think that they are free from infection.

**Sec. 78. Powers of officers in executing such process.** R. S. c. 18, § 58. Said officer, if need be, may break open any house, shop or other place mentioned in the warrant, where infected articles are, and require such aid as is necessary to execute it; and any person who at the command of any such officer, fails to assist in such execution, shall be subject to a fine not exceeding ten dollars.

**Sec. 79. Expenses, how paid.** R. S. c. 18, § 59. The charges for securing such infected articles and of transporting and purifying them, shall be paid by the owners thereof, at the price determined by the local board of health.

**Sec. 80. Compensation for men or property impressed.** R. S. c. 18, § 60. When the officer impresses or takes any house, store, lodging or other necessities, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed.

65 Me. 404.

**Sec. 81. Adjournment of courts because of danger from infection.** R. S. c. 18, § 61. When a malignant infectious distemper prevails in any town wherein the supreme judicial court, the superior court, or court of county commissioners is to be held, said courts may be adjourned and held in any town in said county, by proclamation made in such public manner as such courts judge best, as near their usual place of meeting as they think that safety permits.

83 Me. 116.

**Sec. 82. Removal of infected prisoners from places of confinement.** R. S. c. 18, § 62. When any person in a jail, house of correction or work-house, is attacked with a disease, which the local board of health of his town, by medical advice, consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement.

**Sec. 83. Order for removal, how returned; such removal, not an escape.** R. S. c. 18, § 63. If he was committed by an order of court or judicial process, the order for his removal, or a copy thereof attested by the local board of health, shall be returned by them with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape.

**Sec. 84. May order removal of private nuisances; proceedings.** R. S. c. 18, § 64. When any source of filth, or other cause of sickness is found on private property, the owner or occupant thereof shall, within twenty-four hours after notice from the local board of health or health officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits not exceeding one hundred dollars; and said local board of health or health officer shall cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it.

See c. 23, § 24; 57 Me. 438, 440; 65 Me. 436; 87 Me. 475.

**Sec. 85. Depositing carcass of dead animal where it may cause nuisance forbidden.** R. S. c. 18, § 65. Whoever personally or through the agency of another leaves or deposits the carcass of a dead horse, cow, sheep, hog or of any other of the larger domestic animals in any place where it may cause a nuisance shall, upon receiving a notice to that effect from the local board of health, promptly remove, bury or otherwise dispose of such carcass, and if he fails to do so within such time as may be prescribed by the local board of health, and in such manner as may be satisfactory to such board of health, he shall be punished by a fine of not less than five, nor more than twenty-five dollars, or by imprisonment not exceeding one month.

**Infected Vessels. Quarantine.**

**Sec. 86. Masters, seamen or passengers of vessels may be examined on oath in reference to infectious distempers.** R. S. c. 18, § 66. If a master, seaman or passenger of a vessel, in which there is, has lately been, or is suspected to have been, any infection, or which has come from a port where any infectious distemper prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the local board of health of the town to which such vessel comes, which oath any member of said board may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months.

**Sec. 87. Vessels with infected persons shall anchor at a distance from towns.** R. S. c. 18, § 67. When a vessel arrives at a port having on board any person infected with a malignant disease, the master, commander or pilot shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in said port; and no person or thing on board shall be brought on shore, until the local board of health gives its written permit.

45 Me. 503.

**Sec. 88. Penalty for violation of § 87.** R. S. c. 18, § 68. For the wilful violation of the preceding section, such master or commander forfeits not exceeding two hundred, and the pilot not exceeding fifty dollars for each offense.

**Sec. 89. Board of health may establish quarantine regulations.** R. S. c. 18, § 69. The local board of health of a seaport town may cause vessels arriving there to perform quarantine at such place and under such regulations as they judge expedient, when they think that the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months.

**Sec. 90. Duty of pilots to give notice thereof.** R. S. c. 18, § 70. When such local board of health thinks it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port; who shall make it known to the masters of all vessels which they board. A pilot who neglects to do so, or who contrary thereto pilots any vessels up to said seaport town, forfeits not exceeding one hundred dollars.

**Sec. 91. Punishment for violation or evasion of quarantine, after notice.** R. S. c. 18, § 71. If the master or commander of a vessel takes it up to any seaport town after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed; or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the local board of health, he shall be punished as provided in section eighty-nine.

**Sec. 92. Board of health to furnish signals; restrictions on persons visiting vessels at quarantine.** R. S. c. 18, § 72. The local board of health of

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

**Sec. 93. Authority of health officer, as to quarantine.** R. S. c. 18, § 73. In every seaport town the health officer may perform all the duties and exercise all the authority of the local board of health in requiring vessels to perform quarantine.

**Sec. 94. Expenses, how paid.** R. S. c. 18, § 74. Expenses incurred on account of any person, vessel or goods, under quarantine regulations, shall be paid by such person, or the owner of the vessel or goods, as the case may be.

Note. Proceedings as to burial of body of person dying of contagious disease, c. 64, § 25.

Penalty for polluting water supply, c. 130, § 1; for selling milk from cows diseased or fed upon injurious substances, c. 130, §§ 2, 3; for selling unwholesome provisions or drinks, c. 130, §§ 2-9.

### Town Hospitals.

**Sec. 95. Hospitals may be established.** R. S. c. 18, § 75. 1915, c. 338, § 14. A town may establish therein one or more hospitals for the reception of persons having the smallpox or other diseases dangerous to the public health; or its local board of health may license any building therein as a hospital, which shall be under the control of said board.

**Sec. 96. Physicians and others subject to hospital regulations.** R. S. c. 18, § 77. 1915, c. 338, § 16. When a hospital is so established or licensed, the physicians, the persons who are infected, infectious, or sick therein, the nurses, attendants, and all who come within its limits, and all furniture or other articles used or brought there, shall be subject to the regulations made by the local board of health.

**Sec. 97. Hospital to be provided, on breaking out of infectious diseases; regulations.** R. S. c. 18, § 78. When smallpox or other disease dangerous to the public health breaks out in a town, the local board of health shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; such hospitals and places are subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not permit it without imminent danger; in which case, the house or place where the sick are, shall be deemed a hospital for every purpose aforesaid; and all persons residing in, or in any way concerned with it, are subject to hospital regulations.

66 Me. 72, 314, 315.

**Sec. 98. Precautions to prevent the spread of such diseases.** R. S. c. 18, § 79. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and shall give public notice of infected places to travelers, by displaying red



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flags at proper distances, and by all other means most effectual, in their judgment, for the common safety.

28 Me. 257; 64 Me. 121.

**Sec. 99. Penalty for violation of hospital regulations by persons subject thereto.** R. S. c. 18, § 80. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith, violates any lawful regulation in relation thereto, with respect to himself or his or another's property, he forfeits not less than ten, nor more than one hundred dollars, for each offense.

**Sec. 100. Forfeitures, how appropriated.** R. S. c. 18, § 81. All forfeitures mentioned in the last twenty-eight preceding sections, except otherwise provided, inure to the town where the offense is committed.

87 Me. 475.

**General Provisions.**

**Sec. 101. Free vaccination provided, annually.** R. S. c. 18, § 82. 1915, c. 338, § 17. The board of health of each city, village, town and plantation shall annually on the first day of March, or oftener if they deem it prudent, provide for the free vaccination with the cowpox, of all the inhabitants within their respective localities, to be done under the care of skilled practicing physicians, and under such circumstances and restrictions as said authorities adopt therefor.

**Sec. 102. Paper mills shall not employ persons not vaccinated.** R. S. c. 18, § 83. No owner, agent or superintendent of any paper mill where domestic or foreign rags are used in the manufacturing of paper shall hire or admit any person to work in or about said mill who has not been successfully vaccinated or re-vaccinated within two years, or to the satisfaction of the local board of health.

**Sec. 103. Persons not vaccinated shall not work in paper mill.** R. S. c. 18, § 84. No person shall work in or about any paper mill where rags are used, who has not been successfully vaccinated or re-vaccinated within two years, or to the satisfaction of the local board of health.

**Sec. 104. List of employees shall be furnished semi-annually.** R. S. c. 18, § 85. The owner, agent and superintendent in every paper mill where rags are used shall every year, in the months of February and September, make out and deliver to the local board of health, a list containing the names, ages, kind of work, and places of residence of all persons employed in or about said mill.

**Sec. 105. Employees shall be examined semi-annually.** R. S. c. 18, § 86. In the months of March and October, annually, each and every person who is employed in a paper mill, shall be examined by the local board of health as to whether he or she is successfully and sufficiently protected by vaccination, and the local board of health shall in all cases be the judges of the sufficiency of the protection by vaccination.

**Sec. 106. Penalty.** R. S. c. 18, § 87. Whoever violates any provision of the four preceding sections shall be punished by a fine of not more than fifty dollars.

**Sec. 107. Enforcement of §§ 102-106.** R. S. c. 18, § 88. The local boards of health within their respective jurisdictions and the state board

of health, shall enforce sections one hundred and two to one hundred and six each inclusive as far as comes within their power, and when said state board of health knows or has reason to believe that any penalty or forfeiture has been incurred by reason of neglect to comply with said sections, it shall give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

**Sec. 108. Suspected cases of tuberculosis or glanders shall be investigated.** R. S. c. 18, § 89. Whenever a local board of health or its executive officer has notice of, or suspects the existence of, a case of tuberculosis or glanders in domestic animals, such board or officer shall forthwith investigate or cause to be investigated the truth of such notification or the grounds for such suspicion; and if there appear to be good grounds for believing that such disease is present, the local board of health or its executive officer shall notify the live stock sanitary commissioner, reciting in said notification the grounds for their belief or suspicion.

### Inspection of Plumbing.

**Sec. 109. Inspectors of plumbing; appointment and tenure.** 1911, c. 169, § 2. In every city or town where there is a system of water supply or sewerage the board of health may, whenever necessary, appoint one or more inspectors of plumbing, who may or may not be residents of the town or city for which they are appointed, and who shall hold office for one year; in every city or town where there is a system of water supply or sewerage, at least one member of the board of health shall be a practical plumber within the meaning of section one hundred and fourteen.

**Sec. 110. Compensation of inspectors; their duties.** 1911, c. 169, § 3. The compensation of said inspectors shall be determined by the board appointing them, subject to the approval of the municipal officers, and shall be paid from the treasury of their respective cities or towns. Such inspectors shall inspect all plumbing, for which permits are granted, within their respective cities or towns, which is in process of construction, alteration or repair, and shall report to said board all violations of any law, ordinance, by-law, rule or regulation relative to plumbing; and also perform such other appropriate duties as may be required. The approval of plumbing by any inspector other than those appointed as provided in the preceding section, shall not be a compliance with the provisions hereof.

**Sec. 111. No inspector shall approve his own work; inspection of work done by regular inspector.** 1911, c. 169, § 4. No inspector of plumbing shall inspect or approve any plumbing work done by himself, or by any person by whom he is employed, or who is employed by or with him; but in a city or town which is subject to the provisions of the two preceding sections, the board of health shall appoint an additional inspector of plumbing, in the same manner and subject to the same qualifications as the regular inspector of plumbing, who shall inspect, in the manner herein prescribed, plumbing done by the regular inspector or by any person by whom he is employed, or who is employed by or with him. Said additional inspector may act in case of the absence or inability of the regular inspector,

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and shall receive for his services the same compensation as the regular inspector for a like duty.

**Sec. 112. Every city or town having water supply or sewerage system shall prescribe regulations.** 1911, c. 169, § 5. Each city or town which has therein a system of water supply or sewerage, shall by ordinance or by-law, prescribe regulations for the materials, construction, alteration, and inspection of all pipes, tanks, faucets, valves and other fixtures by and through which waste or sewerage is used and carried; and shall provide that such pipes, tanks, faucets, valves or other fixtures shall not be placed in any building in such city or town, except in accordance with plans approved by the inspector of plumbing or by the board of health; and shall further provide that no plumbing shall be done, except to repair leaks, without a permit being first issued therefor, upon such terms and conditions as such cities or towns shall prescribe. The provisions of this section shall not prevent boards of health from making such regulations relative to plumbing and house drainage authorized by law prior to the thirtieth day of June nineteen hundred and eleven, as are not inconsistent with any ordinance or by-law made under the authority of this section.

**Sec. 113. Annual reports.** 1911, c. 169, § 9. Inspectors of plumbing and boards of health shall annually, before the first day of June, make a full report in detail to their respective cities or towns of all their proceedings during the year under the provisions of the three preceding sections.

**Sec. 114. Definitions.** 1911, c. 169, §§ 1, 7. The words "practical plumber," as used in the five preceding sections shall mean a person who has learned the business of plumbing by working for at least two years as an apprentice or under a verbal agreement for instruction, and who has then worked for at least one year as a first class journeyman plumber. The word "journeyman" as used in said sections shall mean a person who himself does any work in plumbing which is by law, ordinance, by-law, rule or regulation subject to inspection. The provisions of said sections shall apply to all persons learning the business of plumbing when they are sent out to do the work of a journeyman plumber.

**Sec. 115. Penalty.** 1911, c. 169, §§ 6, 10. Whoever violates any provision of the six preceding sections, or any ordinance, by-law or regulation made thereunder, shall be punished by a fine of not less than ten, nor more than fifty dollars for each offense. Municipal and police courts and trial justices shall have jurisdiction of all offenses under said sections.

### Licensing of Plumbers.

**Sec. 116. Plumbers in municipalities which own water-works, shall be licensed.** 1905, c. 71, § 1. In water districts and in cities and towns which own and control municipal water-works, either by direct ownership of the plant or by ownership of the majority of the stock thereof, no plumbing shall hereafter be done on any pipes or fixtures for the use of water from such water-works, unless done by a plumber or other person licensed by the trustees of such district, or the board of water commissioners of such cities, or the municipal officers of such towns. Said trustees, commis-

sioners, and municipal officers are hereby authorized to grant and revoke licenses.

**Sec. 117. Reports of fixtures set up, etc., to superintendent of water district or works.** 1905, c. 71, § 2. Every plumber or the person who shall set up any pipes or fixtures for the use of water from such municipal water-works, or from any other water-works in the state, or shall make repairs upon, additions to, or alterations of, any pipes or fixtures set up previous thereto, shall, between the first and tenth days of the succeeding month, after the same shall be completed, fill up and return to the superintendent of the water-works on which such work, repairs or alterations are made, a report, stating particularly what new pipes and fixtures he has set up and what repairs, additions and alterations he has made upon or to those previously set up, describing all fixtures both new and old for the use of water on the premises.

**Sec. 118. Suspension of license for misrepresentation.** 1905, c. 71, § 3. For any misrepresentation or omission in the report of the work done, such plumber or other person shall be liable, if licensed, to suspension or to have his license revoked and whether licensed or not to pay a fine of not less than five, nor more than twenty dollars, to be recovered in an action of debt in the name of the treasurer of the city or town in which such work is done, before the municipal or police court of such city or a trial justice in such town.

**Sec. 119. Penalty.** 1905, c. 71, § 4. If any plumber or person not duly licensed shall set up any pipes or fixtures for the use of water from any water-works designated in section one hundred and seventeen, or make any repairs upon, additions to, or alterations of, any pipes or fixtures previously thereto set up, he shall forfeit and pay a sum of not less than five, nor more than twenty dollars, to be recovered by complaint, or in an action of debt in the name of the treasurer of the water district or the city or town in which such work is done, before the municipal or police court of such city or a trial justice in such town.

**Sec. 120. Provisions in city charters not affected.** 1905, c. 71, § 5. The four preceding sections shall not affect any provisions in city charters and ordinances, inconsistent therewith.

### Prevention of Blindness.

**Sec. 121. Duty of midwife, etc., to report inflammation of infants' eyes.** R. S. c. 18, § 90. If one or both eyes of an infant become reddened or inflamed at any time within four weeks after birth, the midwife, nurse or person having charge of said infant shall report the condition of the eyes at once to some legally qualified practitioner of medicine of the town in which the parents of the infant reside. Any failure to comply with the provisions of this section shall be punishable by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months.

### Treatment of Persons Suffering from Opiates.

**Sec. 122. Persons suffering from use of opiates may be committed to general hospital.** 1905, c. 3, § 1. A person, alleged to be suffering from

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the effects of the use of an opiate, cocaine, chloral hydrate, or other narcotic, may be committed to the care of any general hospital receiving aid from the state, or any legally qualified physician of not less than five years' actual practice, for treatment; and the medical authorities of said hospital or said physician to whom said patient is committed, may restrain said patient, so committed, in such manner as may be necessary for his protection, for a period not exceeding ninety days.

**Sec. 123. Agreement for personal restraint.** 1905, c. 3, § 2. Before any restraint shall be imposed under the authority of the preceding section, a voluntary agreement shall be made in writing by the person suffering from the effects of any drug mentioned in said section, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife, or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person, so suffering, is a resident, and approved, after reasonable notice, by a justice of the supreme judicial court or a judge of the superior court or probate court in the county where the patient resides.

**Sec. 124. Investigation as to progress of cases may be required.** 1905, c. 3, § 3. Any justice of the supreme judicial court, or a judge of the superior court or probate court in the county where the patient resides, may, at his discretion, require the president or secretary of the state board of health, or one of the county examiners of insane criminals, to investigate as to the progress of any such case; and, upon his certificate that further restraint is unnecessary, may annul the agreement, and the person restrained shall be immediately released upon the order of said justice.

## CHAPTER 20.

## Apothecaries, and the Sale of Poisons.

**Sec. 1. Business of apothecaries regulated.** R. S. c. 30, § 1. No person shall within the limits of the state conduct the business of an apothecary or any part thereof, or display any drugs, medicine, drug store fittings or furnishings or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary, except as hereinafter provided.

**Sec. 2. Commissioners of pharmacy, nomination and appointment; tenure; vacancies, how filled.** R. S. c. 30, § 2. A board of commissioners of pharmacy consisting of three suitable persons, shall be appointed, and may be removed for cause, by the governor with the advice and consent of the council. The terms of office of said commissioners shall be so arranged that one member of said board shall be appointed annually for a term of three years from the first day of December in each year. Vacancies caused by death, resignation, removal or inability to perform the duties of the office shall be filled by appointment for the unexpired term. The Maine Pharmaceutical Association may, at its annual meeting each year, nominate six members of said association, whose names shall be forthwith certified by the president and secretary of said association to the governor, and members of said commission, appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the governor said persons are manifestly unsuitable or incompetent.

**Sec. 3. Meetings; election of officers.** R. S. c. 30, § 3. The members of said board shall meet on the second Wednesday of December in each year at such time and place as they may determine, and shall organize by electing from their number a president and secretary, who shall hold their respective offices for the term of one year. The said board shall hold three regular meetings in each year, one on the second Wednesday of December, one on the second Wednesday of April and one on the second Wednesday of August, and such additional meetings at such times and places as they shall determine.

See c. 117, §§ 54, 55.

**Sec. 4. Record of persons examined and money received; annual report.** R. S. c. 30, § 4. The board shall keep a record of the names of all persons examined and registered thereunder, and a record of all moneys received and disbursed by said board, a duplicate of which record shall always be open to inspection in the office of the secretary of state. Said board shall annually in December make to the governor and council a report stating the condition of pharmacy in the state, with a full and complete record of all its official acts during the year and of the receipts and disbursements of the board to the last day of the preceding month.

**Sec. 5. Complaints against registered apothecaries; notice and hearing.**

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**R. S. c. 30, § 5.** Said board shall hear all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made in writing under oath, shall set out the offense alleged, and shall be made within sixty days after the act complained of has been committed. The person against whom complaint is made, shall be notified of the charge made against him and of the time and place when and where the matter will be heard, at least fourteen days before the date fixed for the hearing. He may then and there appear before the board with his witnesses and be heard by counsel. Either member of the board may administer oaths to the witnesses at such hearings, and any person so sworn who wilfully swears or affirms falsely respecting any matter upon which his testimony is required shall be deemed guilty of perjury. Said board may send for persons and compel the attendance of witnesses at said hearings by process duly served.

See c. 124, § 1.

**Sec. 6. Penalty if person complained of is guilty. R. S. c. 30, § 6.** If the full board sitting at such hearing shall find that the person so complained against is guilty of the acts charged against him, said board may suspend his registration as a pharmacist and his certificate thereof, for such term as the board in their judgment, after due consideration of the facts, may deem for the best interest of the public, or may revoke it altogether, but the certificate of registration of a registered pharmacist shall not be suspended or revoked for a cause punishable by law until after conviction by a court of competent jurisdiction.

**Sec. 7. Examination and certification of apothecaries; certificates issued to persons registered in other states; certificates shall be displayed. R. S. c. 30, § 7. 1907, c. 74, § 2. 1909, c. 201, § 1.** Every person not already registered, entering on the business of an apothecary, upon the payment of the fee of ten dollars, to the secretary of said board, except as hereinafter provided, shall be examined by said commissioners, and shall present to them satisfactory evidence that he has been an apprentice, or employed in an apothecary store where physicians' prescriptions are compounded, at least four years; or has graduated from some regularly incorporated medical college or college of pharmacy and has been employed in such an apothecary store for at least one year, and is competent for the business; the commissioners may give him a certificate of that fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two commissioners. In case the result of the examination is unsatisfactory, and no certificate is granted, the applicant shall have the right to another examination without charge, after an interval of two months, and within twelve months after the date of his first examination. The board may, in its discretion, grant certificates of registration to such persons as shall furnish with their application satisfactory proof that they have been registered by examination in some other state; provided that such other state shall require a degree of competency equal to that required of applicants in this state. Only one of the partners in a firm need be a registered druggist, provided, the partner who compounds medicines be registered. All certificates issued under the provisions of this

chapter shall be constantly displayed, in a conspicuous place, in the store or shop of the persons to whom the same were issued.

77 Me. 462.

**Sec. 8. Certificates of two grades may be issued.** R. S. c. 30, § 8. 1909, c. 201, § 2. Certificates of two grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than eighteen years of age and who have served two full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary, and the fee for such assistant's examination shall be five dollars.

**Sec. 9. No registered apothecary shall permit use of his name.** R. S. c. 30, § 10. 1909, c. 201, § 4. No registered apothecary shall suffer or permit the use of his name or certificate of registration in the conduct of business of pharmacy when he himself is not actively engaged in such business in the store where his certificate is displayed for at least six hours in each business day.

**Sec. 10. Drug stores under control of registered apothecary.** R. S. c. 30, § 11. No store shall be kept open for the sale of medicines or poisons, or for compounding physicians' prescriptions, nor shall drugs or medicines be exposed or displayed for sale in any store, except as otherwise provided herein, unless the same is placed and kept under the personal control and supervision of a registered apothecary or qualified assistant, but such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary.

**Sec. 11. Penalty for falsely claiming to be an apothecary; disposal of fines and forfeitures.** R. S. c. 30, § 12. 1909, c. 201, § 5. Whoever engages in or is found in charge of or carrying on a business, or displays any drugs, medicines, drug store fittings or furnishings, or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claims to be or represents himself to be an apothecary, contrary to the provisions of this chapter, shall be subject to a penalty of two dollars a day for the first offense and four dollars a day for each and every subsequent offense, whether for continuance in said business or for engaging anew therein in violation of the provisions of this chapter. All fines and forfeitures collected under this section shall be paid to the treasurer of state and shall be considered funds of the board of commissioners of pharmacy, to be expended by them for the enforcement of laws relating to apothecaries and the sale of poisons, and for expenses incurred in their official work.

**Sec. 12. Application of chapter.** R. S. c. 30, § 13. The provisions of this chapter shall apply to women who enter upon and carry on the business of apothecaries. This chapter shall not apply to physicians who prepare and dispense their own medicines, nor to the sale of non-poisonous domestic remedies and patent or proprietary preparations usually sold by grocers and others.

**Sec. 13. Employment of registered apothecary.** R. S. c. 30, § 14. Any person may enter upon the business of an apothecary without the certificate



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required by this chapter; provided, he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up and dispensing medicines and drugs under the provisions hereof.

**Sec. 14. Penalty for using drugs not named in physicians' prescription.** R. S. c. 30, § 15. Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be fined not less than five, nor more than one hundred dollars.

**Sec. 15. Penalty for adulterating drugs and selling the same.** R. S. c. 30, § 16. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicine shall be forfeited, and destroyed under the direction of the court.

**Sec. 16. Sale of poisonous drugs without prescription, regulated.** R. S. c. 30, § 17. 1909, c. 201, § 6; c. 214. Whoever sells arsenic, arsenious acid, atropia, or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, sugar of lead, oil of savin, oil of tansy, Parson's vermin exterminator, phosphorus, prussic acid, Rough on Rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, crystals of carbolic acid or a strong solution of carbolic acid, without the written prescription of a physician shall keep a record of such sales, the name and quantity of the article sold and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article was delivered and shall be open to inspection by any member of the board of commissioners of pharmacy, or by the police authorities and the officers of cities and towns. Whoever neglects to keep or refuses to show to said officers such record shall be punished by fine not exceeding fifty dollars. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper, upon which shall be printed in large letters the word "poison," and also the word "antidote," and the name and place of business of the vendor. The name of an antidote, if there be any, for the poison sold, shall also be upon the label. Every neglect to affix such label to such poisonous article sold before the delivery thereof to the purchaser shall be punished by a fine not exceeding fifty dollars. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vendor shall be punished by fine not exceeding fifty dollars. But nothing in this section shall be construed to apply to wholesale dealers or to manufacturing chemists in their sales to retail trade, nor to the general merchant, nor to a firm or corporation in trade, who may sell in unbroken packages prepared by the manufacturers, Paris green, London purple or other poisonous prepara-

tions or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars or worms. Upon each and every package so sold shall be printed in large letters the word "poison." Every neglect to affix such label with the word "poison" thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by fine not exceeding fifty dollars.

**Sec. 17. Registered apothecaries, their duties and restrictions. R. S. c. 30, § 18. 1907, c. 74, § 3.** Apothecaries registered as herein provided, may keep, under such restrictions as the legislature may impose, all medicines and poisons authorized by the United States Pharmacopœia, Dispensatory and National Formulary, as of recognized medicinal utility; provided, that nothing herein contained authorizes the sale of intoxicating liquors.

96 Me. 456.

**Sec. 18. Poisons not to be deposited for killing animals. R. S. c. 30, § 20. 1909, c. 134.** Whoever for the purpose of killing wolves, foxes, dogs or other animals, and not for the destruction of insects or vermin in a building, leaves or deposits in any place any arsenic, corrosive sublimate, nuxvomica, strychnine, prussic acid, or any other poison or poisonous substance, shall be fined not less than twenty, nor more than fifty dollars, or be imprisoned not less than thirty, nor more than sixty days.

See c. 129, § 1.

**Sec. 19. Sale of opium restricted. R. S. c. 30, § 19.** No person except a registered apothecary, or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine or laudanum. Whoever violates this section shall be punished by a fine of not less than five, nor more than fifty dollars for each offense, to be recovered by complaint or indictment.

**Sec. 20. Manufacture of preparations containing cocaine, etc., forbidden. 1913, c. 211, § 1.** No person, firm or corporation shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them.

**Sec. 21. Cocaine, etc., shall be sold only upon written prescription; original prescription shall be open to inspection. 1913, c. 211, § 2.** No person, firm or corporation shall sell, or expose or offer for sale, or give, deliver or exchange cocaine, or alpha or beta eucaine, or any synthetic substitute for them or any preparation containing the same, or any salts or compounds thereof, except upon the written prescription of a physician, dentist, or veterinary surgeon, registered under the laws of the state in which he resides, which prescription shall be dated and bear the name of the person giving it and of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years and shall not again be filled, except upon the written order of the original prescriber, and shall at all times be open to inspection by members of the state board of health, members of the board of commissioners of pharmacy, and their authorized agents, by state officials and their authorized agents, and by the police authorities and officers of cities and towns. No practitioner of veter-

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inary medicine shall prescribe any of the above mentioned substances for the use of a human being.

**Sec. 22. Opium, morphine, etc., shall be sold only upon a written prescription; prescriptions shall be open to inspection; exceptions.** 1913, c. 211, § 3. No person shall sell, furnish, give away or deliver opium, morphine, heroin, codeine, cannabis indica or cannabis sativa, or any salt, compound or preparation of said substances except upon the written prescription or order of a lawfully authorized practitioner of medicine, dentistry or veterinary medicine, which prescription shall be dated and shall bear the name of the person giving it, and the name of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years, and shall not again be filled except upon the written order of the original prescriber. Such prescriptions shall at all times be open to inspection by members of the state board of health, the board of commissioners of pharmacy, state officials and their duly authorized agents, and by the police authorities and officers of the cities and towns. No practitioner of veterinary medicine shall prescribe any of the above substances for the use of a human being. The provisions of this section shall not apply to sales made by a manufacturer or wholesale or retail druggist to another manufacturer, wholesale or retail druggist; nor to sales made to hospitals, colleges, scientific or public institutions, or to physicians, dentists or veterinary surgeons; nor to the sale of cough remedies and other domestic and proprietary preparations, provided that such remedies and preparations are sold in good faith as medicines, and not for the purpose of evading the provisions of this chapter; and provided further that such remedies and preparations do not contain more than two grains of opium, or one-half of a grain of morphine, or one-fourth of a grain of heroin, or one grain of codeine or their salts, in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; but such provisos shall not apply to liniments and ointments which are prepared for external use only. Nor shall the provisions of this section apply to preparations containing opium or any of its salts, which are sold in good faith as remedies for diarrhoea, cholera or neuralgia, nor to powder of ipecac and opium, commonly known as Dover's powders, provided, that any such preparation is sold in good faith as medicine and not for the purpose of evading the provisions of this chapter.

**Sec. 23. Practitioners shall not prescribe opium, etc., to habitual users.** 1913, c. 211, § 4. No practitioner of medicine, dentistry, or veterinary medicine shall prescribe, for the use of an habitual user of the same, opium, morphine, heroin, codeine, or any salt or compound of the said substances, or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts, or alpha or beta eucaine or their salts, or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof; nor shall any practitioner of dentistry prescribe any of the said substances for any person not under his treatment in the regular practice of his profession; nor shall any practitioner of veterinary medicine prescribe any of the substances for the use of a human being; provided, however, that the provisions of this section shall not be

construed to prevent a lawfully authorized practitioner of medicine from prescribing for the use of any habitual user of hypnotic or narcotic drugs, who is under the professional care of such practitioner, such substances as he may deem necessary for treatment, if such prescriptions are given in good faith and not for the purpose of evading the provisions of this section.

**Sec. 24. Sales by manufacturers or jobbers, regulated; orders shall be kept on file.** 1913, c. 211, § 5. A manufacturer or jobber of any or all of the drugs enumerated in sections twenty-one and twenty-two of this chapter, a wholesale druggist, or a registered pharmacist may sell any drug mentioned in said sections to a manufacturer, jobber, wholesale druggist, or to a pharmacist, physician, veterinarian or dentist, qualified to practice under the laws of this state, or to an incorporated hospital, but only upon a written order duly signed by such manufacturer, jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or the superintendent of such incorporated hospital, which order shall show the article or articles ordered and the date of delivery. The said order shall be kept on file in the laboratory, warehouse, pharmacy or store from which it was filled by the proprietor thereof, or his successor, for a period of not less than two years from the date of delivery, and shall at all times be open to inspection by officers of the state board of health, members of the board of commissioners of pharmacy, or their authorized agents, state officials and their authorized agents, and the police authorities and officers of cities and towns; and such order shall not contain items of any drug not mentioned in sections twenty-one and twenty-two of this chapter.

**Sec. 25. Unauthorized persons shall not have opium, etc., in possession; application of section.** 1913, c. 211, § 6. A person not being a physician, dentist or veterinary surgeon, qualified to practice in this state, or not being a manufacturer or wholesale or retail dealer in drugs, who has in his possession opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any other hypnotic or narcotic drug or salt, compound or preparation of said substances, cocaine, alpha or beta eucaine or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, except by reason of a prescription of a physician, dentist or veterinary surgeon qualified to practice in this state, shall be punished as provided in section twenty-seven of this chapter. The provisions of this section shall not apply to a person, firm or corporation while transporting any of the above mentioned drugs from or to a manufacturer or jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or incorporated hospital, nor to persons who may have the above mentioned articles in their possession in connection with the enforcement of the provisions of this chapter or with the trial of cases arising thereunder. Possession of any of the drugs mentioned in this section shall be prima facie evidence that such possession is unlawful.

**Sec. 26. No practitioner shall dispense or give away opium, etc., except as a medicine.** 1913, c. 211, § 7. 1915, c. 142. No practitioner of medicine, surgery, dentistry or veterinary medicine shall dispense, furnish or give away opium, morphine, heroin, codeine, cannabis indica, cannabis sa-

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tiva, or any salt compound of said substances or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts or alpha or beta eucaine or their salts or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof except in good faith as medicines for diseases indicated.

**Sec. 27. Penalty. 1913, c. 211, § 8.** Whoever violates any provision of the seven preceding sections, or aids or abets another in the violation thereof, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for not more than one year, or by both fine and imprisonment. The county attorney in each county upon complaint made by any member of the board of commissioners of pharmacy or of the state board of health shall prosecute all violations of this chapter. Judges of the municipal and police courts and trial justices shall have original and concurrent jurisdiction with the supreme judicial court and superior courts of offenses under the seven preceding sections.

**Sec. 28. Analysis to determine composition of substances mentioned. 1913, c. 211, § 9.** The director of the Maine Agricultural Experiment Station shall make a chemical analysis to determine the composition and quality of any substance mentioned in sections twenty to twenty-six, both inclusive, on application of any county attorney and shall furnish a certificate certifying to the composition or quality thereof. The certificate under seal of the Maine Agricultural Experiment Station which shall be affixed by the chemist thereof making the analysis, shall be prima facie evidence of the composition and quality of the substance analyzed.

**Sec. 29. Vessels containing wood alcohol shall be labeled. 1907, c. 74, § 4.** Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, shall affix to the vessel containing the same and shall deliver therewith a label bearing the words 'Wood Alcohol, Poison' in red letters of not less than one-fourth inch in height. Whoever violates this section shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars.

**Sec. 30. Sale of any articles containing wood alcohol, for internal use, prohibited. 1907, c. 74, § 4.** Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, shall be punished by a fine of not less than two hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment.

## CHAPTER 21.

## Burying-Grounds.

**Sec. 1. Incorporation.** R. S. c. 20, § 1. Persons of lawful age may incorporate themselves for the purpose of purchasing land for a burying-ground, as provided in sections one and two of chapter sixty-two, and may proceed in the manner and with the powers provided in section three of said chapter.

**Sec. 2. Grounds to be fenced.** R. S. c. 20, § 2. Such corporation, within one year after its organization, shall make a substantial fence around the burying-ground, and keep it constantly in repair, under a penalty not exceeding one hundred dollars; which shall be expended under the direction of the municipal officers in keeping the fence in repair.

**Sec. 3. Penalty for neglect to fence ancient or public burying-grounds.** R. S. c. 20, § 3. 1905, c. 101. Each town, parish, religious society and any individuals, association or corporation, to which any ancient or public burying-ground belongs, shall keep a substantial fence around it in good repair; and for neglect shall forfeit not exceeding one hundred dollars to be applied as prescribed in the preceding section by such officers of such town, or the officers or committee of such parish or society, or by such individuals, association or corporation.

**Sec. 4. Penalty for neglect of town or parish officers.** R. S. c. 20, § 4. If such officers, treasurer or committee, neglect so to apply such fines, they each forfeit the amount thereof, in an action of debt to any person suing therefor.

**Sec. 5. Grounds, inalienable and indivisible, except by unanimous consent; description to be recorded.** R. S. c. 20, § 5. When any persons appropriate for a burying-ground a piece of land containing not more than half an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked, and occupied as a burying-ground; and they shall cause a written description of it, under their hands, attested by two disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies, or by the clerk of the town where it is situated.

108 Me. 447.

**Sec. 6. Family burying-grounds, exempt from attachment, and inalienable.** R. S. c. 20, § 6. When a person appropriates for a family burying-ground a piece of land containing not more than one-fourth of an acre, causes a description of it to be recorded in the registry of deeds of the same county, or by the clerk of the town where it is situated, and substantially marks the bounds thereof or encloses it with a fence, it shall be exempt from attachment and execution; and no subsequent conveyance of it shall be valid, while any person is interred therein; but it shall remain to him and his heirs as a burial place forever.

See c. 118, §§ 18, 20; 108 Me. 447.

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**Sec. 7. Lots in cemeteries exempt from attachment, levy and sale for debts.** R. S. c. 20, § 7. Lots in public or private cemeteries are exempt from attachment and levy on execution, and from liability to be sold by executors and administrators of insolvent estates, for the payment of debts and charges of administration. But only one lot is so exempt for any one person.

**Sec. 8. Proceedings by town officers to enlarge public cemetery.** R. S. c. 20, § 8. 1907, c. 60. The municipal officers of any town, may on petition of ten voters, enlarge any public cemetery or burying-ground or incorporated cemetery or burying-ground within their town, by taking land of adjacent owners, to be paid for by the town or otherwise as the municipal officers may direct, when in their judgment public necessity requires it, provided, that the limits thereof shall not be extended nearer any dwelling-house, or well from which the water is used for domestic purposes, than twenty-five rods, against the written protest of the owner, made to said officers at the time of the hearing on said petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying-ground by selling or otherwise disposing of land so that the limits thereof shall be extended nearer any dwelling-house or well than twenty-five rods against the written protest of the owner, provided, that nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying-ground, nor the extension thereof away from any dwelling-house or well.

108 Me. 27.

**Sec. 9. Notice.** R. S. c. 20, § 9. Notice of a time and place for said hearing shall be given by posting written notices thereof, signed by said officers at least seven days prior thereto, in two public places in said town; and a copy of such notice and of the petition shall be served on the owners of the land at least ten days before the day of hearing.

**Sec. 10. Land taken, damages how determined; town to vote at annual meeting.** R. S. c. 20, § 10. If the municipal officers at such hearing grant the prayer of the petitioners, they shall then determine what land shall be taken, and assess the damages suffered by each person thereby, make a written return of their proceedings, specifying the land taken and the damages awarded each person, and file the same with the town clerk; and such cemetery or burying-ground shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting.

**Sec. 11. Person aggrieved, remedy.** R. S. c. 20, § 11. Any person aggrieved by the amount of damages awarded, may have them determined by written complaint to the supreme judicial court in the manner provided respecting damages for the establishment of town ways.

See c. 24, § 20.

**Sec. 12. Private cemetery may become public; proceedings.** R. S. c. 20, § 12. Any private cemetery or burying-ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated, may, by vote of such town within one month after the recording of such agreement by the town clerk, become public, and subject to the law relating to public cemeteries or burying-grounds; provided, that such agree-

ment is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying-ground.

**Sec. 13. Towns and cemetery corporations may accept title to private burying-grounds; exemption from liability for debt; funds held in trust for repair of grounds; city or town may be appointed trustee of funds.** R. S. c. 20, § 13. Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding half an acre, to be forever held, kept and used for a private or family burying-ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying-ground, are forever inalienable and indivisible, and exempt from liability for debt. Such city, town, corporation, company or trustee may also accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same, or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefor may be appointed by the probate court, testamentary trustee for the purpose of holding forever in accordance with the provisions of this section and the terms of the devise any fund devised for the purposes aforesaid, in any will probated after the first day of January, eighteen hundred ninety-two.

77 Me. 192; 111 Me. 252.

**Sec. 14. Investment of funds.** R. S. c. 20, § 14. Every trust fund authorized by the preceding section shall be safely invested in United States, state, county, city or town securities, or deposited in savings banks; and the annual income only, shall be expended in performance of the requirements of the trust.

See c. 4, § 72.

**Sec. 15. Town's acceptance, recorded.** R. S. c. 20, § 15. A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee, and recorded in the registry of deeds with the conveyance.

**Sec. 16. Cities and towns may hold money in trust for cemetery purposes.** R. S. c. 20, § 16. Any person owning or interested in a lot in a public burying-ground of a city or town, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lot, or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or by-laws of such city or town, in relation to burials.

See c. 4, § 71.

**Sec. 17. May pass by-laws.** R. S. c. 20, § 17. A city or town may pass such ordinances or by-laws, as may be necessary for the purposes of the preceding section and not repugnant to law, and may receive such money



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for said purposes, and may allow interest thereon, at a rate not exceeding six per cent a year.

See c. 4, §§ 72, 98, ¶ 1.

**Sec. 18. Cities and towns may accept trusts, relating to burial lots. R. S. c. 20, § 18.** When any person owning or interested in a lot in a public burying-ground in a city or town deposits with the treasurer of such city or town, a sum of money for the preservation or care of such lot as provided by the preceding section, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts contained in the deed of conveyance of such lot.

See c. 4, § 70.

**Public Cemeteries.**

**Sec. 19. Incorporation of public cemeteries; exemption from attachment and taxation. R. S. c. 20, § 19.** Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter sixty-two, for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries; and the property of such corporations and the shares of stock therein, are exempt from attachment and taxation.

**Sec. 20. Deeds of burial lots, recorded. R. S. c. 20, § 20.** Deeds of burial lots in any public cemetery may be recorded in the registry of deeds for the county or district where such cemetery is situated.

**Construction of Mausoleums and Vaults.**

**Sec. 21. Plans for burial structures must be presented to state board of health for approval. 1915, c. 94, § 1.** Before any person, firm or corporation, shall build, construct or erect, any mausoleum, vault or other burial structure, entirely above ground, or partly above and partly by excavation, with the intention and purpose that when so built, constructed and erected the same may contain twenty or more deceased human bodies for permanent interment, such person, firm or corporation, shall present all plans for such construction to the state board of health, and shall obtain the written approval of such plans, by said board, before proceeding with the construction and erection of said mausoleum, vault, or other burial structure.

**Sec. 22. Crypts or catacombs, so constructed as to be readily examined. 1915, c. 94, § 2.** All crypts or catacombs placed in a mausoleum, vault, or other burial structure, as described in the preceding section, shall be so constructed that all parts thereof may be readily examined by the state board of health, or any other health officer, and such crypts or catacombs, when used for the permanent interment of a deceased body, or bodies, shall be so hermetically sealed that no offensive odor or effluvia may escape therefrom.

**Sec. 23. Penalty. Authority of court to enforce compliance with the law. 1915, c. 94, § 3.** If any person, firm or corporation, builds, constructs or erects a mausoleum, vault, or other burial structure, as specified in section twenty-one, before obtaining the approval of the state board of health,

as required in said section, or if any person, firm or corporation, fails to hermetically seal all crypts or catacombs in which a dead body or bodies have been placed in such mausoleum, vault or other burial structure, according to the requirements of section twenty-two, such person, firm or corporation shall be punished by fine of not less than one hundred, nor more than five hundred dollars for each offense; and in addition to said fine, the court may order the person, firm or corporation, by whose authority said interment or interments were made, to hermetically seal within a reasonable time said crypts or catacombs containing said body or bodies, or if the said body or bodies, cannot be suitably and properly hermetically sealed in said crypts or catacombs, to remove the body or bodies, and bury it or them in some suitable cemetery; or the court may order the hermetical sealing of said crypts or catacombs, to be done under the direction of the board of health in the municipality where said mausoleum, vault or other burial structure is erected; and that the said person, firm or corporation shall pay all expenses attending the said work, or the removal of said body or bodies, and the burial of the same in some cemetery.

**Sec. 24. Recovery of fines or penalties.** 1915, c. 94, § 4. All fines or penalties provided by the preceding section may be recovered or enforced by indictment, and the necessary processes for causing the crypts and catacombs to be sealed, or the bodies to be removed and buried, and execution to recover the necessary expenses thereof, may be issued by any justice of the supreme judicial court, or the superior courts, in term time or vacation.

**Sec. 25. Jurisdiction of courts.** 1915, c. 94, § 5. The supreme judicial court and the superior courts shall have original and concurrent jurisdiction, in all cases under the provisions hereof, provided that judges of municipal and police courts and trial justices may cause the persons brought before them on complaint for violation of sections twenty-one or twenty-two to recognize with sufficient sureties to appear at the next term of the supreme judicial court, or superior courts, and, in default thereof, shall commit them.

Note. Provisions for protection of dead bodies, graves and monuments in cemeteries, c. 126, §§ 41-43.

## CHAPTER 22.

## Drains and Common Sewers.

**Sec. 1. Highways not to be opened without consent. R. S. c. 21, § 1.** Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers, forfeits for each offense four dollars to the town.

92 Me. 493.

**Sec. 2. Construction of drains, authorized by vote of the town; expense and control thereof. R. S. c. 21, § 2.** The municipal officers of a town, or a committee duly chosen by the town, may, at the expense of the town, construct public drains or sewers along or across any public way therein; and through any lands of persons or corporations, when they deem it necessary for public convenience or health; but neither the municipal officers of the town, nor such committee, shall construct any public sewer therein until the same shall be authorized by vote of said town, and an appropriation made for the purpose; and when constructed such sewers shall be under the control of the municipal officers.

56 Me. 410; 67 Me. 53; 74 Me. 272; 82 Me. 355; 83 Me. 582; 86 Me. 538; 95 Me. 310, 315; 99 Me. 79; 100 Me. 262; 101 Me. 313; 103 Me. 123; 110 Me. 201; 111 Me. 122.

**Sec. 3. Notice, damages. R. S. c. 21, § 3.** Before the land is so taken, notice shall be given, and damages assessed and paid therefor as is provided for the location of town ways.

See c. 24, §§ 8, 16, 19, 20. 51 Me. 524; 67 Me. 53; 86 Me. 538; 95 Me. 310.

**Sec. 4. Proceedings when public sewer or drain crosses right of way of railroad. R. S. c. 21, § 4. 1915, c. 347, § 21.** Whenever a public drain or sewer is located and about to be constructed under the general provisions of law across the right of way of any railroad, unless the municipal officers or committee of the city or town which located the drain or sewer shall agree with the corporation operating such railroad as to the place, manner and conditions of the crossing, the public utilities commission, upon petition of either party, after notice and hearing, shall determine the place, manner and conditions of such crossing; all the work within the limits of such railroad location shall be done under the supervision of the officers of the corporation operating said railroad and to the satisfaction of the public utilities commission, and the expense thereof shall be borne by the city or town in which said drain or sewer is located; provided, however, that any additional expense in the construction of that part of the sewer or drain within the limits of the right of way of said railroad occasioned by the determination of said commission shall be borne by said railroad company or by the city or town in which said drain or sewer is located, or shall be apportioned between such company and the city or town as may be determined by said public utilities commission. Said commission shall make report of their decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal.

**Sec. 5. Expense of construction of drains, etc., how estimated and assessed.** R. S. c. 21, § 5. When any town has constructed and completed a public drain or common sewer, the municipal officers shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, or against whom the taxes thereon shall be assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, the whole of such assessments not to exceed one-half of the cost of such drain or sewer, and such drain or sewer shall forever thereafter be maintained and kept in repair by such town. The municipal officers shall file with the clerk of the town the location of such drain or sewer, with a profile description of the same, and a statement of the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of such lots or parcels of land or person against whom said assessment shall be made, and the clerk of such town shall record the same in a book kept for that purpose, and within ten days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk of said town, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode in said town; if he has no place of abode in said town, then such notice shall be given or left at the abode of his tenant or lessee if he has one in said town; if he has no such tenant or lessee in said town, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least thirty days before said hearing, or such notice may be given by publishing the same three weeks successively in any newspaper published in said town, the first publication to be at least thirty days before said hearing; a return made upon a copy of such notice by any constable in said town, or the production of the paper containing such notice, shall be conclusive evidence that said notice has been given, and upon such hearing the municipal officers shall have power to revise, increase or diminish any of such assessments, and all such revisions, increase or diminution shall be in writing and recorded by such clerk.

84 Me. 212; 86 Me. 379; 110 Me. 195; 113 Me. 208.

**Sec. 6. After hearing, assessment may be determined by arbitration, if any person is dissatisfied.** R. S. c. 21, § 6. Any person not satisfied with the amount for which he is assessed, may, within ten days after such hearing, by request in writing given to such clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate six persons who are residents of said town, two of whom selected by the applicant, with a third resident person selected by said two persons, shall fix the sum to be paid by him, and the report of such referees made to the clerk of said town, and recorded by him, shall be final and binding upon all parties. Said reference shall be had and their report made

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to said clerk, within thirty days from the time of hearing before the municipal officers as provided in section five.

110 Me. 194; 113 Me. 208.

**Sec. 7. Conditions upon which private drains may be entered into public drains. R. S. c. 21, § 7.** Any person may enter his private drain into any such public drain or common sewer, while the same is under construction and before the same is completed, and before the assessments are made, on obtaining a permit in writing from the municipal officers, or the sewer board having the construction of the same in charge; but after the same is completed and the assessments made, no person shall enter his private drain into the same, until he has paid his assessment and obtained a permit in writing from the town treasurer, by authority of the municipal officers. All permits given to enter any such drain or sewer, shall be recorded by the clerk of said town before the same are issued.

**Sec. 8. Lien on lots for payment of assessments; sale for non-payment. R. S. c. 21, § 8. 1913, c. 38.** All assessments made under the provisions of section five, shall create a lien upon each and every lot or parcel of land so assessed, and the buildings upon the same, which lien shall take effect when the municipal officers file with the town clerk the completed assessment, and shall continue one year thereafter; and within ten days after the date of hearing on said assessment the town clerk shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said town; if said assessments are not paid within three months from the date thereof, the treasurer shall sell, at public auction, such of said lots or parcels of land upon which such assessments remain unpaid, or so much thereof as is necessary to pay such assessments and all costs and incidental charges; he shall advertise and sell the same within one year from the time said assessments are made, as real estate is advertised and sold for taxes under chapter eleven, and upon such sale, shall make, execute and deliver his deed to the purchaser, which shall be good and effectual to pass the title of such real estate; the sum for which such sale shall be made, shall be the amount of the assessment and all costs and incidental expenses.

See c. 11, §§ 72-79.

**Sec. 9. Redemption. R. S. c. 21, § 9.** Any person to whom the right by law belongs, may at any time within one year from the date of said sale, redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per cent a year, and the costs of re-conveyance.

**Sec. 10. Actions for collection. R. S. c. 21, § 10.** If said assessments are not paid, and said town does not proceed to collect said assessments, by a sale of the lots or parcels of land upon which such assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said town, in the name of said town, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such suit may

recover the amount of such assessment, with twelve per cent interest on the same from the date of said assessments and costs.

84 Me. 215; 110 Me. 193; 113 Me. 208.

**Sec. 11. Persons paying assessment shall have lien on lot and buildings; enforcement.** R. S. c. 21, § 11. When any such assessment shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same, shall have a lien upon such lot or parcel of land with the buildings thereon, for the amount of said assessment so paid by said person, and incidental charges, which lien may be enforced in an action of assumpsit as for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots, under chapter ninety-six, which lien shall continue one year after said assessment is paid.

**Sec. 12. Application of §§ 5-11.** R. S. c. 21, § 12. The seven preceding sections shall not apply to any city or town, until they shall have been accepted by the inhabitants of such town or the city council of such city at a meeting legally called therefor.

**Sec. 13. Private drains, application for permits; regulations.** R. S. c. 21, § 13. Abutters upon the line of a public drain existing in any town or city which has not accepted the provisions of the eight preceding sections, and abutters upon the line of a public drain constructed prior to such acceptance, and the owners of contiguous private drains, may enter and connect with such public drain, on written application to the municipal officers, distinctly describing the land to which it applies, and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains, as they deem expedient.

95 Me. 310; 97 Me. 510.

**Sec. 14. Amount to be paid for permits, how adjusted.** R. S. c. 21, § 14. If any person is dissatisfied with the sum which he is required to pay to enter a public drain, and within ten days after notice thereof, requests in writing to have it determined by arbitration, said officers shall nominate six persons, any two of whom, selected by the applicant, with a third person, selected by himself, may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

**Sec. 15. Drains heretofore laid.** R. S. c. 21, § 15. All drains, heretofore made at the expense of a town, shall be maintained, managed, controlled and entered the same as if made under this chapter, subject to the rights of private persons therein.

74 Me. 272.

**Sec. 16. Penalty for connecting private drains with public, without permission.** R. S. c. 21, § 16. If any person connects a private drain with a public drain, or enters it by a side drain, without a permit, the municipal officers may forthwith destroy such connection; and such person forfeits to the town where the offense is committed, not exceeding two hundred dollars, to be recovered by indictment or action of debt.

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**Sec. 17. Penalty for violation of permit, and for nuisances. R. S. c. 21, § 17.** If any person wilfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited; and such person, his heirs and assigns, shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits a nuisance, is liable therefor notwithstanding anything herein contained.

57 Me. 438.

**Sec. 18. Drains to be kept in repair; penalty for neglect. R. S. c. 21, § 18.** After a public drain has been constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town, so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but its course may be altered, or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the town for his damages thereby sustained.

56 Me. 410; 66 Me. 155; 82 Me. 359; 95 Me. 310; 97 Me. 510; 99 Me. 143; 100 Me. 263; 101 Me. 312; 103 Me. 121; 111 Me. 121.

**Sec. 19. Proceedings to be recorded; prosecutions. R. S. c. 21, § 19.** All proceedings of municipal officers as aforesaid shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands to which they apply. Said officers have exclusive direction, on behalf of their town, of all prosecutions under this chapter.

95 Me. 310.

**Sec. 20. Payment for permit in sixty days; fees of arbitrators. R. S. c. 21, § 20.** If any person, after the sum to be paid by him for a permit has been determined by arbitration, neglects to pay it within sixty days after notice thereof, with the fees of the arbitrators, he shall have no benefit of such determination, or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required; and their award shall be returned by them to the town clerk, and recorded with the proceedings of said officers in establishing such drains.

**Sec. 21. Private drain, how repaired, in case of owner's neglect. R. S. c. 21, § 21.** If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the road commissioner, unreasonably neglect to repair such injury, it shall be repaired by the town, and the expense thereof may be recovered to the town in an action on the case against any one or more of the persons using such drain.

51 Me. 524.

**Sec. 22. Wilfully or carelessly injuring public drains. R. S. c. 21, § 22.** Whoever wilfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading into it, is liable to the town where it is located, in an action on the case for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.

**Sec. 23. All who enter a private drain must pay their proportion. R. S. c. 21, § 23.** When a person, at his own expense, lays a common drain or

sewer, all who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers, subject to appeal to the county commissioners.

**Sec. 24. Payment in ten days after notice.** R. S. c. 21, § 24. The municipal officers shall notify each person of the amount which he is to pay, and to whom; and if not paid in ten days, he shall pay double the amount with cost.

**Sec. 25. Notice to be given before opening for repairs.** R. S. c. 21, § 25. Before such drain is opened for repairs, all persons interested shall have seven days' notice thereof, given as the municipal officers direct; and if any one objects and said officers think his objection reasonable, he shall not be liable to any expense therefor; if not thought reasonable, or if no objection is made within three days, they may give written permission to proceed.

### Highway Ditches and Drains.

**Sec. 26. Towns may construct ditches and drains to drain highways; control; liability for damages.** R. S. c. 21, § 26. The municipal officers of a town may at the expense of the town construct ditches and drains to carry water away from any highway or road therein, and over or through any lands of persons or corporations when they deem it necessary for public convenience or for the proper care of such highway or road, provided that no such ditch or drain shall pass under or within twenty feet of any dwelling-house without the consent of the owner thereof. Such ditches or drains shall be under the control of said municipal officers and wilful interference therewith shall be punished as is provided by statute for obstruction in a traveled road. If such town does not maintain and keep in repair such ditches and drains, the owner or occupant of the lands through or over which they pass, may have his action against the town for damages thereby sustained.

See c. 24, § 80; c. 25, § 6; c. 129, § 28; 112 Me. 321.

**Sec. 27. Procedure.** R. S. c. 21, § 27. Before land is so taken, notice shall be given and damages assessed and paid therefor as is provided for the location of town ways.

See c. 24, §§ 16, 20.

### Drainage of Swamps and Meadows.

**Sec. 28. Drains across adjacent lands or highways, how authorized.** R. S. c. 21, § 28. Persons or corporations possessing land, swamp, meadow, quarries or mines, which by reason of adjacent lands or highways, cannot be approached, drained or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

**Sec. 29. Petition to county commissioners; bond.** R. S. c. 21, § 29. The party desiring to make such drains and ditches shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, the situation of the adjoining lands, and the names of the parties interested, if known, accompanied by a bond ap-



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proved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

**Sec. 30. Notice; appointment and proceedings of committee.** R. S. c. 21, § 30. Said commissioners thereupon, shall order notice to all parties named therein, by serving on them an attested copy thereof with the order thereon, fourteen days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three, nor more than five disinterested persons, and fix their daily compensation; they shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same, in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands is likely to sustain, and report the same with all their proceedings to said commissioners; but before said committee proceeds to said examination they shall give ten days' notice of the time and place of their meeting, by posting notifications thereof in two public places, in the town in which said lands lie.

**Sec. 31. Report.** R. S. c. 21, § 31. At the next meeting of said commissioners after the report of the committee is received, they may, if deemed reasonable, accept such report.

**Sec. 32. Final report to be recorded and damages tendered.** R. S. c. 21, § 32. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated.

**Sec. 33. Repairs, how to be made.** R. S. c. 21, § 33. The owners of a drain or ditch constructed for the purposes above named, or any one of them benefited thereby, may, from time to time, improve, deepen and repair the same in such manner as is necessary to make it effective, and may remove and use any rock, earth or other material necessary for such improvements, and may enter upon the lands through which such drain or ditch passes, for that purpose.

**Sec. 34. Damages, how to be settled.** R. S. c. 21, § 34. All damages sustained by any person by reason of such improvement, including the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the persons or corporations taking said material, in an action on the case; or upon application to the county commissioners, at the election of the party injured, who shall assess the damages, and proceedings upon appeal may be conducted as provided in section eight of chapter twenty-four.

**Sec. 35. Drains, how protected.** R. S. c. 21, § 35. Whoever damages such works shall be punished as provided in chapter one hundred and twenty-nine, for offenses of like nature.

See c. 129, § 10.

## CHAPTER 23.

## Nuisances.

**Sec. 1. Common nuisances; jurisdiction of supreme judicial court to abate. R. S. c. 22, § 1.** All places used as houses of ill-fame, or for the illegal sale or keeping of intoxicating liquors, or resorted to for lewdness or gambling; all houses, shops or places where intoxicating liquors are sold for tipling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drank or dispensed in any manner not provided for by law, are common nuisances. The supreme judicial court shall have jurisdiction in equity, upon information filed by the county attorney or upon petition of not less than twenty legal voters of such town or city, setting forth any of the facts contained herein, to restrain, enjoin or abate the same, and an injunction for such purpose may be issued by said court or any justice thereof.

See c. 15, § 125; c. 127, § 48; 63 Me. 219; 64 Me. 529; 65 Me. 295, 430; 66 Me. 419; 67 Me. 125; 69 Me. 136; 74 Me. 153; 75 Me. 124, 590; 78 Me. 439; 81 Me. 108, 411; 82 Me. 158, 558; 84 Me. 437, 560; 85 Me. 289; 96 Me. 562, 568; 97 Me. 307, 311, 317, 482; 98 Me. 197, 352, 397; 99 Me. 63, 488; 101 Me. 40; 105 Me. 130; 106 Me. 193, 359; 107 Me. 179; 108 Me. 531; 110 Me. 98; 112 Me. 17, 197.

**Sec. 2. Punishment. R. S. c. 22, § 2. 1909, c. 231. 1911, c. 95.** Whoever keeps or maintains such nuisance, shall be fined not less than one hundred dollars, nor more than one thousand dollars, and imprisoned not less than thirty days, nor more than one year, and in default of payment of said fine, shall be imprisoned for an additional term of not more than one year.

64 Me. 529; 65 Me. 295; 68 Me. 545; 78 Me. 441; 81 Me. 108; 82 Me. 158; 84 Me. 560; 85 Me. 289; 101 Me. 40; 107 Me. 179; 110 Me. 98.

**Sec. 3. Lease void; remedy of owner. R. S. c. 22, § 3.** If any tenant or occupant, under any lawful title, of any building or tenement not owned by him, uses it or any part thereof for any purpose named in section one, he forfeits his right thereto, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided in chapter ninety-nine.

See c. 126, § 22; 56 Me. 323; 68 Me. 545; 97 Me. 307, 311, 317; 108 Me. 531.

**Sec. 4. Liability of owner. R. S. c. 22, § 4.** Whoever knowingly lets any building or tenement owned by him, or under his control, for any purpose named in section one, or knowingly permits the same or part thereof to be so used, is guilty of aiding in the maintenance of a nuisance, and shall be fined not less than one hundred, nor more than one thousand dollars, or imprisoned not less than thirty days nor more than six months.

67 Me. 125; 79 Me. 98; 97 Me. 90; 107 Me. 179.

**Sec. 5. Certain nuisances described. R. S. c. 22, § 5.** The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture, which, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or of the public; causing or suffering any

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offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure, the water of a river, stream or pond; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying-grounds, are nuisances within the limitations and exceptions hereafter mentioned.

7 Me. 156; 12 Me. 361; 17 Me. 294; 26 Me. 132; 30 Me. 74; 32 Me. 85; 37 Me. 362; 42 Me. 156, 527; 43 Me. 201; 47 Me. 163; 49 Me. 30; 51 Me. 504; 57 Me. 403; 58 Me. 48; 59 Me. 367; 60 Me. 194; 65 Me. 435, 438; 68 Me. 545; 80 Me. 310; 83 Me. 278; 85 Me. 281; 86 Me. 57; 88 Me. 380; 97 Me. 562; 102 Me. 55; 104 Me. 162.

**Sec. 6. Fence maliciously kept, when deemed a nuisance. R. S. c. 22, § 6.** Any fence or other structure in the nature of a fence, unnecessarily exceeding six feet in height, maliciously kept and maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance.

91 Me. 221; 104 Me. 124.

**Sec. 7. Town officers may assign places for unwholesome employments. R. S. c. 22, § 7.** The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades, employments or manufactures aforesaid, and may forbid their exercise in other places, under penalty of being deemed public or common nuisances and the liability to be dealt with as such. All such assignments shall be entered in the records of the town, and may be revoked when said officers judge proper.

See c. 30, § 12; 34 Me. 40; 65 Me. 435; 85 Me. 281.

**Sec. 8. Proceedings, when places so assigned become offensive. R. S. c. 22, § 8.** When a place or building so assigned becomes a nuisance, offensive to the neighborhood, or injurious to the public health, any person may complain thereof to the supreme judicial court, and if after notice to the party complained of, the truth of the complaint is admitted by default, or made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for such purposes, under a penalty not exceeding one hundred dollars for each month's continuance after such prohibition, to the use of said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

85 Me. 281.

**Sec. 9. When buildings for manufacture of powder are nuisances. R. S. c. 22, § 9.** If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

See c. 30, § 20; 85 Me. 281.

**Sec. 10. Burning of bricks may be prohibited; violation of such prohibition, is a nuisance. R. S. c. 22, § 10.** A town, at its annual meeting,

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

85 Me. 281.

**Sec. 11. Mills and dams on streams, and fences and buildings fronting on public ways, sometimes not nuisances.** R. S. c. 22, § 11. The erection and maintenance of water mills and dams to raise water for working them upon or across streams not navigable as provided in chapter ninety-seven, shall not be deemed a nuisance unless they become offensive to the neighborhood, or injurious to the public health, or unless they occasion injuries or annoyances of a kind not authorized by said chapter. Fences and buildings fronting on public ways, commons or lands appropriated to public use, shall not be deemed nuisances when erected for the times and in the manner provided in section one hundred and six of chapter twenty-four, unless the owner of the same shall be estopped as therein provided from justifying his occupation within the limits of said way.

6 Me. 123; 7 Me. 156; 8 Me. 145; 24 Me. 234; 60 Me. 194; 85 Me. 281.

**Sec. 12. Punishment, and abatement of nuisance.** R. S. c. 22, § 12. Whoever erects, causes or continues a public or common nuisance, as herein described or at common law, where no other punishment is specially provided, may be fined not exceeding one hundred dollars; and the court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as hereinafter provided.

21 Me. 12, 85; 30 Me. 78; 85 Me. 281; 94 Me. 530.

**Sec. 13. Motor boats equipped with suitable mufflers.** 1913, c. 111, § 1. All motor boats run or operated in any tidal or other waters within the state, shall be provided or equipped with proper and suitable mufflers or other devices, which shall effectually deaden sound. Said mufflers shall be used all the time the engine of the motor boat is in operation; provided that it shall be allowable to cut out said mufflers, in case of boats while entered and competing in boat races held under the auspices of some regularly organized club, between the hours of eight o'clock in the morning and sunset following.

**Sec. 14. Muffling devices approved by U. S. inspectors.** 1913, c. 111, § 2. Any muffling device approved by the United States inspectors having jurisdiction of the tidal waters of this state shall, in case of motor boats run or operated on such tidal or other waters in the state, be deemed to be a compliance with the preceding section, provided such defense shall be set up and proved by the defendant.

**Sec. 15. Penalty.** 1913, c. 111, §§ 3, 4. Whoever violates any provision of sections thirteen and fourteen between eight o'clock in the forenoon and eight o'clock at night, shall be punished by a fine of not less than five dollars nor more than twenty-five dollars; whoever violates any provision

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of said sections between eight o'clock in the afternoon and eight o'clock in the forenoon shall be subject to a double penalty; and any such violation shall be deemed a common nuisance within the meaning of section twelve of this chapter.

**Sec. 16. Action for damages caused by nuisance.** R. S. c. 22, § 13. Any person injured in his comfort, property or the enjoyment of his estate by a common and public, or a private nuisance, may maintain against the offender an action on the case for his damages, unless otherwise specially provided.

44 Me. 156; 49 Me. 30; 51 Me. 504; 57 Me. 377; 75 Me. 378; 80 Me. 33, 310; 85 Me. 281; 102 Me. 60; 103 Me. 50; 104 Me. 162; 106 Me. 422.

**Sec. 17. Process for abatement of nuisance.** R. S. c. 22, § 14. When, on indictment, complaint or action, any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs, for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant; and after inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following:

"STATE OF MAINE.

\_\_\_\_\_, ss. To the sheriff of our county of \_\_\_\_\_, or either of his deputies, Greeting.

Whereas, by the consideration of our honorable \_\_\_\_\_ court, at a term begun and held at \_\_\_\_\_, within and for said county, upon indictment," (or "complaint," or "action in favor of A. B.," as the case may be,) "C. D., of \_\_\_\_\_, &c., was adjudged guilty of erecting," ["causing," or "continuing,"] "a certain nuisance, being a building in \_\_\_\_\_, in said county," (or "fence," or other thing, describing particularly the nuisance and the place,) "which nuisance was ordered by said court to be abated and removed: We therefore command you forthwith to cause said nuisance to be abated and removed; also that you levy of the materials by you so removed, and of the goods, chattels and lands of said C. D., a sum sufficient to defray the expense of removing and abating the same, not to exceed \_\_\_\_\_ dollars," (the sum estimated by the court,) "together with your lawful fees, and thirty-three cents more for this writ. And, for want of such goods and estate to satisfy said sums, we command you to take the body of said C. D., and him commit unto our jail in \_\_\_\_\_, in said county, and there detain until he pays such sums or is legally discharged. And make return of this warrant, with your doings thereon, within thirty days. Witness, A. B., Esq., at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord 19—.

J. S., Clerk."

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

80 Me. 307; 85 Me. 281; 94 Me. 530.

**Sec. 18. Warrant to be stayed, if defendant gives security to discontinue the nuisance.** R. S. c. 22, § 15. Instead of issuing such warrant, the court or trial justice may order it to be stayed on motion of the defendant, and on his entering into recognizance in such sum and with such surety as the court or justice directs, in case of an indictment, to the state, or in case of a complaint or action, to the plaintiff, conditioned that the defendant will either discontinue said nuisance, or that within a time limited by the court and not exceeding six months, he will cause it to be abated and removed, as may be directed by the court; and on failing to perform such condition, the recognizance shall be deemed forfeited, and the court, or any justice thereof, in term time or in vacation, or said trial justice on being satisfied of such default, may forthwith issue the warrant and scire facias on the recognizance.

**Sec. 19. Expenses of abatement to be defrayed as in case of execution; defendant entitled to poor debtor's oath.** R. S. c. 22, § 16. The expense of abating a nuisance by virtue of a warrant shall be collected by the officer as damages and costs are collected on execution; except that the materials of buildings, fences or other things removed as a nuisance, may be first levied upon and sold by the officer, and the proceeds, if any remain after paying the expense of removal, shall be paid by him, on demand, to the defendant or the owner of such property; and if said proceeds are not sufficient to satisfy the expenses, the officer shall collect the residue as aforesaid. A person committed to jail on such warrant, may avail himself of the poor debtor's oath, as if he had been committed on execution. If said expense cannot be collected of the defendant, it shall be paid as costs in criminal prosecutions.

**Sec. 20. Equity jurisdiction of supreme judicial court, by injunction.** R. S. c. 22, § 17. Any court of record, before which an indictment, complaint, or action for a nuisance is pending, may, in any county, issue an injunction to stay or prevent such nuisance, and make such orders and decrees for enforcing or dissolving it, as justice and equity require.

60 Me. 194.

**Sec. 21. Stationary, gasoline or steam engine not to be used without license from town officers.** R. S. c. 22, § 18. No stationary, gasoline or steam engine shall be erected in a town until the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provision as to height of chimney or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records, and a certified copy of it furnished, without charge, to the applicant.

65 Me. 435; 75 Me. 378; 80 Me. 490.

**Sec. 22. Notice and hearing on application; appeal to supreme judicial court; proceedings.** R. S. c. 22, § 19. When application is made for such license, said officers shall assign a time and place for its consideration, and give at least fourteen days' public notice thereof, in such manner as they think proper, at the expense of the applicant. Any person aggrieved by

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the decision of the selectmen of towns, in granting or refusing such license, may appeal therefrom to the next term of the supreme judicial court held in said county, which court may appoint a committee of three disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give fourteen days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, the supreme judicial court in equity may enjoin the erection of such building and engine.

See c. 24, § 60.

**Sec. 23. Unlicensed engine.** R. S. c. 22, § 20. Any such engine erected without a license shall be deemed a common nuisance without other proof than its use.

**Sec. 24. Abatement.** R. S. c. 22, § 21. Said officers have the same authority to abate and remove an engine, erected without license, as is given to the local board of health or health officer in chapter nineteen.

See c. 19, § 84; 65 Me. 435; 75 Me. 378; 80 Me. 490.

**Sec. 25. Steam boilers to be provided with fusible safety plugs; exceptions.** R. S. c. 22, § 22. No person or corporation shall manufacture, sell, use or cause to be used, except as hereinafter provided, any steam boiler in the state unless it is provided with a fusible safety plug, made of lead for boilers carrying steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and said safety plug shall be not less than one-half inch in diameter, and shall be placed in the roof of the fire-box when a fire-box is used, and in all cases shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the surface line of the water as good judgment shall dictate, excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section.

**Sec. 26. Penalty for violation.** R. S. c. 22, § 23. If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures or sells a steam boiler of a class not exempted from the provisions of the preceding section, unprovided with such safety fusible plug, such offender shall be fined not exceeding one thousand dollars.

**Sec. 27. Care of steam heating plants.** 1907, c. 82, § 1. Whenever any school building, church, or other public building is heated by a steam plant, located in, under or near such building, such steam plant shall be in charge of a person qualified as provided in the following section.

**Sec. 28. Applicant shall be examined by municipal officers; certificate; filing; not issued without evidence of qualification.** 1907, c. 82, §§ 2, 3. The municipal officers of any town or city in which any of the buildings enumerated in the preceding section, heated by steam, are located, shall require the person or persons contemplating taking charge of the steam plant for such purpose, to appear before them, and they shall require him to produce

before them satisfactory evidence of his competency to have charge of such steam plant; and unless the person so applying has been licensed as an engineer, or has had previous experience as a machinist, or as an engineer of a steam plant, he shall be required to satisfy said municipal officers that he possesses the requisite qualifications and experience to assume charge of the particular plant which he desires permission to operate; and if said municipal officers, after such examination, are satisfied that the applicant possesses the requisite qualifications for such work, and is of temperate habits, they, or the majority thereof, shall issue under their hands a certificate in the following form:

“STATE OF MAINE.

“City (or) Town of

This is to certify that \_\_\_\_\_ having made application to the municipal officers of the city (or) town of \_\_\_\_\_, for permission to take charge of, and operate a steam plant located in said city (or) town, (here describe the nature of the steam plant of which the applicant is authorized to have charge, and its location); and having produced evidence of his competency to act in said capacity, we have issued to him this certificate as provided by section twenty-eight of chapter twenty-three of the revised statutes.”

Said certificate when issued shall be filed in the office of the city or town clerk, and such clerk shall issue and deliver to said applicant a duly attested copy of such certificate, and the copy so issued shall be posted by the holder thereof, in a conspicuous place in or near the room in which the boiler to be operated is located. Municipal officers shall not issue the certificate provided for by this section without receiving proof that the person to whom such certificate is issued has had experience in such work, and is in all respects qualified to discharge the duties referred to in the certificate granted, and is also of temperate habits.

**Sec. 29. Duty of municipal officers when notice is received that person in charge of steam heating plant is incompetent.** 1907, c. 82, § 4. Whenever the municipal officers of any town or city receive notice in writing, signed by ten or more of the residents thereof, stating that the person in charge of a steam plant located in, under, or near, any school building, church, or other public building situated in said city or town, and furnishing or supplying heat for such building, is incompetent for the discharge of such duties, or by reason of negligence, intemperance, or any other cause, ought not longer to remain in charge of such steam plant, said municipal officers shall immediately suspend temporarily the authority of such person to act in said capacity; and until the investigation herein provided can be made, shall cause a person qualified as provided by the preceding section to be placed in charge of said steam plant. The municipal officers shall, as soon thereafter as practicable, cause an investigation of such complaint to be made, and shall thereupon inquire into the habits and qualifications of the person so complained of, and if such person is, for any reason, found to be incompetent or unsuitable to longer remain in charge of said steam plant, they shall immediately cause the certificate granted under the pro-



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visions of the preceding section, to be revoked, and notice of such revocation shall be filed with the clerk of such city or town, and thereupon said municipal officers shall, if such plant is under their control, place a person qualified as herein provided, in charge thereof; and if such steam plant is not in charge of such municipal officers, they shall give the person or corporation having the control of such steam plant, notice of their findings, and if such person or corporation having control of such steam plant, shall, after the receipt of such findings, neglect or refuse to cause said steam plant to be placed in charge of some person qualified under the provisions of the preceding section, such person or corporation shall be subject to the penalties provided in the following section.

**Sec. 30. Penalty.** 1907, c. 82, § 5. Whoever violates any provision of the three preceding sections shall be punished by fine of not exceeding fifty dollars, or imprisonment for not exceeding ninety days, or both, in the discretion of the court.

Note. Penalty for negligent management of steam boiler resulting in loss of life, c. 120, § 6.

**Sec. 31. Blasting rocks, notice to be given.** R. S. c. 22, § 24. Persons engaged in blasting lime-rock or other rocks, shall before each explosion give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion; and no such explosion shall be made after sunset.

82 Me. 242; 88 Me. 268; 93 Me. 67.

**Sec. 32. Penalty for violation.** R. S. c. 22, § 25. Whoever violates the preceding section, forfeits to the prosecutor five dollars for each offense, to be recovered in an action of debt, and is liable for all damages caused by any explosion; and if the persons engaged in blasting rocks are unable to pay, or after judgment and execution, avoid payment of the fine, damages and costs, by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.

82 Me. 242; 88 Me. 268.

**Sec. 33. Dangerous buildings may be adjudged nuisances; proceedings; notice to owner; return.** R. S. c. 22, § 26. When the municipal officers of a town after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the state paper, and after a hearing of the matter, adjudge the same to be a nuisance or dangerous, they may make and record an order, prescribing what disposal shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if a resident of the state, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown, or resides without the state, such notice shall be given by publication in the state paper, or in a paper published in the county, three weeks successively.

See c. 4, § 98, ¶ 8; c. 30, § 34.

**Sec. 34. Town officers may order nuisance abated.** R. S. c. 22, § 27. If no application is made to a justice of the supreme judicial court, as is hereafter provided, the municipal officers of such town, shall cause said nuisance

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

**Sec. 35. Owner may apply to supreme court.** R. S. c. 22, § 28. Any owner aggrieved by such order, may apply to a justice of the supreme judicial court, in term time or vacation, who shall forthwith, after notice and hearing, affirm, annul or alter such order. If the court is not in session, the action shall be entered on the docket of the preceding term.

**Sec. 36. Costs.** R. S. c. 22, § 29. If the court affirms such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant, and if it alters it in part, the court may render such judgment as to costs as justice requires.

**Sec. 37. Sections 33-36 require vote of town.** R. S. c. 22, § 30. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.

## CHAPTER 24.

### Ways.

Sections	1-11	Location, Alteration and Discontinuance of Highways.
Sections	12-15	Ways in two or more Counties.
Sections	16-33	Town and Private Ways. Public Landings.
Sections	34-38	Abolishment of Grade Crossings.
Sections	39-44	Assessments upon Abutters on City Streets.
Sections	45-48	Opening of Ways.
Section	49	Actions for Damages. Costs.
Sections	50-58	Ways in Places not Incorporated.
Sections	59-62	Ways in Incorporated Places.
Sections	63-115	Liability for Repair of Ways and for Injuries.
Sections	116-125	Excavations in City Streets.
Sections	126-129	Repair of Private Ways owned in Common.

### Location, Alteration and Discontinuance of Highways.

**Sec. 1. County commissioners may lay out, alter or discontinue, all county roads.** R. S. c. 23, § 1. County commissioners may lay out, alter or discontinue highways leading from town to town, and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter or discontinue county roads within the limits thereof. Responsible persons may present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description, without adhering strictly to its bounds.

Authority of commissioners. 11 Me. 276; 15 Me. 22; 19 Me. 343; 26 Me. 356, 409; 31 Me. 270; 32 Me. 568; 37 Me. 559; 39 Me. 584; 40 Me. 437; 42 Me. 401; 59 Me. 89; 64 Me. 457; 70 Me. 408; 77 Me. 130; 78 Me. 156; 79 Me. 526; 87 Me. 151; 102 Me. 161; 106 Me. 131; 110 Me. 506.

Petition. 2 Me. 53; 3 Me. 105; 26 Me. 356, 408; 32 Me. 568; 37 Me. 119; 63 Me. 114; 68 Me. 407, 497; 78 Me. 537; 80 Me. 44.

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**Sec. 2. Notice, how given, proved and recorded.** R. S. c. 23, § 2. Being satisfied that the petitioners are responsible, and that an inquiry into the merits is expedient, they shall cause thirty days' notice to be given of the time and place of their meeting, by posting copies of the petition, with their order thereon, in three public places in each town in which any part of the way is, and serving one on the clerks of such towns, and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested, and evidence thereof.

19 Me. 343; 30 Me. 305; 68 Me. 406, 497; 83 Me. 116; 105 Me. 560; 110 Me. 512.

**Sec. 3. Costs paid by petitioners on failure.** R. S. c. 23, § 3. When their decision is against the prayer of the petitioners, they shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it; and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

2 Me. 54; 3 Me. 105; 68 Me. 497; 83 Me. 115.

**Sec. 4. Proceedings before county commissioners; return; durable monuments erected.** R. S. c. 23, § 4. They shall meet at the time and place appointed, and view the way, and there, or at a place in the vicinity, hear the parties interested. If they judge the way to be of common convenience and necessity, or that any existing way shall be altered, graded or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way, and state in their return when it is to be done, the names of the persons to whom damages are allowed, the amount allowed to each, and when to be paid. When the way has been finally established and opened to travel, they shall cause durable monuments to be erected at the angles thereof.

Return. 12 Me. 212; 14 Me. 343; 23 Me. 13, 513; 26 Me. 409; 30 Me. 307; 35 Me. 377; 49 Me. 145; 51 Me. 384; 65 Me. 292; 72 Me. 430; 78 Me. 172; 79 Me. 528; 83 Me. 116; 89 Me. 252; 91 Me. 51; 105 Me. 186.

Angles and monuments. 25 Me. 304; 35 Me. 377; 49 Me. 148.

Validity of proceedings. 8 Me. 272, 293; 11 Me. 473; 19 Me. 343; 23 Me. 11, 513; 24 Me. 152; 26 Me. 356, 408; 30 Me. 306; 31 Me. 270; 32 Me. 568; 37 Me. 120, 559; 42 Me. 400; 49 Me. 145; 52 Me. 27; 68 Me. 407; 73 Me. 324; 81 Me. 411; 83 Me. 523.

Damages. 19 Me. 315; 45 Me. 424; 49 Me. 145; 52 Me. 27; 54 Me. 478; 60 Me. 540; 61 Me. 442; 63 Me. 28; 67 Me. 460, 464.

**Sec. 5. Return to be filed with clerk; proceedings thereon; notice of appeal, from estimate of damages; in case of appeal from location, when appeal on damages to be filed.** R. S. c. 23, § 5. 1913, c. 159. Their return, made at their next regular statute session after the hearing, shall be placed on file, and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regular term of record, and at any time on or before the third day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under the first thirteen sections of this chapter, paid out of the county treasury except as provided in section eleven. But if an appeal from the

location be taken in accordance with section fifty-nine, then notice of appeal on damages may be filed with the clerk of the county commissioners within sixty days after the final decision of the appellate court in favor of such way, has been certified to him, to the supreme judicial court first held in the county where the land is situated, more than thirty days after such notice of appeal is filed, which court shall determine the same in the same manner as is provided in section eight, when no appeal on location is taken.

Filing and recording return. 31 Me. 272; 32 Me. 568; 42 Me. 399; 59 Me. 391; 63 Me. 28; 83 Me. 522.

Close of proceedings. 23 Me. 11; 25 Me. 304; 30 Me. 308; 59 Me. 391; 63 Me. 28; 78 Me. 101, 169.

**Sec. 6. Proceedings before and after decision respecting increase of damages; exception.** R. S. c. 23, § 6. When a notice of appeal for increase of damages is presented within the time allowed, the case shall be further continued until a final decision respecting damages is made. If they then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners, or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly; and the whole proceedings shall be recorded and become effectual. But the provisions of this section shall not apply when a location has been determined by a committee of the supreme judicial court upon appeal from the decision of the county commissioners thereon. In such case proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

63 Me. 28; 78 Me. 173.

**Sec. 7. Damages, how estimated; to whom awarded; when to be paid.** R. S. c. 23, § 7. If any person's property is damaged by laying out, altering or discontinuing a highway or town way, the county commissioners or the municipal officers of towns shall estimate the amount, and in their return state the share of each separately; damages shall be allowed to the owners of reversions, and remainders; and to tenants for life, and for years, in proportion to their interests in the estate taken; but said commissioners or officers shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the highway or alteration is located, has been entered upon and possession taken, for the purpose of construction or use.

71 Me. 140; 84 Me. 54; 91 Me. 51; 93 Me. 127; 105 Me. 580.

**Sec. 8. Appeal from commissioners to supreme court.** R. S. c. 23, § 8. 1915, c. 62, § 1. Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time before the third day of the regular term succeeding that at which the commissioners' return is made, to the term of the supreme judicial court, first held in the county where the land is situated, more than thirty days after the expiration of the time within

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which such appeal may be taken, excluding the first day of its session, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of the court shall file a complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record, and order the damages therein recovered to be paid as provided in section seven. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party, said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners. The committee shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts.

21 Me. 390; 77 Me. 181; 78 Me. 173; 83 Me. 535; 84 Me. 54; 89 Me. 313; 91 Me. 51; 96 Me. 249; 105 Me. 416; 106 Me. 147.

**Sec. 9. Time allowed for removing growth, and opening way. R. S. c. 23, § 9.** The owners of land taken shall be allowed not exceeding one year after the proceedings, regarding the location, are finally closed to take off timber, wood or any erection thereon. A time not exceeding two years shall be allowed for making and opening the way.

See § 45; 8 Me. 137; 39 Me. 116; 64 Me. 409; 84 Me. 100; 105 Me. 186, 580.

**Sec. 10. Way discontinued before damages paid, proceedings. R. S. c. 23, § 10.** When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as herein provided.

93 Me. 130.

**Sec. 11. County commissioners shall fix boundaries of highways or town ways; proceedings. R. S. c. 23, § 11. 1905, c. 79. 1907, c. 143. 1915, c. 46; c. 111.** When the true boundaries of highways or town ways duly located, or of which the location is lost, or which can only be established by user, are doubtful, uncertain or lost, the county commissioners of the county wherein such highway or town way is located, upon petition of the municipal officers of the town wherein the same lies, shall, after such notice thereon as is required for the location of new ways, proceed to hear the parties, examine said highway or town way, locate and define its limits and boundaries by placing stakes on side lines at all apparent intersecting property lines, and at intervals of not more than one hundred feet and cause durable monuments to be erected at the angles thereof at the expense of the town wherein said highway or town way lies, make a correct return of their doings, signed by them, accompanied by an accurate plan of the way; and if any real estate is damaged by said action, they shall award damages to the owner as in laying out new highways, in the case of high-

ways to be paid by the county and in the case of town ways to be paid by the town. Their return made at the next regular statute session after the hearing, shall be placed on file and the case shall be continued to await a final decision respecting damages; sections five and six shall be applicable to appeals for increase of damages under this section. Said municipal officers shall maintain all highway or town way monuments, and replace them forthwith when destroyed. If any appeal for increase of damages is taken, and the commissioners are of opinion that their proceedings hereunder, or any part thereof, ought not to take effect, they shall enter a judgment that the prayer of the original petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county.

83 Me. 42; 111 Me. 257.

### Ways in Two or More Counties.

**Sec. 12. Petitions respecting ways in two or more counties, proceedings on them.** R. S. c. 23, § 12. When a petition is presented respecting a way in two or more counties, the commissioners receiving the petition being satisfied as aforesaid, may call a meeting of the commissioners of all the counties, to be held at a time and place named, by causing an attested copy of such petition and of their order thereon, to be served upon their chairmen; and they shall give notice of such meeting by causing a like copy to be published in the state paper and in one paper, if any, printed in every such county, and by posting it in three public places in each town interested, and serving it on the clerk thereof. These notices shall be posted, served and published thirty days before the time of meeting.

52 Me. 213; 65 Me. 214.

**Sec. 13. Proceedings.** R. S. c. 23, § 13. Each county must be represented at such meeting by a majority of its commissioners. A majority of those present may decide upon the whole matter. The duty of carrying that judgment into effect, shall be performed in each county by its own commissioners in the manner respecting ways wholly within it. When each county is not so represented, those present may adjourn the meeting to another time.

25 Me. 292; 45 Me. 424; 52 Me. 213; 73 Me. 57.

**Sec. 14. Appeals.** R. S. c. 23, § 14. When proceedings have been had by the county commissioners on a petition for laying out, altering, grading or discontinuing a way in two or more counties, an appeal may be taken in the manner provided in case of a way wholly in one county.

**Sec. 15. Proceedings in cases of appeals.** R. S. c. 23, § 15. When an appeal is so taken, it shall be filed with the commissioners of, and subsequent proceedings shall be had in, the county where proceedings originated and the commissioners with whom such appeal is filed shall immediately give notice of such appeal to the commissioners of all the counties interested, and the clerk of courts shall certify the final judgment of court to the commissioners of all said counties.

86 Me. 142.

### Town and Private Ways. Public Landings.

**Sec. 16. Power of municipal officers respecting town and private ways; notice, how given; duty of officers in laying out way.** R. S. c. 23, § 16. The municipal officers of a town may on petition therefor, personally or by agency, lay out, alter or widen town ways, and private ways for any inhabitant or for owners of cultivated land therein, if such inhabitant occupies, or such owner has cultivated land in the town which such private way will connect with a town way or highway. They shall give written notice of their intentions, to be posted for seven days, in two public places in the town and in the vicinity of the way, describing it in such notice, and they shall determine whether it shall be a town way or a private way; and if a private way, whether it shall be subject to gates and bars.

Notice. 3 Me. 439; 10 Me. 341; 11 Me. 113; 13 Me. 254; 18 Me. 185; 35 Me. 246; 43 Me. 576; 59 Me. 368, 518; 83 Me. 250.

Authority of municipal officers. 10 Me. 340; 11 Me. 113; 14 Me. 343; 18 Me. 185; 45 Me. 244; 46 Me. 427; 51 Me. 571; 57 Me. 45; 59 Me. 452; 62 Me. 328; 64 Me. 581; 84 Me. 101; 98 Me. 131; 102 Me. 161.

Legality of proceedings. 2 Me. 60; 10 Me. 25; 12 Me. 275; 25 Me. 71; 26 Me. 178; 32 Me. 568; 61 Me. 439; 83 Me. 123; 88 Me. 31; 89 Me. 251; 91 Me. 449; 109 Me. 416.

**Sec. 17. Winter roads.** R. S. c. 23, § 17. They may lay out a way as aforesaid for the hauling of merchandise, hay, wood or lumber, to be used only when the ground is so covered with snow that such hauling shall not break the soil. When so laid out, they shall state in their return the purposes for which it is laid, and that it shall be used only in the winter season, and shall order the persons for whose accommodation it is laid, to pay into the town treasury an amount equal to the damages of such location for the benefit of the owner of the land over which it is laid, and the expenses of such location, and it shall not be accepted by the town until such amount is so paid. No town shall be liable for damage to any person traveling on such way.

**Sec. 18. After municipal officers have laid out, town may accept.** R. S. c. 23, § 18. A written return of their proceedings containing the bounds and admeasurements of the way, and the damages allowed to each person for land taken, shall be made and filed with the town clerk in all cases. The way is not established until it has been accepted in a town meeting legally called after the return has been filed, by a warrant containing an article for the purpose.

Return of selectmen. 12 Me. 35, 275; 13 Me. 254; 18 Me. 186, 346; 26 Me. 178; 30 Me. 26; 40 Me. 301; 67 Me. 286.

Bounds and measurements. 14 Me. 343; 25 Me. 304; 30 Me. 25; 40 Me. 301.

Acceptance. 10 Me. 344; 11 Me. 113; 12 Me. 36; 16 Me. 302; 18 Me. 185; 21 Me. 174; 23 Me. 124; 26 Me. 180; 35 Me. 246; 40 Me. 301; 48 Me. 457; 59 Me. 518; 64 Me. 579; 67 Me. 286; 89 Me. 251; 98 Me. 131; 105 Me. 575.

**Sec. 19. Towns may discontinue ways.** R. S. c. 23, § 19. A town, at a meeting called by warrant containing an article for the purpose, may discontinue a town or private way; and the municipal officers shall estimate the damages suffered by any person thereby.

37 Me. 55, 71; 45 Me. 607; 69 Me. 440; 83 Me. 118.

**Sec. 20. Damages for ways, how estimated and paid; appeal may be taken to supreme judicial court.** R. S. c. 23, § 20. The damages for a town way shall be paid by the town; for a private way, by those for whose benefit it is stated in the petition to be, or wholly or partly by the town, if under an article in the warrant to that effect it so votes at the meeting accepting such private way; or by cities, if it is proposed in the return laying out such way. Any person aggrieved by the estimate of such damages may have them determined as provided in section eight, by written complaint to the supreme judicial court, returnable at the term thereof next to be held within the county where the land lies, after sixty days from the date of the establishment, alteration or discontinuance of such way by the town at its town meeting. The complaint shall be served at least thirty days before said term by delivering in hand an attested copy to the clerk of the town where the land lies, and by posting attested copies in two public and conspicuous places within said town and in the vicinity of the way. But the final judgment shall be recorded in said court, and shall not be certified to the county commissioners. When any person aggrieved by the estimate of damages for his land taken for a town or private way, honestly intended to appeal therefrom and has by accident or mistake omitted to take his appeal within the time provided by law, he may at any time within six months after the expiration of the time when said appeal might have been taken, apply to any judge of the supreme judicial court in term time or vacation, stating in his said application the facts of his case, and said judge, after due notice and hearing, may grant to such petitioner permission to take his said appeal to such term of said court as said judge shall direct, and on such terms as said judge shall order, and the subsequent proceedings thereon shall be the same and with the same effect as if said appeal had been seasonably taken.

11 Me. 265, 424; 12 Me. 212; 17 Me. 201; 19 Me. 316, 343; 21 Me. 391; 26 Me. 179; 28 Me. 123; 30 Me. 272; 32 Me. 568; 48 Me. 283; 57 Me. 342; 59 Me. 518; 60 Me. 537; 67 Me. 460; 83 Me. 535; 95 Me. 50; 103 Me. 436; 105 Me. 416; 106 Me. 147.

**Sec. 21. Towns may lay out public landings.** 1907, c. 87. Towns may lay out public or common landings and may alter or discontinue said landings whether laid out under the provisions of this chapter or now or hereafter established by dedication or otherwise. All procedure shall be in substance the same as is provided by law in the case of town ways.

See c. 23, § 5.

**Sec. 22. Town or private way, neglect or refusal of municipal officers to lay out or alter; proceedings.** R. S. c. 23, § 21. When the municipal officers unreasonably neglect or refuse to lay out or alter a town way, or a private way on petition of an inhabitant, or of an owner of land therein for a way leading from such land under improvement to a town or highway, the petitioner may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who shall give notice thereof to all interested and act thereon as is provided respecting highways. When the decision of the municipal officers is in favor of such laying out or alteration, any owner or tenant of the land over or across which such way has been located, shall have the same right of



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petition. When the decision of the commissioners is returned and placed on file such owner or tenant or other party interested has the same right to appeal to the supreme judicial court as is provided in sections fifty-nine to sixty-two inclusive; and also to have his damages estimated as provided in section eight.

**Sec. 23. When such way may be opened. R. S. c. 23, § 22.** No such way shall be opened or used until after sixty days from its acceptance by the town, and if within that time notice of such appeal or petition is filed with the town clerk, such way shall not be opened or used until finally located by the appellate tribunal.

91 Me. 51; 105 Me. 580.

**Sec. 24. Towns unreasonably refusing to accept, or to discontinue. R. S. c. 23, § 23.** When a town unreasonably refuses to discontinue a town or private way, or to accept one laid out or altered by the selectmen, the parties aggrieved may, within the time, and in the manner provided in section twenty-two, present a petition to the commissioners, who shall in like manner proceed and act thereon, and cause their proceedings to be recorded by their own and by the town clerk; and the rights of all parties may be preserved and determined as provided in the two preceding sections.

8 Me. 271; 10 Me. 26; 12 Me. 211, 275; 18 Me. 185; 21 Me. 380; 25 Me. 71; 30 Me. 26; 31 Me. 271, 580; 36 Me. 76; 40 Me. 301; 41 Me. 605; 42 Me. 480; 51 Me. 571; 57 Me. 341; 59 Me. 514; 60 Me. 330, 537-540; 63 Me. 102; 64 Me. 581; 68 Me. 538; 70 Me. 324; 73 Me. 57; 78 Me. 106; 83 Me. 246, 430; 84 Me. 53; 87 Me. 223, 229; 88 Me. 31, 140; 102 Me. 482.

**Sec. 25. Town ways acted on by county commissioners cannot be acted on by towns for fixed time. R. S. c. 23, § 24.** When a town way has been laid out, graded or altered by the commissioners, their proceedings cannot be affected by any action of the town, within five years; and when one has been discontinued by them, it cannot be again laid out by the town, within two years. The commissioners have the same power to alter or discontinue such ways, for five years, as they have respecting highways.

91 Me. 47.

**Sec. 26. County commissioners may fix amount of grading; may order half the expenses to be paid by the county. R. S. c. 23, § 25.** The county commissioners, in laying out new ways, or altering or grading ways already laid out, may direct the amount of such grading, which shall be stated in their return; and they may order a portion of the expense of such altering or grading, not exceeding fifty per cent thereof, to be paid to the town in which the altering or grading has been done, from the county treasury.

**Sec. 27. Towns may reinstate town ways discontinued by county commissioners; damages. R. S. c. 23, § 26.** When a town has accepted a town way, and said town way is subsequently discontinued by the county commissioners on appeal, before such road has been opened for travel, such town may, at its annual meeting, held within three years thereafter, by a majority of the voters present and voting, reinstate and lay out such town way, under an article for such purpose in the warrant. The damages shall be assessed, and the owners of the land over which said way passes shall be notified thereof by the municipal officers, within twenty days after said meeting; and any person aggrieved by the estimate of damages may have them determined in the manner provided in section twenty in case of town

ways laid out on petition. A town way so re-established and laid out shall not be discontinued for five years thereafter.

**Sec. 28. Municipal officers may vacate location of streets in certain cases; proceedings; damages, by whom paid, and how determined.** R. S. c. 23, § 27. When land has been plotted and a plan thereof made, whether recorded or not, showing the proposed location of streets thereon, and lots have been sold by reference to said plan, the municipal officers of the town or city where such land is situated, may on petition of owners of the fee in such of said proposed streets as are named in the petition, vacate in whole or in part the proposed location of any or all such streets as have not been accepted and located as public ways. The proceedings shall be the same as in case of the location of town ways. All damages thereby occasioned shall be paid by the petitioners, and parties aggrieved by the estimate of damages may have them determined in the manner provided respecting damages caused by the location of town ways and with the same right of appeal.

**Sec. 29. Lands shall not be taken from a railroad for any way without notice and hearing.** R. S. c. 23, § 28. No private way, town way, city street or highway, taking land of any railroad corporation, shall be located, unless a notice of the time and place of the hearing upon said location has been served upon the station agent of said railroad within such town or city, if any, otherwise upon such agent whose station is nearest to the land proposed to be so taken, at least seven days before the time for such hearing.

84 Me. 100; 86 Me. 391.

**Sec. 30. Location of ways crossing railroad tracks; manner and conditions of crossing, to be determined by public utilities commission; expense of building, how borne; commission shall report to railroad corporation and municipal officers; appeal.** R. S. c. 23, § 29. Town ways and highways may be laid out across, over or under any railroad track, in the same manner as other town ways and highways, except that before such way shall be constructed, the public utilities commission, on application of the municipal officers of the city or town wherein such way is located, or of the parties owning or operating the railroad, shall, upon notice and hearing, determine whether the way shall be permitted to cross such track at grade therewith or not, and the manner and condition of crossing the same, and the expense of building and maintaining so much thereof as is within the limits of such railroad shall be borne by such railroad company, or by the city or town in which such way is located, or shall be apportioned between such company and city or town, as may be determined by said public utilities commission. The commission shall make a report in writing of their decision thereupon, file the same in their office and cause to be sent by mail or otherwise to each of the railroad corporations, and the municipal officers of the city or town as the case may be, interested therein, a copy of such decision. Such decision shall be final and binding upon all parties unless an appeal therefrom shall be taken and entered at the next succeeding term of the supreme judicial court, to be held in the county where the crossing is located, more than thirty days after the date of the filing of the report. The appellant shall within fourteen days from the date of the filing of

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such report, file in the office of the public utilities commission, its reasons for appeal and fourteen days at least before the sitting of the appellate court, it shall cause to be served upon such other interested corporations or municipality a copy of such reasons for appeal, certified by the clerk of the public utilities commission. The presiding justice, at such term of court, shall make such order or decree thereon as law and justice may require. Exceptions may be taken to such order or decree. The final adjudication shall be recorded as provided in section thirty-three of this chapter. Costs may be taxed and allowed to either party at the discretion of the court.

See c. 56, §§ 63, 64; c. 58, § 26; 78 Me. 67; 79 Me. 391; 83 Me. 277; 85 Me. 142; 87 Me. 251; 89 Me. 561; 91 Me. 137; 92 Me. 59; 97 Me. 163; 105 Me. 116.

**Sec. 31. Maintenance of such ways already laid out. R. S. c. 23, § 30.**

In case of such ways already so laid out, over or under any railroad track, and not at grade, the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne as provided in the preceding section; the question shall be determined upon application of any company whose track is so crossed, made within sixty days after written notice has been served thereon by the municipal officers of any town in which such way is located, requesting such company to build and maintain so much of such way as is within the limits of its road.

See c. 58, § 26.

**Sec. 32. Ways over lands used for stations. R. S. c. 23, § 31.** No way shall be laid out through or across any land or right of way of any railroad corporation, used for station purposes, unless after notice and hearing the public utilities commission adjudges that public convenience and necessity require it. When the tribunal having jurisdiction over the laying out of such way is satisfied, after hearing, that public convenience and necessity requires such laying out, such proceedings shall be suspended and petition filed by such tribunal with the public utilities commission for their adjudication hereunder.

See c. 58, § 26; 97 Me. 162; 100 Me. 430.

**Sec. 33. Adjudications to be recorded. R. S. c. 23, § 32.** Adjudications of the public utilities commission relating to ways shall be recorded in the office in which the location of the way must be recorded.

**Abolishment of Grade Crossings.**

**Sec. 34. Petition by selectmen, and proceedings thereon; land may be taken and damages awarded; payment; temporary ways to be provided. 1913, c. 147, § 1. 1915, c. 325, §§ 1, 4.** The municipal officers of a town or city in which a public way crosses or is crossed by a railroad, may file a petition in writing with the public utilities commission alleging that public safety requires the abolishment of or an alteration in such crossing, or its approaches; or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor, not at grade; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered; whereupon said commission shall appoint a time and place for a hearing thereon after notice of not less than ten

days to the petitioners, the state highway commission, the corporation, the municipality in which such crossing is situated, the owners or occupants of the land adjoining such crossing, or adjoining that part of the way to be changed in grade, and to the attorney-general of the state, whose duty it shall be by himself or through the county attorney of the county wherein the crossing is located, to represent the interests of the state at such hearing. After such notice and hearing the commission shall determine what abolishment, alteration, change or removal, if any, shall be made for public safety and by whom such abolishment, alteration, change or removal shall be made. To facilitate such abolishments, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to pass at the side thereof. For the purposes aforesaid land may be taken and damages awarded as provided for laying out highways. The commission shall determine and fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way. The commission shall apportion such expenses and damages between the state, the town in which the crossing is located, and the corporation owning or operating the railroad which crosses such public way, and shall order twenty-five per cent thereof to be paid by the state, ten per cent thereof to be paid by the town in which such crossing is located, and the remainder thereof shall be paid by the corporation owning or operating the railroad. While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided by the corporation as the commission may order; provided, however, that the commission shall not make any order upon any petition filed under the provisions of this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation owning or operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor. The state highway commission shall have the same right of petition under this section as the municipal officers of a town or city; and in case a petition is filed by them, the municipal officers of any city or town interested in the subject matter of said petition shall be notified by the public utilities commission of the filing of such petition and given opportunity to appear and be heard thereon.

**Sec. 35. Proceedings when public way crosses tracks of more than one railroad.** 1913, c. 147, § 2. Whenever the public utilities commission, upon an application or petition brought under the provisions of the preceding section finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public convenience requires the work of abolishment, alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application; and after such notice and hearing said commission shall determine what abolishment, alteration, change or

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removal, if any, of said crossing, shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations as hereinbefore provided between such corporations in such manner as said commission shall deem just and proper.

**Sec. 36. Orders of commission shall be in writing; appeal.** 1913, c. 147, § 3. The order of the public utilities commission relating to any matter upon which they may act under the authority of the two preceding sections shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on such petition was given; and any person aggrieved by such order, who was a party to such proceedings, may appeal from such order to the supreme judicial court within and for the county in which such way or crossing is located in the manner now provided by law for appeals from the findings of the public utility commission. Any person aggrieved by the decision or judgment of the public utilities commission in relation to damages for land taken for the purposes of the two preceding sections may appeal from said decision in the manner provided in section thirty-six of chapter fifty-six.

**Sec. 37. Amount to be paid by state limited.** 1913, c. 147, § 4. 1915, c. 325, § 2. The amount to be paid under the provisions of the three preceding sections by the state in any one year shall not exceed fifteen thousand dollars, and said sum shall be annually appropriated.

**Sec. 38. Sections 34-37 do not apply to railroads of less than standard gauge; exceptions.** 1913, c. 147, § 5. The four preceding sections shall not apply to railroads of less than standard gauge or to street railroads, excepting, however, that in all cases where a street railroad has a right of way in a public way crossing a railroad the commission shall apportion to such street railroad an equitable share of the damages and expenses of alteration which shall be paid by said street railroad, and the balance of such expenses and damages shall be apportioned as provided in section thirty-four; and in all cases where a street railroad acquires the right to lay its tracks over a crossing which has been altered under the provisions of sections thirty-four or thirty-five, the public utilities commission shall fix the amount which such railroad shall pay to the state before it shall exercise its right to lay its tracks over such crossing; and in either case the commission shall make such order for the apportionment of the expense of future maintenance of such crossing as they shall deem equitable.

**Assessments upon Abutters on City Streets.**

**Sec. 39. Assessment of damages upon abutters.** R. S. c. 23, § 33. Whenever the city council lay out any new street or public way, or widen or otherwise alter or discontinue any street or way in a city, and decide that any persons or corporations are entitled to damage therefor, and estimate the amount thereof to each in the manner provided by law, they may apportion the damages so estimated and allowed, or such part thereof as to them seems just, upon the lots adjacent to and bounded on such street or way, other than those for which damages are allowed, in such proportions as in their opinion such lots are benefited or made more valuable by

such laying out or widening, alteration or discontinuance not exceeding in case of any lot the amount of such benefit; but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all persons interested of a hearing before said council, at a time and place specified, which notice shall be published in some newspaper in said city at least one week before said hearing.

70 Me. 527; 84 Me. 217; 106 Me. 531; 111 Me. 392.

**Sec. 40. Owners to be notified of assessment.** R. S. c. 23, § 34. After said assessment has been made upon such lots or parcels and the amount fixed on each, the same shall be recorded by the city clerk, and notice shall be given within ten days after the assessment by delivering to each owner of said assessed lots resident in said city a certified copy of such recorded assessment, or by leaving it at his last and usual place of abode, and by publishing the same three weeks successively in some newspaper published in said city, the first publication to be within said ten days, and said clerk within ten days shall deposit in the post-office of said city, postage paid, a certified copy of such assessment directed to each owner or proprietor residing out of said city, whose place of residence is known to said clerk, and the certificate of said clerk shall be sufficient evidence of these facts, and in the registry of deeds shall be the evidence of title in allowing or assessing damages and improvements, so far as notice is concerned.

111 Me. 392.

**Sec. 41. Arbitration when amount of assessment is not satisfactory; board of arbitration, nominated.** R. S. c. 23, § 35. Any person not satisfied with the amount for which he is assessed, may, within ten days after service of the notice provided for by the preceding section in either manner therein provided, by request in writing given to the city clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate six persons who are residents of said city, two of whom selected by the applicant, with a third resident person selected by said two persons, shall fix the sum to be paid by him, and the report of such referees made to the clerk of said city, and recorded by him, shall be final and binding upon all parties. Said reference shall be had and their report made to said city clerk within thirty days from the time of hearing before the municipal officers as provided in section thirty-nine.

111 Me. 392.

**Sec. 42. Assessments shall create a lien on land assessed, also on buildings thereon.** R. S. c. 23, § 36. All assessments made under the provisions of section thirty-nine, shall create a lien upon each and every lot or parcel of land so assessed, and the buildings upon the same, which lien shall take effect when the municipal officers file with the town clerk the completed assessment and shall continue one year thereafter, and within ten days after they are made, the clerk of said city shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said city; if said assessments are not paid within three months from the date thereof, the treasurer shall sell, at public auction, such of said lots

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or parcels of land upon which such assessments remain unpaid, or so much thereof, as is necessary to pay such assessments and all costs and incidental charges; he shall advertise and sell the same within one year from the time said assessments are made, as real estate is advertised and sold for taxes under chapter eleven, and upon such sale, shall make, execute and deliver his deed to the purchaser, which shall be good and effectual to pass the title of such real estate; the sum for which such sale shall be made, shall be the amount of the assessment and all costs and incidental expenses. Any person to whom the right by law belongs, may at any time within one year from the date of said sale redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per cent a year, and the costs of reconveyance.

See c. 22, § 8; 111 Me. 392.

**Sec. 43. Action may be maintained by city; amount recovered.** R. S. c. 23, § 37. If said assessments are not paid, and said city does not proceed to collect said assessments, by a sale of the lots or parcels of land upon which such assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said city, in the name of said city, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such action may recover the amount of such assessment, with twelve per cent interest on the same from the date of said assessment, and costs.

106 Me. 531; 111 Me. 392.

**Sec. 44. Assessment of abutters for improvement of streets; two-thirds of cost may be assessed.** 1913, c. 172. Whenever a majority of the abutters in number and value upon any street or road in the thickly settled portion of any city or town, shall in writing petition the city council or municipal officers of the town to improve said street or road by grading, parking, curbing, graveling, macadamizing, paving or in any other way making a permanent street of the same, or any part thereof, and to provide for the making and reconstructing of such street improvements, and such improvements are made, two-thirds of the cost thereof may be assessed on the property adjacent to and bounded on said street or road in the manner, and with the same right of appeal, provided in the five preceding sections, which are hereby made applicable to such assessments.

### Opening of Ways.

**Sec. 45. Way must be opened within limited time.** R. S. c. 23, § 38. When a town way, private way or highway, is wholly or partly discontinued by the commissioners, a time shall be fixed for it. And when laid out by them the way shall be regarded as discontinued, if not opened within six years from the time allowed therefor. When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings are void.

12 Me. 237; 43 Me. 428; 59 Me. 543; 71 Me. 240; 79 Me. 273; 91 Me. 138; 95 Me. 51; 105 Me. 580.

**Sec. 46. Commissioners may cause highways to be opened when towns neglect; payment of expenses.** R. S. c. 23, § 39. When a town way or highway is not opened and made passable by the town liable, or a hill therein has not been graded, within the time prescribed therefor by the commissioners, they may, after notice to the town, cause it to be done by an agent, not one of themselves, on petition of those interested. The agent shall make a written contract therefor and file a copy of it in the clerk's office; and the commissioners shall forthwith certify to the assessors of the town interested, the time when such contract is to be completed, and the amount to be paid therefor. They may examine the doings of their agent, and at pleasure remove him and appoint another. His account shall not be allowed without notice to the town. When the contract has been completed and the accounts allowed, the town shall pay the amount expended, with the expenses of the agent for superintendence, and for procuring the allowance of his account. If the town neglects to pay for thirty days, a warrant of distress shall be issued by the commissioners to collect the same.

25 Me. 303; 37 Me. 120, 555; 49 Me. 145; 59 Me. 84; 64 Me. 331; 71 Me. 240; 80 Me. 429; 83 Me. 115; 105 Me. 188; 110 Me. 517.

**Sec. 47. Record location of highway, when lost, or disregarded by agent; proceedings to stop work.** R. S. c. 23, § 40. When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto, or said agent is not making said highway according to the record location, the municipal officers or town agent, may file a bill in equity in the supreme judicial court, setting forth the facts aforesaid and praying an injunction to stay the proceedings of said road agent; and any justice of said court shall issue a summary notice to said road agent to appear before him to answer said petition; and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable; and subsequent proceedings on the bill shall be similar to proceedings in equity in other cases.

**Sec. 48. Plantations liable as towns and have same powers.** R. S. c. 23, § 41. 1907, c. 106. Plantations organized under section one hundred and thirty-eight of chapter four have like powers and are subject to like liabilities and penalties as towns respecting ways. Their assessors have like powers and shall perform like duties, as municipal officers of towns, respecting them.

See c. 4, § 146; 20 Me. 298.

### Actions for Damages and Costs.

**Sec. 49. Damages.** R. S. c. 23, § 42. A person entitled to receive payment of damages or costs, may, after thirty days from demand on the treasurer of the county, or town, or on the party liable therefor, recover them in an action of debt.

45 Me. 429; 83 Me. 246; 93 Me. 231; 105 Me. 571.



**Ways in Places Not Incorporated.**

**Sec. 50. County commissioners may lay out, alter, or discontinue highways in unincorporated townships.** R. S. c. 23, § 43. The county commissioners, on petition as provided in section one, may lay out, alter or discontinue a highway on any tract of land in their county, not within any town or plantation required to raise money to make and repair highways; and all expenses for making and opening the same shall be paid by the owners thereof, excluding lands reserved for public uses, in proportion to their interest in the lands over any part of which it is laid, except as provided in chapter ten, section fifty-eight.

See c. 62, § 28; 3 Me. 133; 17 Me. 197; 27 Me. 294; 30 Me. 352; 33 Me. 458; 38 Me. 495; 46 Me. 346; 60 Me. 289; 63 Me. 255; 80 Me. 285; 83 Me. 517.

**Sec. 51. Notice of hearing.** R. S. c. 23, § 44. If they think that there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor, by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, fourteen days before that time, and if unknown, by a publication thereof in the state paper for six successive weeks, the last, thirty days before that time. No proceedings shall take place until it is proved that such notice has been given.

38 Me. 495.

**Sec. 52. Procedure.** R. S. c. 23, § 45. After hearing the parties at the time and place appointed, they may proceed as provided in section four.

**Sec. 53. Appeal; appointment of committee; its duties; proceedings on their report.** R. S. c. 23, § 46. 1915, c. 62, § 2. Any party interested in such decision may appeal therefrom to the supreme judicial court, to be entered at the term thereof first held after such decision, in said county. And all further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. If no person appears at that term to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court shall appoint another in his place, and they shall cause notice to be given of the time and place of hearing before them, by publication thereof in the state paper for six successive weeks, the last publication to be fourteen days, at least, before the day of hearing, and personal notice to the appellant and to the chairman of the county commissioners, thirty days, at least, before the time set for hearing; they shall view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed, or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. If the judgment of the commissioners in favor of laying out, grading or altering a way as prayed for, is wholly reversed on appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole, or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court, in the

same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed to the prevailing party, and the fees of the committee shall be collected as provided in section three.

59 Me. 514; 63 Me. 570; 64 Me. 31; 72 Me. 248; 80 Me. 285; 91 Me. 103.

**Sec. 54. No new petition for one year.** R. S. c. 23, § 47. If the final decision of the commissioners or of the committee is against the prayer of the petition, no new petition for the same road shall be entertained by the commissioners for one year thereafter.

78 Me. 537.

**Sec. 55. County commissioners may lay out, alter or discontinue highways, on same petition; proceedings; appeal.** R. S. c. 23, § 48. County commissioners in their counties may, upon the same petition, lay out, alter or discontinue highways, through a town or towns or a plantation or plantations, and tracts of land not in any town or plantation, and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section fifty-one; in case of an appeal to the supreme judicial court, the appeal may be made at any time after the return of the commissioners has been placed on the files, and before the next term of said court in the county; and the proceedings upon the appeal shall be according to section fifty-three. If no appeal is made, the case shall be continued to the next regular term after the regular term to which the return is made.

**Sec. 56. Liability of persons crossing or entering upon land for purpose of hauling supplies.** R. S. c. 23, § 49. 1915, c. 21. When it is necessary for any person or persons, by themselves, or with men, teams, or log haulers, to cross or enter upon any tract of land outside of the thickly settled portion of any town, for the purpose of hauling supplies, wood, bark, logs or lumber, or to yard or land the same, such person or persons shall not be liable in an action of trespass therefor, provided, the bond is furnished as provided in the following section, but the person or persons carrying on said lumbering operation, shall be liable for all the actual damage done to said land by said men and teams or log haulers so crossing said land.

**Sec. 57. Damages, how ascertained in case of disagreement; bond; proceedings to fix amount of bond.** R. S. c. 23, § 50. Should the person or persons carrying on said lumbering operation, and the owners of said land, be unable to agree upon said damages, such person or persons before cross-

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ing, or entering upon said land for the purposes aforesaid, as provided by the preceding section, shall give bond to the owners of said land with sufficient sureties, and in such sum as the county commissioners in the county in which said land lies shall determine and approve, conditioned to pay such sum as said owners of said land may recover as damages and costs as provided by section fifty-eight. In case all or a part of the owners of said land are unknown, the county commissioners shall before fixing the amount of the bond, appoint a time and place for hearing thereon, and give notice thereof by publication in the county paper two successive weeks, the last publication to be seven days before said hearing, and in such case the bond shall be given to the treasurer of the county for the use and benefit of all the owners in proportion to their respective rights in the land.

**Sec. 58. Damages may be fixed by county commissioners; tender and its effect.** R. S. c. 23, § 51. Should the person or persons carrying on said lumbering operation, and the owners of said land be unable to agree upon said damages, either party may, within twelve months from the time said bond is approved, apply to the county commissioners of the county in which said land lies and cause said damages to be ascertained and determined in the same manner and under the same conditions and restrictions as are prescribed by law in the laying out of railroads. Failure to apply for damages within said one year shall be held to be a waiver of the same. The person or persons liable for said damages may make a tender to any land owner damaged under the provisions of the two preceding sections, and if such land owner recovers more damages than the amount tendered him for such, he shall recover costs and the expenses of the county commissioners; otherwise the person or persons liable for said damages shall recover costs and such expenses. A tender made to any person who owns an undivided interest in land thus damaged shall be sufficient under this section.

See c. 56, § 31.

**Ways in Incorporated Places.**

**Sec. 59. Proceedings before commissioners, on petition for laying out highway; appeal; stay of proceedings.** R. S. c. 23, § 52. Parties interested may appear, jointly or severally, at the time of hearing, before the commissioners, on a petition for laying out, altering, grading or discontinuing a highway; and any such party may appeal from their decision thereon, at any time after it has been placed on file, and before the next term of the supreme judicial court in said county, at which term such appeal may be entered and prosecuted by him, or by any other party who so appeared. And all further proceedings before the commissioners shall be stayed until a decision is made in the appellate court.

<sup>32 Me. 454; 42 Me. 400; 51 Me. 194, 385; 63 Me. 29, 570; 64 Me. 435, 437, 586;  
68 Me. 407; 78 Me. 172, 538; 81 Me. 259; 83 Me. 437; 91 Me. 51.</sup>

**Sec. 60. Proceedings on appeal.** R. S. c. 23, § 53. If no person appears at that term to prosecute the appeal, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice

as the court has ordered, view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

8 Me. 146; 11 Me. 473; 31 Me. 447; 32 Me. 454; 33 Me. 370; 37 Me. 448; 42 Me. 400; 53 Me. 387, 434; 56 Me. 262; 59 Me. 263, 514; 63 Me. 111; 64 Me. 586; 67 Me. 531; 81 Me. 259; 83 Me. 435; 86 Me. 185; 112 Me. 319.

**Sec. 61. Judgment on appeal; its effect.** R. S. c. 23, § 54. 1915, c. 62, § 3. If the judgment of the commissioners in favor of laying out, grading or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further; and in all cases when the judgment of the commissioners is reversed on appeal, no petition praying, substantially, for the same thing shall be entertained by them for two years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court; and in all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed the prevailing party, and the fees of the committee, shall be collected as provided in section three; provided, however, that this section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

32 Me. 473; 42 Me. 401; 53 Me. 86; 59 Me. 451; 67 Me. 531; 68 Me. 485; 80 Me. 428; 83 Me. 435; 91 Me. 51.

**Sec. 62. Committee, when to be sworn.** R. S. c. 23, § 55. All such committees, whether agreed on or appointed on appeal from the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

83 Me. 435.

### Liability for Repair of Ways, and for Injuries.

**Sec. 63. Ways to be kept open and in repair.** R. S. c. 23, § 56. Highways, town ways and streets, legally established, shall be opened and kept in repair so as to be safe and convenient for travelers with horses, teams and carriages. In default thereof, those liable may be indicted, convicted and a reasonable fine imposed therefor.

Ways not established by statute provisions. 2 Me. 60; 3 Me. 273; 4 Me. 272; 5 Me. 368; 11 Me. 280; 18 Me. 68, 412; 21 Me. 174; 25 Me. 299; 35 Me. 104, 169; 37 Me. 70; 40 Me. 155; 42 Me. 23; 46 Me. 427; 47 Me. 344; 48 Me. 457; 51 Me. 260; 54 Me. 364; 56 Me. 348; 73 Me. 54.

Ways presumed to be legally established. 34 Me. 245; 37 Me. 55, 507; 39 Me. 300.

Liability for repair. 5 Me. 256; 15 Me. 407; 16 Me. 189; 18 Me. 287; 35 Me. 104; 36 Me. 397; 37 Me. 251; 38 Me. 221; 46 Me. 485; 51 Me. 128, 131, 533; 57 Me. 533, 536; 62 Me. 105, 470, 472; 63 Me. 477, 550-1; 64 Me. 60; 65 Me. 37, 286, 515, 550; 68 Me. 153, 360; 69 Me. 107; 82 Me. 276; 84 Me. 23; 85 Me. 281; 98 Me. 484; 99 Me. 526; 104 Me. 211; 105 Me. 575.

Traveler and negligence. 62 Me. 470, 472; 67 Me. 168; 70 Me. 306.

Generally. 12 Me. 301; 58 Me. 57; 68 Me. 499.

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**Sec. 64. Proceedings before county commissioners against town neglecting to repair ways. R. S. c. 23, § 57.** When a town liable to maintain a way, unreasonably neglects to keep it in repair, as aforesaid, after one of the municipal officers has had five days' actual notice or knowledge of the defective condition, any three or more responsible persons may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way, for a hearing on such petition, and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way, alleged to be out of repair, and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travelers, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

90 Me. 483; 98 Me. 109, 131; 99 Me. 526.

**Sec. 65. Petition, its presentation. R. S. c. 23, § 58.** Such petition may be presented to said commissioners at any of their sessions, or in vacation to their chairman, who shall procure the concurrence of his associates in fixing the time and place in the order of notice, and cause the petition to be entered at their next session. And they shall make full return of their proceedings on the petition, and cause the same to be recorded as of their next regular term after the proceedings are closed.

98 Me. 131; 99 Me. 526.

**Sec. 66. Proceedings when towns neglect to make repairs ordered; warrant of distress. R. S. c. 23, § 59.** If the town neglects to make the repairs prescribed by the commissioners, within the time fixed therefor in such notice to the town, they may cause it to be done by an agent, not one of themselves. Such agent shall cause the repairs to be made forthwith, and shall render to the commissioners his account of disbursements and services in making the same. His account shall not be allowed without such notice to the town, as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the agent's expenses in procuring the allowance of his account, and interest after such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If a town neglects to pay said judgment for thirty days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

98 Me. 131; 99 Me. 526.

**Sec. 67. Ways on line between towns, how divided; liability of towns. R. S. c. 23, § 60.** When a way is established on a line between towns, their municipal officers shall divide it crosswise, and assign to each town its portion thereof by metes and bounds, which, within one year thereafter, being

accepted by each town, at a legal meeting, shall render each town liable, in the same manner as if the way were wholly within the town; when a division of it is not so made, the selectmen of either town may petition the county commissioners, who shall give notice by causing a copy of such application with their order thereon appointing a time and place of hearing, to be served upon the clerk of each town thirty days, or by causing it to be published in some newspaper printed in the county for three weeks, previous to the time appointed; and after hearing the parties, they may make such division.

52 Me. 214; 74 Me. 201.

**Sec. 68. Ways laid out between towns, how divided, for repair. R. S. c. 23, § 61.** A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

52 Me. 214.

**Sec. 69. Bridge in highway crossing town line. 1905, c. 152.** Whenever a highway located after the first day of January, nineteen hundred and six, crosses any river which divides towns, the expense of constructing, maintaining and repairing any bridge across such river shall be borne by such towns in proportion to their last state valuation prior to such location.

**Sec. 70. Snow to be trodden down; sudden injuries to be repaired; damage may be recovered of town. R. S. c. 23, § 62.** When any ways are blocked or encumbered with snow, the road commissioner shall forthwith cause so much of it to be removed or trodden down, as will render them passable. The town may direct the manner of doing it. In case of sudden injury to ways or bridges, he shall, without delay, cause them to be repaired. And all damage accruing to a person in his business or property, through neglect of such road commissioner or the municipal officers of such town, to so render passable, ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a special action on the case.

96 Me. 133; 110 Me. 553; 112 Me. 173.

**Sec. 71. Mail routes, apparatus for opening; fences may be taken down to prevent drifting; to be replaced. R. S. c. 23, § 63.** There shall be furnished and kept in repair in each section of the town, through which there is a mail route, some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of ten feet, and the municipal officers of towns, or any road commissioner under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein; but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

**Sec. 72. Trees may be planted. R. S. c. 23, § 64.** A sum not exceeding five per cent of the amount raised for repair of ways and bridges may be expended by a road commissioner under the direction of the municipal officers, in planting trees about public burying-grounds, squares and ways, if the town by vote authorizes it.

See c. 4, § 98, ¶ 6.

**Sec. 73. Materials may be taken from lands not enclosed or planted.** **R. S. c. 23, § 65.** A road commissioner may remove any obstacle, which obstructs or is likely to obstruct a way, or render its passage dangerous. He may dig for stone, gravel or other material suitable for making or repairing ways in land not enclosed or planted, and remove the same to the ways. If the land from which such materials were taken is not within the limits of the way, the owner of it shall be paid therefor in money by the town, to be recovered after demand and refusal by the road commissioner, in an action as on an implied promise.

11 Me. 274; 13 Me. 254; 16 Me. 190; 25 Me. 128; 32 Me. 328; 38 Me. 221;  
43 Me. 332; 51 Me. 359; 66 Me. 235; 68 Me. 361, 499; 78 Me. 30; 89 Me. 262;  
105 Me. 575.

**Sec. 74. Municipal officers may take land for highway purposes; county commissioners may ascertain damages.** **1915, c. 195.** The municipal officers of any city, town or plantation may purchase, take over and hold for any city, town or plantation, for public use, such materials and land as may be necessary to provide a change of location or alignment of any highway, or to secure materials, including clay, gravel, sand and rock, with the necessary ways and access thereto, for the improvement, construction and maintenance of highways. If the municipal officers of any city, town, or plantation are unable to purchase such materials, or land with the necessary ways and access thereto, at what they deem a reasonable valuation, the county commissioners of the county wherein such material or land is located shall, on petition of the municipal officers, or interested parties, ascertain and determine the damages in the same manner as provided by statute for land taken for highway purposes and all parties aggrieved by the estimate of damages shall have like remedy as provided by statute for appraisal of damages for land taken by towns for highway purposes.

**Sec. 75. Duties of road commissioners.** **R. S. c. 23, § 66.** Road commissioners shall go over the roads in their towns or cause it to be done, in April, May, June, August, September, October and November in each year, remove the loose obstructions to the public travel, and whenever so directed by the selectmen, remove all shrubbery and bushes growing within the limits of highways, not planted or cultivated therein for the purpose of profit or ornamentation, having care for the proper preservation of shade trees, and repair such defects as may occur from time to time, rendering travel dangerous, or they shall give notice of such defects to the municipal officers, under a penalty of five dollars for neglect of such duty.

**Sec. 76. Repair of roads, by road machines after August tenth; state aid may be withheld, for violation.** **1915, c. 27.** Whenever a road commissioner, officer or employee of any city or town improves any highway with a road machine or any similar device after the tenth day of August in any year, except by light smoothing or maintenance work, a surface of gravel to the average depth of six inches shall be immediately placed on the section of the highway so improved. Whenever a road commissioner, official or employee of any city or town violates this section, the state highway commission shall cause to be withheld all moneys due such city or town for such year, for highway purposes under chapter twenty-five. This

section shall not apply to such highways as are improved under the direction of the state highway commission.

**Sec. 77. Towns shall make annual appropriations for clearing away and beautifying roadsides.** 1915, c. 177, § 1. Each city, town or plantation shall each year set aside five per cent of the money raised and appropriated for ways and bridges, to be used in cutting and removing all trees, shrubs and useless fruit trees, bushes and weeds, (except shade trees, timber trees, cared-for fruit trees, and ornamental shrubs) growing between the road limit and the wrought part of any highway or town way, until all the trees, shrubs and worthless fruit trees, bushes and weeds, have been once removed from the limits of such highway or town way, after which the owner of the land adjoining such highway or town way, shall each year before the first day of October, remove all bushes, weeds, worthless trees and grass from the roadside adjoining his cultivated or mowing fields. The city, town or plantation shall care for all land not included in the above, except wild land.

**Sec. 78. Penalty for failure to comply with law.** 1915, c. 177, § 2. If any owner of such land fails to cut and remove said bushes, weeds, worthless trees and grass, on or before the first day of October of each year, the mayor of any city, the selectmen of any town, or the assessors of any plantation wherein said land may be located, shall cause said bushes, weeds, worthless trees and grass to be cut and removed. The actual expense of such cutting and removal shall be a lien upon said land so adjoining said highway or town way, and shall be assessed and collected as a tax thereon.

**Sec. 79. Towns shall not place materials on lands beside of the roads without clearing away of same; owner may remove at expense of town.** 1915, c. 177, § 3. If any city, town or plantation in the construction or repair of its highways places any stone, sods or other material upon land within the limit of any highway which the owner has cleared from stone and smoothed so that it is tillable land and so used, said city, town or plantation shall within thirty days remove the same from such land. Failing to do this, the owner of said land may remove such stone, sods or other material therefrom and be paid the same price per hour for such removal as is paid by said city, town or plantation for labor in the construction and repair of its roads.

**Sec. 80. Watercourses not to be so made as to do injury; remedy.** R. S. c. 23, § 67. No road commissioner without written permission from the municipal officers, shall cause a watercourse to be so constructed by the side of a way as to incommode any person's house or other building, or to obstruct any one in the prosecution of his business. Any person so aggrieved may complain to the municipal officers, who shall view the watercourse and may cause it to be altered as they direct.

See c. 22, § 26; 32 Me. 327; 63 Me. 480; 86 Me. 389; 89 Me. 427; 113 Me. 67.

**Sec. 81. Drainage of public way shall not be obstructed.** 1913, c. 19, § 1. 1915, c. 122. No person, by himself, his agents or servants, other than a person having legal supervision of a public way, shall cultivate, in connection with the improvement of lands adjacent thereto, any portion of the wrought part of any public way, in such manner as to change the drainage thereof or obstruct said way; nor shall any person, by himself,



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his agents or servants, other than a person having legal supervision of a public way, deposit within or along any ditch or drain in a public way any material that shall obstruct the flow of water in such ditch or drain or otherwise obstruct said way; provided, however, that with the written consent and in accordance with specifications of the legal authorities having supervision of such ditch or drain, any person may, to provide egress and regress to and from lands occupied by him, lawfully construct and maintain a bridge across such ditch or drain.

**Sec. 82. Penalty; jurisdiction of prosecutions.** 1913, c. 19, §§ 2, 3. Whoever wilfully violates any provision of the preceding section shall be punished, for the first offense, by a fine of not less than five dollars nor more than ten dollars and costs, and for each subsequent offense, by a fine of not less than ten dollars nor more than twenty-five dollars and costs, and shall be further liable for double the amount of the actual damage, to be recovered in an action on the case by the city, town or plantation, or in behalf of any unorganized place, by the county, where the offense is committed. All fines recovered under the provisions of this section shall be paid to the treasurer of the city, town or plantation, or, for an unorganized place, to the treasurer of the county, where such offense is committed and shall thereafter be expended in the construction and maintenance of public ways or drains therein. In all prosecutions under this section, municipal and police courts and trial justices within their respective counties, shall have, upon complaint, original and concurrent jurisdiction with the supreme judicial court and superior courts.

**Sec. 83. Municipal officers and county commissioners shall enter complaint.** 1913, c. 19, § 4. Every municipal officer of a city, town or plantation, or for an unorganized place, every county commissioner, when his attention is directed to any violation of section eighty-one, within his jurisdiction, shall enter complaint against the offender and prosecute the same to final judgment.

**Sec. 84. Damages by raising or lowering streets, how determined.** R. S. c. 23, § 68. When a way or street is raised or lowered by a road commissioner or person authorized, to the injury of an owner of adjoining land, he may, within a year, apply in writing to the municipal officers and they shall view such way or street and assess the damages, if any have been occasioned thereby, to be paid by the town, and any person aggrieved by said assessment, may have them determined, on complaint to the supreme judicial court, in the manner prescribed in section twenty of this chapter. Said complaint shall be filed at the term of the supreme judicial court, next to be held within the county where the land is situated, after sixty days from the date of assessment.

43 Me. 332; 65 Me. 592; 79 Me. 368; 82 Me. 535; 86 Me. 369; 101 Me. 539; 102 Me. 398; 105 Me. 303; 113 Me. 67.

**Sec. 85. When appropriation insufficient, procedure.** R. S. c. 23, § 69. When the amount appropriated is not sufficient to repair the ways a road commissioner may, with the written consent of the selectmen, employ inhabitants of the town to labor on such ways, to an amount not exceeding fifteen per cent of the amount so appropriated and in addition thereto.

3 Me. 446; 13 Me. 294; 30 Me. 159; 34 Me. 406; 51 Me. 352; 55 Me. 437; 84 Me. 22.

**Sec. 86. Towns may raise and assess moneys for bridges and ways.** R. S. c. 23, § 70. Towns shall annually raise money to be expended on town ways and highways, and for the repair of bridges, and the same shall be assessed and collected, as other town taxes, and expended for said purposes, by a road commissioner or commissioners.

72 Me. 517.

**Sec. 87. When and how money shall be expended.** R. S. c. 23, § 71. Sixty-five per cent of the highway taxes assessed shall be expended upon the highways prior to the fifteenth day of July, and the balance at such time as the commissioner deems for the best good of the public.

**Sec. 88. Powers and duties of road commissioner.** R. S. c. 23, § 72. The road commissioner under the direction of the selectmen, shall have charge of the repairs of all highways and bridges within the towns and shall have authority to employ the necessary men and teams, and purchase timber, plank and other material for the repair of highways and bridges. He shall give bond to the satisfaction of the selectmen, and be responsible to them for the expenditure of money, and discharge of his duties generally. His compensation shall be such sum as the towns shall annually vote therefor, which sum shall, in no case be less than one dollar and fifty cents a day, for every day of actual service; and he shall render to the selectmen monthly statements of his expenditures, and receive no money from the treasury except on the order of the selectmen.

See c. 4, §§ 16, 17; 95 Me. 482; 102 Me. 25.

**Sec. 89. Commissioner shall keep account of expenditures.** R. S. c. 23, § 73. He shall keep accurate accounts, showing in detail, all moneys paid out by him, to whom and for what purpose; he shall settle his accounts on or before the twentieth day of February, annually, and the same shall be reported in the annual town report in detail.

**Sec. 90. Wide wheels and watering troughs, abatement therefor; public drinking troughs and fountains.** R. S. c. 23, § 74. 1911, c. 136. A town at its annual meeting may authorize its assessors to abate not exceeding three dollars of the tax of any person, upon proof that he has owned and used on the ways during that year cart wheels having felloses not less than six inches wide. And they shall abate five dollars from the tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in the same locality claims to furnish it, the municipal officers shall decide where it shall be located. Such officers may establish and maintain such public drinking troughs, wells and fountains within the public highways, squares and commons of their respective towns, as in their judgment the public necessity and convenience require; and towns may raise and appropriate money to defray the expense thereof.

See c. 4, § 98, ¶ 6; 57 Me. 539; 67 Me. 138.

**Sec. 91. Ways may be opened or repaired by contract.** R. S. c. 23, § 75. Towns may authorize their road commissioners or other persons to make contracts for opening or repairing their ways.

102 Me. 437; 105 Me. 576.

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**Sec. 92. Persons injured by defect in highways may recover damages; limitation; when previous notice must have been given; county commissioners or town officers must be notified in writing within fourteen days; damages for loss of life; view may be ordered at trial.** R. S. c. 23, § 76. Whoever receives any bodily injury, or suffers damage in his property, through any defect or want of repair or sufficient railing, in any highway, town way, causeway or bridge, may recover for the same in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county, or the municipal officers or road commissioners of such town, or any person authorized by any commissioner of such county or any municipal officer, or road commissioner of such town, to act as a substitute for either of them, had twenty-four hours' actual notice of the defect or want of repair; but not exceeding two thousand dollars in case of a town; and if the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way; and any person who sustains injury or damage, as aforesaid, or some person in his behalf, shall within fourteen days thereafter, notify one of the county commissioners of such county, or of the municipal officers of such town, by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged, when it would materially aid in a clear understanding of the case.

When and how ways should be constructed. 18 Me. 288; 26 Me. 240; 33 Me. 460; 39 Me. 115; 46 Me. 485.

Defective ways. 11 Me. 273; 14 Me. 200, 203; 16 Me. 189; 17 Me. 201; 18 Me. 287; 26 Me. 239; 32 Me. 49; 35 Me. 104; 36 Me. 398; 37 Me. 251; 39 Me. 115; 42 Me. 253, 526; 46 Me. 485; 51 Me. 186, 314, 533; 55 Me. 48; 56 Me. 17; 62 Me. 470; 64 Me. 60, 62; 65 Me. 285; 66 Me. 348, 402; 68 Me. 366; 69 Me. 73; 72 Me. 250, 540; 74 Me. 536; 76 Me. 427; 82 Me. 437; 87 Me. 265; 90 Me. 487; 91 Me. 566; 94 Me. 165; 95 Me. 374; 98 Me. 484; 104 Me. 211.

Damage. 14 Me. 205; 16 Me. 191; 20 Me. 248; 29 Me. 311; 31 Me. 301; 32 Me. 273, 538; 33 Me. 272; 41 Me. 533; 50 Me. 223; 51 Me. 440; 61 Me. 203; 82 Me. 438.

Defect sole cause of damage. 18 Me. 288; 20 Me. 50; 32 Me. 50, 576; 38 Me. 206, 445; 42 Me. 335, 347; 43 Me. 496; 51 Me. 127; 61 Me. 572; 64 Me. 53; 65 Me. 550; 66 Me. 402; 68 Me. 154; 69 Me. 73; 74 Me. 533; 97 Me. 519.

Due care. 11 Me. 337; 14 Me. 200; 18 Me. 288, 381; 21 Me. 31; 26 Me. 240; 31 Me. 301; 32 Me. 54, 576; 38 Me. 207, 445; 42 Me. 336; 43 Me. 496; 50 Me. 224; 64 Me. 544; 65 Me. 285; 70 Me. 306; 72 Me. 541; 77 Me. 44; 78 Me. 200; 81 Me. 188; 82 Me. 438; 84 Me. 334; 97 Me. 519; 109 Me. 467.

Notice of defects. 7 Me. 445; 21 Me. 31; 23 Me. 558; 32 Me. 272; 42 Me. 203; 51 Me. 533; 56 Me. 17; 68 Me. 360, 513; 69 Me. 74; 70 Me. 123; 72 Me. 252; 74 Me. 147, 533; 75 Me. 559; 77 Me. 384; 80 Me. 598; 82 Me. 65, 75, 437; 84 Me. 147; 87 Me. 188, 231, 528; 88 Me. 297, 467; 90 Me. 131, 213, 487; 93 Me. 361; 94 Me. 268; 96 Me. 320; 98 Me. 305; 104 Me. 208, 498; 105 Me. 148; 108 Me. 543; 109 Me. 370.

Notice of claim. 64 Me. 134; 66 Me. 333, 454, 549; 68 Me. 513; 69 Me. 196; 70 Me. 124; 73 Me. 486; 75 Me. 81, 115; 83 Me. 428; 84 Me. 278, 577; 87 Me. 231; 88 Me. 474; 94 Me. 234; 99 Me. 239; 104 Me. 498; 105 Me. 145; 106 Me. 225; 110 Me. 538; 113 Me. 509.

Evidence. 15 Me. 27; 31 Me. 301; 33 Me. 460; 35 Me. 104; 37 Me. 251; 39 Me. 301; 109 Me. 469.

Generally. 12 Me. 301; 57 Me. 376; 63 Me. 477, 550; 65 Me. 37, 38; 67 Me. 167; 69 Me. 280; 76 Me. 532; 83 Me. 416.

As to liability of state when cause of action relates to state or state aid highways, c. 25, § 29.

**Sec. 93. Repair within six years, proof of way.** R. S. c. 23, § 77. When on trial of any such action or indictment, it appears that the defendant county or town has, within six years before the injury, made repairs on the way or bridge, it shall not deny the location of such way or bridge.

5 Me. 368; 12 Me. 237; 51 Me. 187; 54 Me. 94; 58 Me. 349; 66 Me. 349.

**Sec. 94. No liability if load exceeds six tons.** R. S. c. 23, § 78. No town is liable for such an injury when the weight of the load, exclusive of the carriage, exceeds six tons. Proof of its weight must be made by the plaintiff.

See c. 26, § 11.

**Sec. 95. Slippery sidewalk no cause of action.** R. S. c. 23, § 79. No town is liable to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk, nor on account of the slippery condition of any sidewalk or cross-walk.

**Sec. 96. Railroad company may be notified of suit against town for defective crossing.** R. S. c. 23, § 80. In an action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing, constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing, may be notified of the pendency of the suit, and take upon itself the defense of the same.

**Sec. 97. Liability of railroad company.** R. S. c. 23, § 81. In such trial, after notice as provided in the preceding section, if the plaintiff recovers, and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said suit in an action of debt for all damage and costs paid by them.

66 Me. 486; see c. 25, § 29.

**Sec. 98. Notice to company.** R. S. c. 23, § 82. The notice required in section ninety-six, shall be by copy of the writ served upon the company at least thirty days before the sitting of the court in which it is returnable, or by such notice as the court may order after entry.

**Sec. 99. One indictment only at a term.** R. S. c. 23, § 83. One indictment only for neglect to open ways or to keep them in repair shall be presented against a town at the same term of court; but it may contain as many counts as are necessary to describe all portions of ways alleged to be defective. The word "highway" used therein includes town ways, causeways and bridges.

See c. 1, § 6, ¶ 6; c. 26, § 1; 18 Me. 69; 59 Me. 452.

**Sec. 100. Agents appointed to expend fines; their duties.** R. S. c. 23, § 84. All fines imposed shall be appropriated to the repair of such ways. The court imposing them shall appoint one or more agents to superintend their collection and application. Within three months after collection, they shall make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject, on their motion, to be

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audited and corrected by the court. If an agent is guilty of gross neglect of duty, or fraudulently misapplies or retains the fine, he forfeits to the town double its amount, to be recovered by indictment.

65 Me. 212.

**Sec. 101. Clerk of court to certify fines to assessors; how collected and paid.** R. S. c. 23, § 85. When a fine is imposed on a town, the clerk of the court shall certify it forthwith to the assessors; who shall assess the amount thereof, as other town taxes, certify the same to said clerk, and cause the amount to be collected by their collector, who shall pay the same to such agent at such time as the court orders. If not paid by that time, the clerk, on application of such agent, shall issue a warrant for its collection, as the treasurer of state may do for the collection of a state tax

65 Me. 211; see c. 10, § 89.

**Sec. 102. If way is not repaired in four months, fine to be collected.** R. S. c. 23, § 86. If the assessors neglect to make such assessment and to certify it to the clerk, and the defective way is not repaired to the acceptance of such agent within four months after notice of the fine, the court may issue a warrant to collect of the town the fine and costs, or the unpaid part thereof.

**Sec. 103. When gates, bars, and fences on ways may be removed.** R. S. c. 23, § 87. Any person may take down and remove gates, bars or fences, upon or across any highway or town way, unless they are there to prevent the spread of infectious disease, or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license, a person aggrieved by such removal may apply, and on proof that such erections were made by their license, they may order them to be replaced by the person who removed them.

12 Me. 38; 59 Me. 144.

**Sec. 104. Road commissioner may remove logs and lumber as a nuisance; proceedings.** R. S. c. 23, § 88. When logs, lumber or other obstructions, without necessity are left on such ways, any road commissioner may remove them; and he shall not be liable for loss or damage thereof, unless occasioned by design or gross negligence. When no one appears to pay the expense and trouble of removal, he may sell at public auction so much thereof, as is sufficient for the purpose, with charges of sale, posting notice of the time and place of sale in two public places in the town seven days prior thereto. The person, through whose neglect or wilful default they were left, may be prosecuted as for a nuisance.

12 Me. 38; 35 Me. 253; 46 Me. 485; 47 Me. 162; 51 Me. 262; 54 Me. 47; 68 Me. 361.

**Sec. 105. Persons convicted of nuisance to pay, if materials are not sufficient.** R. S. c. 23, § 89. When any thing has been adjudged to be a nuisance and to be abated, and the materials of which it is composed do not, on sale as aforesaid produce sufficient to pay the charges of prosecution, removal and sale, the court may order the deficiency to be raised by levy on the personal property of the person convicted of causing such nuisance.

**Sec. 106. When buildings and fences on a street or way become bounds; estoppel created by writing under seal.** R. S. c. 23, § 90. When buildings

or fences have existed more than twenty years fronting upon any way, street, lane or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed. Persons owning lands beside a highway or town way, on which are buildings or fences that encroach within the limits of said way, may by a writing under seal, by them signed and acknowledged, and recorded in the registry of deeds for the county or registry district, in which the land lies, admit to the municipal officers of the town in which said way exists, the true bounds or limits of said way, and the extent of their wrongful occupancy thereof. And thereafter such persons, and all claiming title under or through them, shall be estopped from asserting any right to the continuance of such buildings or fences within said limits, for the full term of forty years from the date of such deed.

See c. 23, § 11; 59 Me. 144; 73 Me. 359; 79 Me. 273; 82 Me. 395; 83 Me. 511; 85 Me. 422; 90 Me. 136, 234; 94 Me. 527; 110 Me. 364.

**Sec. 107. Towns required to maintain guide-posts at crossings of ways.** R. S. c. 23, § 91. 1911, c. 27. 1915, c. 60. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guide-posts not less than eight feet high, and fasten to the upper end of each a board, on which shall be plainly printed, in black letters on white ground, the name of the next town on the route, and of such other place as the municipal officers direct, with the number of miles thereto, and a figure of a hand with the forefinger pointing thereto. If erected on state or state aid highways, such guide-posts and guide-boards shall be of such reasonable form, height and design as the state highway commission may direct; and for any neglect hereof towns are subject to a fine of not less than ten, nor more than fifty dollars, to be recovered by complaint or indictment. Judges of municipal and police courts and trial justices within their respective counties shall have original and concurrent jurisdiction with the supreme judicial and superior courts; and of all fines provided for by this section, and recovered on complaint, one-half shall go to the prosecutor and one-half to the county where the town committing the offense is situated.

See c. 25, § 6; c. 129, § 24; 72 Me. 287; 100 Me. 402.

**Sec. 108. Penalty for neglect by town or plantation officers.** R. S. c. 23, § 92. If the municipal officers of any town unreasonably neglect to cause a guide-post to be erected in their town as provided by law, they forfeit five dollars for each month's neglect, to be recovered in an action on the case by any person suing therefor. Plantations assessed in state or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

72 Me. 287.

**Sec. 109. Excavations near ways, how to be made; responsibilities.** R. S. c. 23, § 93. Persons desiring to make an excavation near a street or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; such officers

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shall in writing direct whether it may or not be made, and if permitted, the manner of making it; and when so made, no liability is incurred thereby. If not so made, the person making it is liable to the town, in an action on the case, for all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

54 Me. 47; 57 Me. 377.

**Sec. 110. Ice bridges may be made; penalty for injuring.** R. S. c. 23, § 94. Ice bridges may be constructed and maintained by persons for their own and the public use across any river or body of water, when its ordinary navigation is obstructed by ice. Whoever wilfully destroys such bridge to prevent its use, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint, half to the complainant, and half to the state. No person shall take down or injure any fence or occupy any land for the construction or use of such a bridge without consent of the owner first obtained.

18 Me. 435.

**Sec. 111. Removal of trees at or near railroad crossings.** 1913, c. 189, § 1. Whenever the state highway commission deems that trees, bushes, or other encroachments within the limits of a public way obstruct the view at railroad crossings, or where one public way enters another, and thereby renders such way dangerous to travelers, it shall cause the removal of such obstructions. The state highway commission may also enter upon private property at such places and from time to time cause the removal of trees and bushes growing thereon and obstructing the view as aforesaid. Any damages sustained by such removal, after due notice given, shall be assessed and awarded by the state highway commission and paid in the same manner as prescribed by law in the case of damages by the laying out of highways, and appeals from the findings of the state highway commission shall be entered and prosecuted in like manner and be subject to like limitations.

**Sec. 112. Placing of turf in streets, etc., regulated.** 1913, c. 189, § 2. Placing turf in the traveled part of any highway, street or town way by any municipality, its employees or contractors is prohibited, unless said turf is cut fine or covered up. Upon violation of this section the state highway commission shall cause payment of state money for highways to such municipality to be withheld until such turf is removed at the expense of the municipality and the way restored to the satisfaction of the state highway commission.

**Sec. 113. Advertising signs regulated.** 1913, c. 189, § 3. No advertising signs shall be erected or maintained within five hundred feet of crossings of highways or within five hundred feet of where one public way enters another within the limits of such ways. The state highway commission shall cause any signs so erected to be removed at the expense of the person erecting or maintaining the same, to be recovered in an action on the case. Such person shall also be subject to fine not exceeding fifty dollars to be paid to the treasurer of state, and credited to the highway fund. The state highway commission shall cause the provisions of sections one hundred and seven and one hundred and eight of this chapter to be enforced on all state and state aid roads.

**Sec. 114. Contracts for construction of bridges, how awarded.** 1909, c. 202, § 3. Whenever any bridge within the state is to be constructed or repaired, at a cost of one thousand dollars or more, and the cost of such construction or repairs is to be paid wholly or in part by the state, the contract for the same shall be awarded as follows: The state highway commission, county commissioners or municipal officers within the county where said new construction or repairs are to be made shall advertise for sealed proposals not less than two weeks in such papers as the state highway commission may direct, the last advertisement to be at least one week before the time named therein for the closing of such bids. Sealed proposals submitted in accordance with said advertisement shall be addressed to the state highway commission or county commissioners having the construction in charge and shall remain sealed until opened in the presence of said commission or commissioners at such times as the state highway commission may direct.

**Sec. 115. Bond for performance of contract.** 1909, c. 202, § 4. No contract shall be awarded unless its faithful performance shall be secured to the state by a bond in penal sum of not less than twenty per cent of the amount of the contract.

**Note.** Public Laws of 1915, chapter 319, entitled "An Act to Provide for State and County Aid in the Construction of Highway Bridges," approved April 2, 1915, was enacted with the provision that it "shall be referred at the next state election to the voters of the state and if approved by them, shall take effect on the first Wednesday of December, nineteen hundred sixteen." It is therefore omitted from this revision.

### Excavations in City Streets.

**Sec. 116. Opening of streets in cities, regulated.** 1911, c. 34, § 1. Whenever the paving or repairing of any street or public highway shall have been ordered by the city council, the commissioner of public works or such officer as the city government may appoint, shall duly serve upon owners of property abutting on such street or highway, and upon all corporations, persons, firms, bridge or water districts occupying such street or highway, a notice directing such owners, corporations, persons, firms, bridge or water districts, to make such sewer, water, and conduit connections or other work, as may be designated, within sixty days from date of such notice. At the expiration of the time fixed, and after such street has been paved or repaired, no permit shall be granted to open such street for a period of five years except as hereinafter provided.

See c. 25, § 15.

**Sec. 117. Permits for digging or making excavations in case of emergency.** 1911, c. 34, § 2. If the owners, corporations, persons, firms, bridge or water districts comply with the notice given under the preceding section, the commissioner of public works, or such officer as the city government may appoint, may, in the case of an emergency, grant and renew permits for digging or making excavations in the driveways of any of the public highways of the city for the laying of gas, water, steam or ammonia pipes or conduits, or for any other lawful purpose. Every permit shall specify the time prescribed by resolution or ordinance, or when no time is prescribed, the commissioner of public works or such officer as the city government may appoint, shall specify a time during which said excavation



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may remain open, the place where such excavation may be made and the number of square yards of surface which may be disturbed.

**Sec. 118. Penalty.** 1911, c. 34, § 3. Any person or persons, firm, corporation, bridge or water district, who shall dig or make an excavation in the driveway of any public highway without first obtaining such permit as aforesaid or who having obtained such permit shall disturb a greater area of surface than specified in such permit, shall be punished by a fine of twenty-five dollars for each offense.

**Sec. 119. A record of all permits shall be kept; fees for permits.** 1911, c. 34, § 4. The commissioner of public works or such officer as the city government may appoint, shall keep a record of all permits granted by him, and before any permit is granted (work done by the city employees excepted) the applicant shall pay to the city treasurer for every permit for making an excavation within the driveways of any public highway paved with broken stone, granite block, wood block, brick, hassam, bitulithic or other permanent pavement as follows: For bitulithic, brick or wood block pavement, four dollars per square yard; and for all other pavements two dollars and fifty cents per square yard. All such fees paid to the city treasurer shall be regularly accounted for by him in his report to the city council, and shall constitute a special fund for the repaving of said cuts; when such cuts are repaired by the street department, the cost thereof shall be charged to said fund.

**Sec. 120. Unlawful to leave trench or excavation open, except by permission; method of filling trenches.** 1911, c. 34, § 5. It shall be unlawful for any person or persons, firm, corporation, bridge or water district, having the right of opening or making excavations within the driveways of public highways in the city, to leave open at any time any trench or excavation of a greater length than two hundred feet, except by permission of the officer granting such permit; and such person or persons, firm, corporation, bridge or water district, shall fully and completely fill up such trench to the surface of the bed upon which the pavement is to be relaid, before making any further trench or excavation; such filling shall be puddled or rammed as the nature of the soil may require, and shall be done and completed within the time designated in the permit for completing such trench or excavation; any person or persons, firm, corporation, bridge or water district, failing to comply with the requirements, or infringing on the prohibitions of this section, shall be punished by a fine of fifty dollars for each offense; provided, that these requirements, prohibitions and penalties shall not apply to excavations in grading, building or repairing any of the public highways under the supervision of the city authorities.

**Sec. 121. Paving shall be protected on either side of opening.** 1911, c. 34, § 6. Such person or persons, firm, corporation, bridge or water district, shall protect the paving on either side of the opening by the use of sheet piling or such other means as will prevent the escape of sand from underneath it; and in determining the number of square yards of paving disturbed, there shall be included such area of paving adjoining the trench actually opened, as will in the opinion of the commissioner of public works or such officer as the city government may appoint, be required to be taken up and relaid by reason of such failure to properly protect the same.

**Sec. 122. Work of repairing or filling trenches shall be skilfully done.** 1911, c. 34, § 7. If the work or any part thereof mentioned in the preceding sections of repairing or filling the trenches or excavations aforesaid, shall be unskilfully or improperly done, the commissioner of public works or such officer as the city government may appoint, may forthwith cause the same to be skilfully and properly done, and shall keep an account of the expense thereof; and in such case such person or persons, firm, corporation, bridge or water district, in default as aforesaid, shall forfeit and pay a penalty equal to the whole of said expense incurred by said commissioner of public works or such officer as the city government may appoint, with an addition of fifty per cent; and thereafter, that is to say, upon the completion of the work and the determination of the costs thereof, the said commissioner of public works or such officer as the city government may appoint, shall issue no further or new permit to any person or persons, firm, corporation, bridge or water district so in default, until he shall receive in addition to the fees herein above provided, the amount of the penalty as by this section provided and determined.

**Sec. 123. Relaying of pavements.** 1911, c. 34, § 8. When any excavation shall be made in any paved public highway and the trench shall have been filled as required by the two preceding sections, the commissioner of public works or such officer as the city government may appoint, shall relay the pavement; the cost thereof, including materials, labor and inspection, shall be paid out of any moneys in the city treasury standing to the credit of the regular fund for this purpose.

**Sec. 124. Map or sketch of location to be filed.** 1911, c. 34, § 9. The party applying for a permit for said excavation must file a map or sketch with the commissioner of public works or such officer as the city government may appoint, showing the location and size of cuts to be made.

**Sec. 125. Duty of commissioner of public works.** 1911, c. 34, § 10. When any excavation shall be made in any paved public highway and said pavement is repaired by a contractor or the commissioner of public works or such officer as the city government may appoint, the commissioner of public works or such officer as the city government may appoint, where said pavements are laid on a concrete base, shall have the concrete cut back on each side of the ditch a distance of eight inches, and in issuing the permits for cutting the pavements, this extra width shall be charged to the person applying for the same.

Note. The provisions of §§ 116 to 125, both inclusive, may be enforced by the state highway commission wherever state or state aid highways are affected, c. 25, § 15.

### **Repair of Private Ways Owned in Common.**

**Sec. 126. Owners of private ways and bridges may call meetings; proceedings.** R. S. c. 23, § 95. When four or more persons are owners and occupants of a private way or bridge, any three of them may make written application to a justice of the peace to call a meeting, who may issue his warrant setting forth the time, place and purpose thereof, a copy of which shall be posted at some public place in the town seven days before such time. When so assembled they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary, and the ma-

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materials to be furnished or amount of money to be paid by each owner therefor and the manner of calling future meetings.

**Sec. 127. Surveyor's duties; penalty for neglect of owners to pay. R. S. c. 23, § 96.** The surveyor so chosen, with respect to such way or bridge, has the powers of a road commissioner. For refusing to accept the trust or to take the oath he forfeits four dollars, to be recovered as provided in section one hundred and twenty-nine. If any owner or occupant, on requirement of the surveyor, neglects to furnish his proportion of labor, materials or money, the same may be furnished by the other owners and occupants, and recovered of him in an action on the case.

**Sec. 128. Owners may contract for repair, and cause money to be assessed and collected. R. S. c. 23, § 97.** The owners, at such meeting, may authorize a contract to be made for making and keeping such way or bridge in repair, by the year or for a less time; may raise money for that purpose, and choose assessors to assess it on such owners and occupants in proportion to their interests, who shall deliver their assessment with a warrant for its collection to the surveyor. Such warrant shall be in substance such as is prescribed for collection of town taxes. The surveyor shall collect the same as town taxes are collected; and be liable for neglect of duty, as town collectors are for similar neglects.

See c. 11, § 8.

**Sec. 129. Penalties and process. R. S. c. 23, § 98.** Money recovered under the two preceding sections is for the use of such owners. In any process for its recovery, a description of them in general terms as proprietors and occupants of the way or bridge, clearly describing it therein, is sufficient. Such process is not abated by the death of any owner, or by the transfer of his interest.

Note. Ditches and drains may be constructed by municipal officers when necessary for care of highways, c. 22, § 26.

Jurisdiction of county commissioners to free toll-bridges, c. 27, §§ 24-27.

Municipal officers to grant permits for opening streets, c. 60, § 13, for erection of poles and wires therein, c. 60, § 27; as to damages occasioned thereby, c. 60, §§ 14, 16.

Owners of unincorporated tracts of land may raise money for roads, c. 62, § 28.

Protection of ways from overflow, c. 97, §§ 37-42.

Penalty for advertising upon rocks, or other natural objects in highway, c. 129, § 18.

Penalty for injuring guide-boards, c. 129, § 24.

## CHAPTER 25.

### State Highways.

**Sec. 1. Objects of chapter.** 1913, c. 130, § 1. The objects of this chapter are to establish a state highway commission; to provide for an interlocking system of state highways; to furnish state aid for important county and town highways; to provide for the continuous maintenance of all highways to the improvement of which the state has contributed or shall hereafter contribute; to provide for a bond issue, and for the equitable distribution of the proceeds of the same among the several counties.

**Sec. 2. Rules of construction.** 1913, c. 130, § 2. The rules of construction in section six of chapter one shall apply to this chapter. The word "maintenance" shall include the restoring of reconstructed and improved highways to their condition when improved and shall be applicable only to highways to the improvement of which the state has contributed or shall hereafter contribute, except as elsewhere herein provided. The word "commission" shall mean the state highway commission. The word "town" shall include cities, towns, organized plantations and unincorporated townships, except as herein otherwise indicated. The words "municipal officers" shall also include county commissioners having jurisdiction over highways in unincorporated townships. The word "valuation" shall mean the valuation last made by the board of state assessors. The word "section" shall refer to this chapter, until otherwise indicated.

**Sec. 3. Appointment of commission; tenure; choice of chairman; attorney-general shall be attorney for commission; annual report.** 1913, c. 130, §§ 3, 4, 34. The state highway commission as heretofore established shall consist of three members, appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the members now serving, for terms of three years. Vacancies occurring during a term shall be filled for the unexpired term. Upon the expiration of the term of the present chairman, the commission shall annually choose a chairman from its members, and in case of a failure to make such choice, the governor shall appoint the chairman. The attorney-general shall be attorney for the commission and shall without additional compensation give the commission such advice and service as it may from time to time require. The commission shall be furnished with suitable offices at the seat of government, and shall perform all the duties and may exercise all the powers expressly or impliedly given by this chapter. They shall make an annual report to the governor and council of their doings and the expenditures of their office, with such statement relative to the construction and maintenance of public highways and such recommendations as to the general policy of the state relative thereto as they consider appropriate. The report shall be transmitted to the secretary of state on or before the thirty-first day of December in each year.

**Sec. 4. Chief engineer, appointment, tenure, duties, assistants.** 1913, c. 130, § 5. The commission shall select and, with the approval of the

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governor and council, appoint as chief engineer, a civil engineer having experience in and knowledge of highway construction, upon terms to be fixed from time to time by the commission subject to the approval of the governor and council. Said engineer shall hold office during the pleasure of the commission. He shall under the direction and control of the commission have general charge of the office, the records, and all construction and maintenance work, and may with the approval of the commission employ necessary clerical assistance. He may, with the approval of the commission, employ such other engineers, supervisors, assistants and help as he may deem necessary in the administration and execution of this chapter. All salaries for persons employed by the engineer shall be approved by the commission. All salaries and expenses contemplated by this section shall be paid from the fund for maintenance and administration.

**Sec. 5. Highways shall be classified.** 1913, c. 130, § 6. The commission shall cause charts and maps to be made showing the location and mileage of all highways in the state, and shall classify the highways of the state into three general classes, and may from time to time amend such classification namely: first, state highways, which shall mean a system of connected main highways throughout the state; second, state aid highways, which shall mean such highways not included in the system of state highways as shall be thoroughfares between principal settlements, or between settlements and their market or shipping point and in so far as practicable feeders to the state highways; third, third-class highways, which shall mean all other highways not included in the two classes above mentioned.

**Sec. 6. Authority in general of the commission.** 1913, c. 130, § 7. The commission may from time to time make and shall enforce rules and regulations relating to construction and maintenance of all state and state aid highways and relating to the manner of conducting all investigations and hearings and the administration of its office, powers and duties, subject to the provisions of this chapter; and shall direct the expenditure of all moneys for construction and maintenance of all state and state aid highways. The commission may from time to time purchase, lease or hire all machinery, tools, implements and property necessary for highway engineering and construction and for the administration and execution of its duties, and may contract for such labor, materials and property as it may deem necessary for the examination, building and construction of state and state aid highways. The commission may be consulted by and shall without charge advise municipal officers and road commissioners on the subject of construction and maintenance of public highways. On all state and state aid highways all guideposts shall be of such reasonable form, height and design as the commission shall designate. The commission may establish detour roads during construction or repair of state or state aid highways, and may authorize the expenditure of such sums as it deems necessary to make the same safe for travel. In all state and state aid highway construction and maintenance the commission shall have the powers of municipal officers conferred by section twenty-six of chapter twenty-two of the revised statutes relating to construction and maintenance of ditches and drains. The commission

shall whenever practicable give preference in employment to the inhabitants of the town in which such highways are located.

See c. 24, §§ 107, 113.

Note. May petition for abolishment of grade crossings, c. 24, § 34; may cause removal of trees, bushes and other encroachments obstructing view of railroad crossings, c. 24, § 111; may cause turf placed in ways to be removed, c. 24, § 112; also, advertising signs, c. 24, § 113; duties as to award of bridge contracts, c. 24, § 114; may grant permits for moving heavy vehicles and loads over highways and bridges, c. 26, § 13.

**Sec. 7. State and state aid highways; expense of construction of state highways; hearing before designation thereof.** 1913, c. 130, § 8. 1915, c. 237. The commission shall lay out, construct and maintain a system of state and state aid highways substantially as herein described, and the expense of constructing such state highways shall be borne wholly by the state, except as otherwise provided in section twenty-two. The commission shall be sole arbiter of the designation of the state and state aid highways, but shall, as to state highways, after reasonable notice by publication give all parties interested an opportunity to be heard thereon before commencing such construction. Except as provided in section twenty-two, the construction of state highways shall be paid for wholly from the proceeds of the state bond issue herein provided for, and the proceeds of the aggregate of such bonds shall be expended equitably among the various counties.

**Sec. 8. Maintenance of state highways; maintenance of state highways already built.** 1913, c. 130, § 9. State highways shall be continually maintained under the direction and control of the commission at the joint expense, as hereinafter provided, of the state and the town in which the same are located; the charge against such town for maintenance of its state highways shall be the actual cost of such maintenance but not exceeding an average of sixty dollars per mile per year, but the commission may in respect thereto grant to such towns such financial assistance as it deems advisable. The provisions of this section shall apply only to those state highways constructed and improved by the state under this chapter, and to such other portions of designated state highways, to the improvement of which the state has heretofore contributed, as the commission may hereafter indicate as taken over by it, and the commission shall as rapidly as it deems advisable so take over such highways for the purpose of maintenance as herein provided.

**Sec. 9. Failure of town to pay its portion of maintenance.** 1913, c. 130, § 10. If any town fails to pay, except as otherwise provided in this chapter, its portion of the cost of the maintenance of state and state aid highways on or before the first day of January of the following year, the same shall be collected and paid in the manner provided in section twenty-four and the amounts so collected from such town shall be added to the fund for maintenance and administration.

**Sec. 10. Commission may let contracts for construction; procedure.** 1913, c. 130, § 11. The commission shall have full power in the letting of all contracts for the construction of all state and state aid highways except as elsewhere herein otherwise provided. The commission shall make all surveys, plans, estimates, specifications and contracts for all proposed work, and shall, except as otherwise provided in this chapter, advertise for bids for the same in two or more public newspapers printed wholly or in part

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in the state, also in one public newspaper printed wholly or in part in the county where the proposed work is to be done, if any such newspaper is so printed in such county; such advertisement shall state the place where the bidders may examine the plans and specifications, and the time and place where the bids for such work will be received by the commission. Each bidder must accompany his bid with a certified check, payable to the treasurer of state, for ten per cent of the amount of his bid as a guarantee that if the work is awarded to him he will contract with the commission for its due execution; such checks shall be returned to the respective unsuccessful bidders. The check of the successful bidder shall be returned to him upon the execution and delivery to the commission of his contract and his bond with sufficient sureties, in terms satisfactory to the commission for the due execution of such work. All bids so submitted shall be publicly opened, read and posted at the time and place stated in such advertisement. The commission shall have the right to reject any or all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for state and state aid highway construction within its limits, and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. If all bids for work under this chapter are rejected, or if no bids are received, the commission may perform said work by any method which the governor and council approve. The commission shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts, and for the protection of the state and town from all liability arising from damage or injury to persons or property. The commission after making surveys, plans and estimates for proposed construction of state aid highways in a town may when deemed by said commission advisable, make contracts with such town according to said survey and specifications and upon terms satisfactory to and under control of the commission without advertising said contracts for bids.

**Sec. 11. Commission may purchase or take lands for highways and materials; procedure; commission may vacate lands taken; governor and council authorized to sell property acquired by purchase. 1913, c. 130, § 12.** The commission may purchase, take over, and hold for the state as for public use such materials and land as may be necessary to provide a change of location or alignment of any state or state aid highway as herein designated, or to secure materials, including clay, gravel, sand and rock, with necessary ways and access thereto, for the improvement, construction, and maintenance of state and state aid highways under the provisions of this chapter. Whenever the commission determines that public exigency requires the taking of land as aforesaid, it shall cause the same to be surveyed and described and a plan thereof and said description to be recorded in the registry of deeds for the county or registry district where the same is located, and notice thereof shall be given in some newspaper, if any, published wholly or in part in said county. If the commission is unable to purchase such material or land with necessary ways and access thereto at what it deems a reasonable valuation, the county commissioners of the

county wherein such material or land is located shall, on petition of the commission or interested parties, ascertain and determine the damages in the same manner as provided by statute for land taken for highway purposes, and all parties aggrieved by the estimate of damage shall have like remedies as provided by statute for appraisal of damages for land taken by towns for highway purposes, and such damages shall be paid by the treasurer of state, from the appropriate funds provided under this chapter. The commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions hereof, by executing and recording a deed thereof, and such action shall revert the title to the lands or rights so vacated in the persons, their heirs and assigns, in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any proceedings therefor on account of such taking. The governor and council on recommendation of the commission may sell and convey on behalf of the state the interests of the state in property acquired by purchase under this section and deemed no longer necessary for the purposes hereof, and the proceeds of such sale shall so far as practicable be credited to the fund from which such purchase was originally made.

See c. 24, § 8.

**Sec. 12. No part of bond issue funds to be used in compact portions of towns.** 1913, c. 130, § 13. No funds for construction derived from any bond issue shall be expended on any highway within the compact portions of any town, except in towns of less than twenty-five hundred inhabitants, such compact portions to be determined by the commission. All state highways within such compact portions shall be maintained in good repair by the town wherein the same are located at the expense of the town and whenever any town shall neglect so to maintain within fourteen days after notice given its municipal officers by the commission, the commission may proceed to make necessary repairs to such way, which shall be paid for by the state and the cost thereof shall be collected and paid as provided in section twenty-four; and the amounts so collected from such towns shall be added to the fund for maintenance and administration. The commission may in respect thereto grant such towns such financial assistance as it deems advisable.

**Sec. 13. Authority as to location and alteration of state or state aid highways; proceedings for assessment of damages.** 1913, c. 130, § 14. 1915, c. 300. The commission may alter, widen or change the grade of any state or state aid highway whenever in its judgment the public exigency may require, and may lay out, establish and open a new highway as a state or state aid highway. It may also discontinue a highway as a state or state aid highway and the same shall be thereafter maintained by the town or county originally liable therefor except as herein otherwise provided. Whenever the commission shall alter, widen or change the grade of any state or state aid highway as herein provided, to the injury of an owner of adjoining land, he may within six months apply in writing to the commission setting forth the injury complained of and the damages claimed therefor; the commission shall view such way and assess the dam-



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ages if any, that have been occasioned thereby, to be apportioned by the commission as law and justice may require and to be paid accordingly; any person aggrieved by said assessment may have the damages determined on complaint to the supreme judicial court. The proceedings on said complaint shall be as described in section eight of chapter twenty-four. The said complaint shall be filed at the term of the supreme judicial court next to be held within the county where the land is situated, after sixty days from the date of assessment of damages by the commission. Whenever the commission shall lay out, establish and open a new highway as a state or state aid highway, it shall first fix or award the damages sustained by the owner of any land through which said highway passes, and any person aggrieved by such award may have the damages determined as hereinbefore provided in cases of altering, widening or changing of grade.

**Sec. 14. When one commissioner may hold hearings.** 1913, c. 130, § 15. By consent of all parties in interest any investigation, inquiry or hearing which the commission is authorized to hold may be held by a single member of the commission, and his finding, when approved by the commission and so shown on its records shall be deemed to be the finding of the commission.

**Sec. 15. Certain provisions may be enforced by commission; towns not relieved from obligations relating to snow blockade.** 1913, c. 130, § 16. The provisions of section fourteen of chapter sixty and of sections one hundred and sixteen to one hundred and twenty-five, both inclusive, of chapter twenty-four, relating to the repair of streets dug into, may be enforced by the commission wherever state or state aid highways are affected. No town in which a state or state aid highway lies shall be relieved from any obligations of statute relating to ways blocked or encumbered with snow, anything to the contrary elsewhere in this chapter notwithstanding.

**Sec. 16. Practicable systems of public ways shall be designated as state aid highways.** 1913, c. 130, § 17. Municipal officers shall designate such practicable systems of public ways within their jurisdiction as will best serve outlying communities, connect adjoining towns and villages, and facilitate travel in reaching markets, railroad connections and state roads; due consideration being given to cost as well as distance and volume of travel. A suitable description of each such way shall be thereupon presented to the commission for its approval, and upon the same being approved and accepted by the commission said way shall be established and known as a state aid highway. Twenty or more voters in any such town by written petition, presented within thirty days after the description of such way has been filed with the commission shall have the right to be heard on the acceptance thereof; and the commission may accept or reject any part or all of such way and impose terms in respect thereto.

**Sec. 17. Maintenance of state aid highways.** 1913, c. 130, § 18. State aid highways shall be continually maintained under the direction and control of the commission at the joint expense of the state and town in which the same are located; the charge against such town for maintenance of its state aid highways shall not exceed fifty per cent of the actual cost of such maintenance nor an average of thirty dollars per mile per year. The pro-

visions of this section shall apply only to those state aid highways constructed and improved by the state under this chapter, and to such other portions of designated state aid highways, to the improvement of which the state has heretofore contributed, as the commission may hereafter indicate as taken over by it, and the commission shall as rapidly as it deems advisable so take over such highways for the purpose of maintenance as herein provided.

**Sec. 18. Appropriations by towns desiring state aid. 1913, c. 130, § 19.** If any town desires state aid as provided by this chapter, for the building or permanent improvement of one or more of its state aid highways, such town may raise and appropriate in addition to the amounts regularly raised and appropriated for the care of ways, highways and bridges the following amounts on account of which state aid shall be paid:

Towns having a valuation of two hundred thousand dollars or less may appropriate any amount not exceeding three hundred dollars; towns having a valuation of over two hundred thousand dollars and not over eight hundred thousand dollars may appropriate any amount not exceeding five hundred thirty-three dollars; towns having a valuation of over eight hundred thousand dollars and not over one million dollars may appropriate an amount not exceeding six hundred dollars; and towns having a valuation of over one million dollars and not over three million dollars may appropriate in addition to the sum of six hundred dollars an additional sum of sixty-six dollars for each two hundred thousand dollars or fraction thereof valuation in excess of one million; towns having a valuation of over three million dollars and not over four million dollars may appropriate not exceeding one thousand three hundred and thirty-three dollars; and towns having a valuation of over four million dollars may appropriate in addition to the sum of one thousand three hundred and thirty-three dollars an additional sum not exceeding one hundred and thirty-three dollars for each additional one million dollars of additional valuation.

**Sec. 19. Municipal officers shall annually file suggestions for improvement of highways; report of recommendations by commission submitted to voters of the towns. 1913, c. 130, § 20.** Annually between the fifteenth day of July and the fifteenth day of August in each year, municipal officers shall prepare and file with the commission suggestions for the improvement during the next calendar year of state aid highways located in each town accompanied by plans so far as practicable, setting forth the location of the highway and the nature of the improvement desired. The commission shall examine and report thereon with its recommendations to such municipal officers on or before the twentieth day of February following. Such report shall be submitted to the voters of such towns at the next regular meeting of such town. The municipal officers shall insert in the warrant for each annual town meeting an article calling upon the voters to vote "yes" or "no" on the question of the appropriation of money necessary to entitle the town to state aid for state aid highways for that year. If any such town then appropriates money for work contemplated in such report, and for the purpose of securing state aid as provided in this chapter, the municipal officers shall forthwith notify the commission of the

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amount so appropriated. The commission shall thereupon finally approve, change or disapprove such action, in whole or in part, as the appropriation and conditions require, and shall notify the municipal officers of its action. This section shall not prohibit towns from voting to do either more or less highway improvement than that contemplated in such report or from making any appropriation under the terms of this chapter. Towns failing to comply with the provisions hereof shall not be entitled to state aid for the year when such state aid otherwise would be available under this section.

**Sec. 20. Apportionment to each town. 1913, c. 130, § 21.** The commission, from the fund for state aid construction provided by this chapter, shall to each town which has conformed to the provisions of sections eighteen and nineteen, for each dollar so appropriated, apportion the following amounts: to each town having a valuation of two hundred thousand dollars or less, two dollars for each dollar appropriated by said town; to each town having a valuation over two hundred thousand dollars and not over one million dollars, one dollar for each dollar appropriated by said town; to each town having a valuation of over one million dollars and not over one million two hundred thousand dollars, ninety-two cents for each dollar appropriated by said town; to each town having a valuation of over one million two hundred thousand dollars and not over one million four hundred thousand dollars, eighty-five cents for each dollar appropriated by said town; to each town having a valuation of over one million four hundred thousand dollars and not over one million six hundred thousand dollars, eighty cents for each dollar appropriated by said town; and to each town having a valuation of over one million six hundred thousand dollars, seventy-five cents for each dollar so appropriated by said town. The money appropriated by towns applying for state aid as hereinbefore provided with the amount apportioned by the commission as hereinbefore provided shall constitute a joint fund for the construction and permanent improvement of the state aid highways in such towns.

**Sec. 21. Increase of state aid provided for in certain cases. 1913, c. 130, § 22.** If any town shall in any single year, prior to the year nineteen hundred twenty, increase its appropriation for state aid roads to an amount not exceeding five times the maximum amount which it may annually appropriate under section eighteen, the commission may, from any balance of said fund for state aid construction, after the appropriations contemplated in section twenty, and subject to the provisions of section twenty-three as to apportionment, appropriate a like increase of state aid together with an additional sum equal to twenty-five per cent of such increase of state aid; but such appropriation shall not deprive the town of its right to the regular annual state aid in other years; the appropriations contemplated by this section shall be united with and become a part of the joint fund referred to in section twenty.

**Sec. 22. Commission shall decide where joint fund is to be applied. 1913, c. 130, § 23.** If any town desires that the whole or any portion of said joint fund shall be applied to the construction of a designated state highway within its boundaries, the same may be so applied at the discretion of the commission; but such portion of the state highway constructed in

such manner shall still be subject to all the provisions of this chapter relating to state highways.

**Sec. 23. Pro rata reduction of fund for state aid construction when necessary.** 1913, c. 130, § 24. If the commission finds that in any year the aggregate appropriations contemplated to be made by it under the provisions of section twenty exceed the amount available therefor in the said fund for state aid construction, the commission shall make a pro rata reduction of the several amounts appropriated by the towns so that the aggregate of the same shall be proportioned to the amount available from said fund as set forth in said section twenty, and thereupon the commission shall notify the municipal officers of each town thereby affected and the appropriation to be raised by such town shall be thereby accordingly reduced.

**Sec. 24. Towns shall pay their shares of joint fund to treasurer of state.** 1913, c. 130, § 25. Payments by towns of their shares of the joint fund herein provided shall be made forthwith to the treasurer of state on requisition by the commission as the work progresses. If any town shall fail to pay its share as above provided, the amounts payable by such town to the state under this chapter shall be certified by the commission to the state auditor, who if he finds the amount correct shall certify it to the treasurer of state, and unless sooner paid it shall be collected and paid in the same manner as any state tax against such town, with interest at six per cent per year from the date of the auditor's certification to the treasurer of state.

See c. 10, § 89; c. 11, § 4.

**Sec. 25. Commission shall provide system of patrol.** 1913, c. 130, § 26. The commission shall provide for a system of patrol for all state highways to which section eight may apply and for all state aid highways to which section seventeen may apply so that all sections of such highways may be effectually and economically preserved and maintained.

**Sec. 26. Regular patrolman shall be employed to perform maintenance work.** 1915, c. 272, § 1. Every town in which the state highway commission, acting under the provisions of section eight, or section seventeen of this chapter, supervises the maintenance of any state or state aid highway, shall cooperate with the said state highway commission in the employment of a regular road patrolman to perform maintenance work in addition to that upon the state highway or the state aid highway, upon such mileage of road as shall be mutually agreed upon by the municipal officers of the town and the state highway commission.

**Sec. 27. Towns shall pay annually a sum equal to the average amount appropriated for mile of road; expenditure shall be directed by the highway commission.** 1915, c. 272, § 2. For each mile of road so maintained the municipal officers of such towns as come within the provisions of the preceding section may for the purposes therein set forth, and they shall annually pay into the state treasury, prior to September first of the year in which the work is done, from the town's appropriation for roads and bridges, a sum which shall equal the average amount per mile of road, raised by the town for the support of highways. This amount shall be not less than thirty dollars per mile nor more than sixty dollars per mile.

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It shall be added to such maintenance fund as may be provided under sections eight or seventeen of this chapter, and its expenditure shall be directed and administered by the state highway commission. In computing the average amount per mile of road, raised by the town, the mileage of road heretofore improved wholly by the state or by joint expenditure of state and town funds shall be deducted from the total mileage of roads in the town. If any town shall fail to pay its share as above provided, the amounts payable by such town to the state under this section and the preceding section shall be certified by the commission to the state auditor, who if he finds the amount correct shall certify it to the treasurer of state, and unless sooner paid it shall be collected and paid in the same manner as any state tax against such town with interest at six per cent per annum from the date of the auditor's certification to the treasurer of state.

**Sec. 28. State highway commission shall make yearly returns.** 1915, c. 272, § 3. The state highway commission shall make return each year to the municipal officers of each town coming within the provisions of the two preceding sections of the maintenance work performed in such town under the provisions thereof.

**Sec. 29. State liable for damages for defects in state and state aid highways, in certain cases.** 1913, c. 130, § 27. The state shall be liable to towns and counties for any judgment recovered in any action against such town or county under the provisions of sections ninety-two to ninety-six, both inclusive, of chapter twenty-four, but only when pertaining to those state and state aid highways to the improvement of which the state has contributed; or to which sections eight or seventeen may apply; provided, however, that within twenty-four hours after any of the various officials mentioned in said section ninety-two first has notice of such defect or want of repair or sufficient railing such officials shall give written notice thereof to some member of the commission; provided also that within ten days after any of the various officials mentioned in said section ninety-two first has notice of any injury to any person such officials shall give written notice thereof to some member of the commission; provided also, that the state shall not be liable for any injury sustained upon the sidewalk of any such state or state aid highway or sustained during the construction of such state or state aid highway within its limits; provided also, that the state shall not be liable for any injury under this section in an amount exceeding four thousand dollars; provided also that any sums recoverable under section ninety-seven of chapter twenty-four shall be deducted from the judgment against such town or county in determining the liability of the state under this section. The commission may appear and take upon itself the defense of any action affecting the liability of the state under this section.

**Sec. 30. Treasurer of state authorized to issue bonds.** 1913, c. 130, § 28. The treasurer of state may under the direction of the governor and council, issue from time to time serial coupon bonds in the name and behalf of the state not exceeding two million dollars in amount outstanding at any one time, payable at the state treasury within forty-one years from the date of issue at a rate of interest not exceeding four per cent per annum, interest

payable semi-annually and signed by the treasurer of state, countersigned by the governor and attested by the state auditor with the seal of the state affixed. The coupons attached to said bonds shall bear the facsimile of the signature of the treasurer of state instead of his original signature; and such bonds and coupons shall be of such form and upon such terms and conditions not inconsistent herewith as the governor and council shall direct. Said bonds and the proceeds thereof shall be designated as the state highway loan and shall be deemed a pledge of the faith and credit of the state.

**Sec. 31. State auditor shall keep account of bonds.** 1913, c. 130, § 29. The state auditor shall keep an account of such bonds showing the number and amount of each, the date of countersigning, the date when payable, and the date of delivery thereof to the treasurer of state, who shall keep an account of each bond, showing the number thereof, the name of the person to whom sold, the amount received for the same, the date of sale, and the date when payable.

**Sec. 32. Sale of bonds; limitation.** 1913, c. 130, § 30. The treasurer of state may negotiate the sale of such bonds by direction of the governor and council, but the amount of such bonds originally issued in any one year shall not exceed the sum of five hundred thousand dollars; none of such bonds shall be sold for less than its par value, nor shall any such bond be loaned, pledged, or hypothecated in behalf of the state. The proceeds of the sales of such bonds shall be held by the treasurer of state and paid by him upon warrants drawn by the governor and council for the purposes of this chapter. The commission, with the approval of the governor and council, shall divide the expenditure of the money raised from the sales of such bonds in such manner as will carry into effect the provisions of this chapter and conform to the constitution of the state; and so much thereof as may be necessary to carry out the provisions of this chapter is hereby appropriated.

**Sec. 33. Fees received for automobile licenses appropriated.** 1913, c. 130, § 31. All fees received by the treasurer of state under section thirty-five of chapter twenty-six shall be appropriated and used in the following order, namely: first, to pay interest due on all bonds issued under this chapter; second, to create such fund to meet maturing bonds as the governor and council may deem necessary; third, to apply the balance to the fund for maintenance and administration as hereinafter provided.

**Sec. 34. Appropriations fixed for state aid.** 1913, c. 130, § 32. To provide funds for the construction of state aid highways there shall be appropriated annually the sum of three hundred thousand dollars, to be known as the fund for state aid construction, which fund shall be used exclusively for the construction of state aid highways as herein provided, except that on the thirty-first day of December in each year any balance of said fund unexpended or not required by virtue of any contract under this chapter shall be added to said fund for maintenance and administration.

**Sec. 35. Appropriation for administration of office of commission.** 1913, c. 130, § 33. To provide funds for the administration of the office and duties of the commission and for all expenditures, salaries and expense

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incident thereto as provided in this chapter, and for the maintenance of all state and state aid highways as herein provided, there shall be appropriated the sum of fifty thousand dollars annually. This fund shall be known as the maintenance and administration fund and to it shall be added from time to time the amounts provided for under sections nine, twelve, thirty-three and thirty-four, and any unexpended balance of this fund at the end of any year shall be added to this fund for the next year.

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## CHAPTER 26.

### Law of the Road. Registration of Motor Vehicles.

#### Law of the Road.

**Sec. 1. Definitions.** R. S. c. 24, § 1. As used in this chapter, the word "way" includes all kinds of public ways. And the word "team" all kinds of conveyances on such ways for persons and for property.

See c. 1, § 6, ¶ 6; c. 24, § 99.

**Sec. 2. Travelers to turn to right; if unable to turn, must stop.** R. S. c. 24, § 2. When persons traveling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is unsafe, or difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, shall stop a reasonable time, at a convenient place, to enable the other to pass.

11 Me. 339; 25 Me. 46; 66 Me. 376; 71 Me. 347; 98 Me. 73.

**Sec. 3. If stationary, or moving slowly, must allow others to pass.** R. S. c. 24, § 3. When a person with a team is stationary, or traveling slowly on a way at a place unsafe or inconvenient for passing him with a team, he shall, if requested, drive to the right or left, or stop a reasonable time at a convenient place, to allow the other to pass.

25 Me. 46; 71 Me. 347.

**Sec. 4. Teams must not obstruct passage.** R. S. c. 24, § 4. No person shall leave his team stationary on a way so as to obstruct the free passage of other teams; or allow his team to be on a way without a driver.

**Sec. 5. Bells.** R. S. c. 24, § 5. Three or more bells must be fastened to one of the foremost horses drawing teams on snow without wheels.

**Sec. 6. Damage to party injured; penalty.** R. S. c. 24, § 6. Any person injured by violation of either of the previous sections, may recover damages in an action on the case, commenced within one year. Such violator forfeits not less than one, nor more than twenty dollars, to be recovered on complaint made within sixty days.

**Sec. 7. Travel on bridges regulated.** R. S. c. 24, § 13. No team shall travel faster than a walk on a bridge erected wholly or partly by the state, or on any bridge covered with plank and fifty feet long composing part of a way, or on any bridge owned by a corporation, if a board with the words "Three dollars fine for riding or driving on this bridge faster than

a walk," legibly painted in black letters on a white ground, is kept exposed in some conspicuous place at each end thereof.

**Sec. 8. Forfeiture for fast driving on bridge; exception.** R. S. c. 24, § 14. Whoever wilfully violates the preceding section, forfeits three dollars, to be recovered on complaint made by any owner of said bridge, or by any municipal officer of the town in which it is located, to the owners of the bridge, or to the town required to keep it in repair; but no person passing after sunset and before sunrise is so liable without proof that he previously had knowledge of such prohibition.

**Sec. 9. Driver not to leave team without fastening.** R. S. c. 24, § 15. If the driver of a team having passengers therein conveyed for hire, leaves it without any person in charge and without fastening it securely, he may be fined not exceeding thirty dollars or imprisoned not exceeding one month.

**Sec. 10. Wide-rimmed wheels on certain roads.** R. S. c. 24, § 16. 1905, c. 129. Teams with wheels, if drawn by more than two horses, oxen or mules, must have the rims of their wheels at least four inches wide, and if drawn by more than four horses, oxen or mules, at least five inches wide, when traveling on the road from Jackson brook, in Washington county, to Forest City, and when traveling on the highway from the spool mill of the Willimantic Linen Company, in Willimantic, in Piscataquis county, by the residences of Irvine Floyd or Jabez Hathaway, to Francis' siding on the Bangor and Aroostook Railroad in Abbot, and when traveling on the road leading from West Buxton in Buxton in York county to the Saco River railroad station, and on the road leading from said West Buxton to the Buxton railroad station, and on the road leading from Bar Mills in Buxton via Duck pond, so called, to the Gorham town line, and when traveling on the road leading from Newry Corner in the town of Newry, in Oxford county, to the Grand Trunk Railway station in Bethel village in the town of Bethel, and when traveling on the road leading from East Bethel in said town of Bethel to Locke's Mills, so called, in the town of Greenwood, and when traveling on the road leading from the town of Mason in said Oxford county to West Bethel village, and when traveling on any of the streets or roads in said Bethel village; and no team drawn by more than six horses, oxen or mules, shall travel thereon. This section is not applicable to stage or pleasure carriages, or to those owned by the state or the United States, or to any cart or wagon owned by the settlers in the vicinity and used for farming purposes. The owner or driver of a team violating this section, forfeits twenty dollars and one dollar more for each mile of road passed, to be recovered by complaint before a municipal or police court or trial justice in the county where the offense was committed, and on a libel or complaint, he may issue his warrant to seize and detain such team to respond to such fine and cost.

**Sec. 11. Weight of vehicle, etc., limited to nine tons, unless permit issued; wheels shall not have ribs, etc., which will injure surfaces; owners of vehicles liable for damages.** 1913, c. 188, § 1. No traction engine, trailer, motor or other vehicle shall be operated upon or over a highway or bridge in this state, nor shall any object be moved over or upon a highway or bridge, upon wheels, rollers or otherwise, in excess of a total weight of



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nine tons, including vehicle, object or contrivance and load, without first obtaining a permit, mentioned in section thirteen, from the authority or authorities in charge of the maintenance or care of said highway or bridge; nor shall any vehicle be operated or contrivance moved upon or over said highways or bridges which has any flange, rib, clamp or other object attached to its wheels or made a part thereof, which will injure, cut into or destroy the surface of the highway or bridge, nor shall any such engine, vehicle, object or contrivance for moving heavy loads, the weight of which exceeds eight hundred pounds upon any inch in width of the tire, roller, wheel or other object, be operated or moved upon or over any highway or bridge without first obtaining said permit. The owner, driver, operator or mover of any such engine, vehicle, object or contrivance over said highway or bridge shall, unless relieved from liability in said permit, be responsible for all damage which said highway or bridge may sustain as a result of said action on his part, and the amount thereof may be recovered in an action on the case by the city, town or plantation, or in behalf of any unorganized township, by the county where the injury is done.

See c. 24, § 94.

**Sec. 12. Rate of speed for heavy vehicles regulated.** 1913, c. 188, § 2. No steam traction engine, with or without trailers, and no motor truck carrying a weight in excess of four tons, including the vehicle, shall be operated upon any highway or bridge at a rate of speed greater than fifteen miles an hour; and no such vehicle carrying a weight in excess of six tons, including the vehicle, shall be operated upon any highway or bridge at a rate of speed greater than six miles an hour when such vehicle is equipped with tires of hard rubber or other similar substance.

**Sec. 13. Permits, from whom obtained; rate of speed.** 1913, c. 188, § 3. The state highway commission, county commissioners, superintendents of streets, selectmen or road authorities having charge of the repair and maintenance of any highway or bridge in any of the cities or towns in the state, may, upon proper application in writing, grant permits for the moving of heavy vehicles, loads, objects or structures over said highways and bridges, which permits, when duly granted, shall authorize such movement. Said permits may be general or may be limited as to the time and the particular roads and bridges which may be used, and may contain any special conditions or provisions which in the opinion of the authorities granting the same are necessary for the protection of said highways or bridges from injury. The authorities having charge of any such bridge may make regulations limiting the rate of speed of any of the vehicles mentioned in the two preceding sections passing over said bridge to a rate of speed not to exceed six miles an hour, provided notice is conspicuously posted at each end of the bridge affected by such regulation.

**Sec. 14. Penalty.** 1913, c. 188, § 4. Whoever violates any provision of the three preceding sections, or the regulations made, or permits granted under authority thereof, shall be liable to a fine of not less than ten dollars nor more than five hundred dollars for each and every offense; said fines shall be paid into the treasury of the city or town when any highway or bridge is injured which is under the care of said city or town, and into the

treasury of the county, in behalf of any unorganized township, and shall be used in the repair of highways and bridges within the respective jurisdictions.

### Registration of Motor Vehicles.

**Sec. 15. Term "motor vehicle" defined.** 1911, c. 162, § 1. 1915, c. 207, § 1. The term "motor vehicle," as used in the following sections shall include all vehicles self-propelled on highways, town ways, public streets, avenues, driveways, parks or parkways, by motive power of whatsoever kind, namely, automobiles, (used for the conveyance of persons for hire, pleasure or business), motor trucks or automobiles (used for commercial purposes), motor cycles, which shall mean all kinds of motor wheels (used for pleasure or business), log haulers or traction engines (used for commercial purposes), excepting such vehicles as run only upon rails or railroad tracks, automobile fire engines and apparatus, and other vehicles used by cities or towns, such as police patrol wagons and road rollers.

**Sec. 16. Rate of speed of automobiles regulated.** 1911, c. 162, § 2. 1915, c. 207, § 2. The rate of speed upon any highway, town way, public street, avenue, driveway, park or parkway by any person operating a motor vehicle in this state shall be not greater than twenty-five miles an hour in open country outside of cities and villages, and within the compact or built-up portions of any city, town or village not greater than fifteen miles an hour. The compact or built-up portion of any city, town or village shall mean the territory of a city, town or village contiguous to any way, which is built up with structures devoted to business, or where the dwelling-houses are situated less than one hundred fifty feet apart for a distance of at least one-quarter of a mile. No person shall be convicted of exceeding the rate of speed hereby established for any compact or built-up portions, unless said city, town or village shall cause the words "Speed Limit, Fifteen Miles" to be conspicuously displayed on sign-boards along each highway, town way, public street, driveway or parkway, and such other signs as will clearly designate such compact or built-up portion. No person shall be convicted of exceeding in the open country, outside of cities and villages, the rate of speed hereby established, unless the average speed for at least one-half mile exceeds the rate of twenty-five miles per hour. No municipal officer or other person shall erect or cause to be erected speed limit signs contrary to those contemplated by this section and if any such signs now exist the municipal officers of cities and towns shall cause their removal.

**Sec. 17. Person arrested for violation of speed regulation entitled to immediate trial or release on personal recognizance.** 1915, c. 207, § 2. Any person arrested for violation of any speed regulation of sections fifteen to forty-one, both inclusive, except those of section thirty-eight, shall be given an immediate trial, if he shall so demand of the officer making the arrest; but if for any reason it is impracticable so to do, the officer making the arrest shall accept the personal recognizance of the person arrested for his appearance in court on a specified day, not later than two days thereafter. If such person fails to appear in court on the day specified, either in person or by counsel, the court shall, in case said person be a resident, order

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the secretary of state to revoke his license and to annul the registration of the motor vehicle driven by such person when arrested; in case said person be a non-resident or said vehicle be licensed by some other state or country, all rights of said person to operate in this state, or of the owner of said vehicle to have the same operated in this state shall forthwith terminate. None of the foregoing provisions of this section shall be held in any way to modify or effect the operation of any provision of the following section.

**Sec. 18. Rate of speed shall be reasonable and proper; racing forbidden; hill climbing contests.** 1911, c. 162, § 3. 1915, c. 207, § 3. No person operating a motor vehicle on any highway, town way, public street, avenue, driveway, park or parkway, shall drive at any speed greater than is reasonable, safe and proper, having regard to the traffic and use of the public way by others, or so as to endanger the life or limb of any person. Racing and reckless driving on any such ways, streets, avenues or parks is hereby forbidden. It shall be prima facie evidence of a rate of speed greater than is reasonably safe and proper, as aforesaid, if a motor vehicle is operated on any highway, town way, public way, street or avenue, driveway, park or parkway in the built-up or compact portion of any city or town at a rate of speed exceeding eight miles per hour where the operator's or chauffeur's view of the road traffic is obstructed either upon approaching an intersecting way, or in traversing a crossing or intersecting of ways, or in going around a corner or curve in a street or way. Permits may be granted by municipal officers of cities or towns after a public hearing thereon to drive automobiles or motor cycles in hill-climbing contests during a specified time upon a certain highway at any rate of speed.

**Sec. 19. Rule for passing; shall stop on request of drivers of horses.** 1911, c. 162, § 4. Whoever, driving or operating a motor vehicle upon any highway, town way, public street, avenue, driveway, park or parkway of this state, when approaching from the opposite direction a person riding, driving or leading a horse or other animal which appears to be frightened, is signaled by putting up of the hand or by other visible sign by such person, shall cause such motor vehicle to come to a stop as soon as possible and remain stationary as long as it may be necessary and reasonable to allow such horse or animal to pass. Whenever traveling in the same direction, the person operating a motor vehicle shall use reasonable caution in passing horses or other animals and vehicles.

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**Sec. 20. Equipped with means for signaling; lights.** 1911, c. 162, § 5. Every such motor vehicle when in use on the highways shall have attached thereto a suitable horn, bell or other means of signal, equally as good, that when blown, rung or otherwise operated may be heard a distance of at least two hundred feet, and shall also have lighted lamps between thirty minutes after sunset and thirty minutes before sunrise. Automobiles and motor trucks shall have at least two white lights forward and one red rear light with white light to plainly illuminate registered number. Motor cycles shall have at least one white light forward and one red rear light. Log haulers or traction engines shall have at least two white lights forward.

**Sec. 21. Municipal officers may designate dangerous places; sign-boards to be displayed; speed limit at designated place.** 1911, c. 162, § 6. Municipal officers of any city or town may designate places on any streets or ways therein, where in their judgment by reason of cliffs, embankments or other exceptional natural conditions, the meeting of motor vehicles and horses or other animals would be attended with unusual danger, by causing the words "Automobiles go slow" to be conspicuously displayed on sign-boards on the right hand side of each approach to such place not less than one hundred and fifty feet distant therefrom. No such motor vehicle shall pass any place so designated at a greater speed than five miles an hour, and if a horse or other animal ridden or driven is met coming from the opposite direction and signal from the person riding or driving such horse or other animal is made, the driver of such motor vehicle shall come to a stop as soon as possible, and allow a reasonable time for said horse or other animal to pass, and whenever traveling in same direction, shall use reasonable and proper care in passing said horse or other animal.

**Sec. 22. Penalty for violation of the preceding sections.** 1911, c. 162, § 7. Whoever violates any provision of the six preceding sections, except section seventeen, shall be punished by a fine of not less than ten, or more than twenty-five dollars for the first offense, and not less than twenty-five, or more than fifty dollars for the second offense committed during any period of twelve months, or by imprisonment for a term not exceeding ten days.

**Sec. 23. All motor vehicles shall be registered; application; fees. Horse power, how based. Duties of secretary of state. Registered motor cycle may be operated by owner without license.** 1911, c. 162, § 8. All motor vehicles shall be registered by the owner or person in control thereof in accordance with the provisions of this section and the following sections. Application for such registration may be made by mail or otherwise to the secretary of state upon blanks prepared under his authority. The application shall, in addition to such other particulars as may be required by said secretary, contain a statement of the name, place of residence and address of the applicant, with a brief description of the motor vehicle, including the name of the maker, the number if any, affixed by the maker, the character of the motive power and the amount of such power, stated in figures of horse power, and with such application shall be deposited an annual registration fee of:

Five dollars for automobiles (used for conveyance of persons for hire, pleasure or business), of twenty horse power and under.

Ten dollars for automobiles (used for conveyance of persons, for hire, pleasure or business), between twenty horse power and including thirty-five horse power.

Fifteen dollars for automobiles (used for conveyance of persons, for hire, pleasure or business), over thirty-five horse power.

Ten dollars for motor trucks or automobiles (used for commercial purposes).

Three dollars for motor cycles (used for pleasure or business).

Ten dollars for traction engines or log haulers (used for commercial purposes).

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The above horse power shall be based on the "A-L-A-M" standard, so called. On any application for registration, applied for by an owner, a resident of this state, of an automobile, not including motor cycle, log hauler or traction engine, during the period between the first day of October and the thirty-first day of December in any year, one-half of the registration fee shall be charged. The secretary of state upon granting the application shall register in a book or upon suitable index cards to be kept for the purpose, the motor vehicle described in the application, giving to the owner of such motor vehicle a distinguishing number or other mark, and shall thereupon issue to the applicant a certificate of registration, which shall contain the name, place of residence and address of the applicant and the registered number or mark, shall prescribe the manner in which said registered number or mark shall be inscribed or displayed on the motor vehicle, and shall be in such form as the secretary may determine. The secretary of state shall also furnish the applicant two enameled iron plates, containing the word "Maine", in letters not less than one inch in height, and the number of the registration in Arabic numerals not less than four inches in height. The number plates must be attached to the front and rear of automobiles, auto trucks and traction engines. Motor cycles will be provided with a registration seal or other distinguishing mark as may be determined by the secretary of state. The number for motor cycles must be so placed as to be always plainly visible. A proper record of all applications for registration and of all certificates issued shall be kept by the secretary of state in his office and shall be open to the inspection of any person during reasonable hours. The certificate of registration shall always be carried on the person or in some easily accessible place in or about the motor vehicle. Upon the sale of any motor vehicle, registration shall expire and the vendor shall immediately return the certificate of registration to the secretary of state, with notice of sale and the name, place of residence and address of the vendee. Registration plates, seal, or other distinguishing mark for automobiles, motor cycles and traction engines shall be furnished free, from the office of the secretary of state. The express charge for delivery of registration plates shall be paid by the receiver. Plates lost or mutilated may be replaced for seventy-five cents each.

A motor cycle that has been registered in accordance with this section, may be operated by the owner of such motor cycle without a license and the certificate of registration shall be evidence of the right to operate.

**Sec. 24. Registration of manufacturers and dealers.** 1911, c. 162, § 9. Every manufacturer of or dealer in motor vehicles (automobiles or auto trucks) may instead of registering each motor vehicle owned or controlled by him, make application upon a blank provided by the secretary of state, for a general distinguishing number or mark and said secretary may, if satisfied with the facts stated in the application, grant the application and issue to the applicant a certificate of registration, containing the name, place of residence and address of the applicant and the general distinguishing number or mark assigned to him or them and made in such form as the secretary of state may determine; and all motor vehicles (automobiles

and motor trucks) owned and controlled by such manufacturer or dealer shall until sold, or exchanged be regarded as registered under such general distinguishing number or mark. The annual fee for every certificate of registration to purchase, demonstrate, sell and exchange automobiles and auto trucks, shall be twenty-five dollars. The secretary of state shall furnish the manufacturer or dealer with five pairs of registration number plates free of cost. Extra registration plates shall be furnished to the manufacturers and dealers in automobiles and auto trucks, in addition to the five pairs of plates originally furnished, to replace lost or mutilated plates, for seventy-five cents each. Transportation charges on registration number plates shall be paid by the receiver. On applications for registration applied for by manufacturers or dealers in automobiles or motor trucks, during the period between the first day of October and the thirty-first day of December in any year, one-half of the registration fee shall be charged.

**Sec. 25. Registration for the sale and exchange of motor cycles.** 1911, c. 162, § 9. Every manufacturer or dealer in motor cycles shall annually pay a fee of six dollars for a registration certificate to handle, demonstrate, sell and exchange motor cycles. The secretary of state shall furnish the manufacturer of, or dealer in motor cycles with three sets of seals or other distinguishing marks free of cost. For every seal for a motor cycle in addition to the three seals originally furnished to the manufacturer or dealer in motor cycles, to replace lost or mutilated plates, fifty cents will be charged. Transportation charges on seals shall be paid by the receiver.

**Sec. 26. Payment of registration fee of manufacturer or dealer.** 1911, c. 162, § 9. Every manufacturer or dealer in automobiles, auto trucks and motor cycles in this state shall pay to the secretary of state the required registration fee on or before the thirty-first day of December annually; provided, that any manufacturer or dealer as aforesaid, commencing business in this state after the first day of January of any year, shall pay to the secretary of state at the time of commencing said business the registration fee herein provided.

**Sec. 27. Secretary of state to be notified of sale.** 1911, c. 162, § 10. Whenever a manufacturer or dealer sells or exchanges an automobile, he shall immediately notify the secretary of state that the motor vehicle has been sold or exchanged, giving description of the motor vehicle, name of maker, name of make, if possible, horse power, and name and address of the party to whom sold or with whom exchanged. The secretary of state shall furnish necessary blanks for making said reports.

**Sec. 28. Motor vehicle owned by resident not to be operated unless registered and operator licensed; expiration of registration and licenses.** 1911, c. 162, §§ 11, 19. No motor vehicle of any kind shall be operated by a resident of this state, upon any highway, town way, public street, avenue, driveway, park or parkway, unless registered as provided in this chapter, and no person, a resident of the state, shall operate a motor vehicle upon any highway, town way, public street, avenue, driveway, park or parkway unless licensed to do so, under the provisions of section thirty-one. Every registration of motor vehicles shall expire on the thirty-first day of De-

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ember of each year and the certificate of registration thereupon becomes void. All licenses to operate motor vehicles expire on the thirty-first day of December of each year, and an application for a new license to drive or operate a motor vehicle must be made to the secretary of state and a license received, to enable any person to drive or operate a motor vehicle of any kind, excepting motor cycles, on and after the first day of January of each year.

**Sec. 29. Transfer ownership of automobile, motor truck or motor cycle in same year; fees.** 1911, c. 162, § 12. A person transferring the ownership of a registered automobile or motor truck and applying to the secretary of state for registration of another automobile or motor truck in the same calendar year, shall receive a certificate of registration and number plates therefor upon payment of a fee of two dollars, and shall pay the expressage, provided the horse power is the same as that of the former automobile or auto truck; but if the horse power of the other vehicle is greater he shall pay the difference between the fee paid by him for the vehicle first registered and the fee for the vehicle of greater horse power. A person who may exchange an automobile or motor truck before the first day of August in any year and procure a certificate of registration paying therefor a fee of two dollars, shall if the automobile or motor truck received in exchange is of less horse power than the former vehicle, be entitled to a rebate of one-half the difference between the fee of said former vehicle and the fee for the vehicle of lower horse power received in exchange as aforesaid. A person transferring the ownership of a motor cycle and applying for registration of another motor cycle within the same calendar year, shall pay for the registration certificate thereof a fee of one dollar, which fee shall include seal or number plate; express charges shall be paid by the receiver.

**Sec. 30. Municipal officers may grant permits to operate log hauler, traction engine, etc., on ways of town.** 1911, c. 162, § 13. A log hauler, traction engine or other motors to be used in drawing heavily loaded sledges, carts, drays or vans, may be operated upon the ways of any town, provided the owner or operator thereof shall first secure written permit from the municipal officers of such town, so to operate, and shall deposit with said municipal officers a good and sufficient bond running to said municipal officers and their successors in office, in an amount satisfactory to said municipal officers, conditioned to reimburse said town for any expenses necessarily incurred in repairing all damages to their town ways caused by the use of such log hauler, traction engine or other motor thereon.

See §§ 11, 13.

**Sec. 31. License shall be issued to persons over sixteen years of age; contents; fee; secretary of state may suspend or revoke license.** 1911, c. 162, § 14. Licenses for operating motor vehicles except motor cycles, shall be issued by the secretary of state to persons not less than sixteen years of age. Applications shall be made upon blanks prepared by the secretary of state for this purpose and the licenses issued shall be in such form and shall contain such provisions as the secretary of state may determine. To such licenses shall be assigned some distinguishing number or mark

and a proper record of all applications for license and of all licenses issued shall be kept by the secretary of state at his office and shall be open to the inspection of any person during reasonable business hours. Each license shall state the name, age, place of residence of licensee and the distinguishing number or mark assigned to him. The fee for such license to operate an automobile, motor truck or traction engine shall be two dollars, which shall be deposited at the time of making the application. The secretary of state may at any time suspend or revoke any license for any violation of sections fifteen to forty-one, both inclusive, or regulation made thereunder. Before a license to operate is granted, the applicant shall present such evidence as to his qualification to operate a motor vehicle, as may be required by the secretary of state. Every person licensed to operate motor vehicles shall indorse his name in the margin of the license and such license shall not be valid until so indorsed.

**Sec. 32. Operation of motor vehicles by non-residents, regulated; duty of secretary of state.** 1911, c. 162, § 15. Non-residents may operate motor vehicles on the roads and highways of this state for not exceeding thirty days without registration, provided that such motor vehicle is registered in some other state or country and has attached thereto registered plates, and is driven by a person licensed to operate in this or some other state or country. Previous to the expiration of said thirty days, if the owner is to continue operation within this state, he must make application to the secretary of state for registration in accordance with section twenty-three and pay the fee therein prescribed.

On receipt of the fee, the secretary of state shall furnish said applicant a certificate of registration and two number plates free of expense, transportation charges to be paid by the receiver, which plates must be placed on the motor vehicle, forward and rear, and remain there as long as such motor vehicle is operated in this state in the year during which said certificate is issued; provided, however, that on applications for registration by non-resident owners of motor vehicles during the period between the first day of October and the thirty-first day of December in any year one-half of said registration fee shall be charged. Any motor cycle owned by a non-resident, driven by a person registered in this or some other state or country, having a registration seal, plate or other distinguishing mark attached to the motor cycle, may be operated on the roads and highways of this state for thirty days before registration.

**Sec. 33. Penalty; operation of motor vehicles by unlicensed persons while learning.** 1911, c. 162, §§ 16, 17. Whoever violates any provision of the nine preceding sections shall be punished by fine not exceeding fifty dollars or by imprisonment not exceeding ten days. The preceding sections shall not be construed to prevent the operation of motor vehicles by unlicensed persons, if riding with or accompanied by a licensed operator, for the purpose of becoming familiar with the use and handling of a motor vehicle, preparatory to taking out license for driving.

**Sec. 34. Temporary licenses for automobiles and motor vehicles.** 1915, c. 349. The secretary of state may keep on sale in such cities and towns as he may select, with the chief of police or such persons as he may desig-



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uate, tags that can be attached to motor vehicles in a conspicuous place; and when said tags are properly filled out, signed and attached said motor vehicles may be operated seven days from the date on said tag, in the same manner as those bearing the regular plates furnished by the state. The fee to be collected for such tags shall be one dollar. The penalty for using a tag after the time limit has expired shall be the same as for operating unregistered motor vehicles. The person receiving such tag shall return the same to the officer or person from whom it was obtained within ten days of its issuance, under the penalty above imposed. The officer or person issuing the tag shall report to the secretary of state each week the names of all persons, with their addresses, who have not returned their tags within the specified time.

**Sec. 35. Fees, how disposed of.** 1911, c. 162, § 21. All fees received by the secretary of state under the preceding sections shall be turned over to the treasurer of state every calendar month during the year, and shall be appropriated and used for the repair, maintenance and construction of state highways, under the direction of the state highway commission.

See c. 25, § 33.

**Sec. 36. Neutral automobile zone established; duty of secretary of state.** 1913, c. 205. A motor vehicle owned by a non-resident of this state who has complied with the laws of the state of his residence relating to registration and licensing of motor vehicles, and who has a bona fide actual residence in a state granting like privileges to residents of this state, which residence is located within fifteen miles by highway of the border line of this state, may be operated upon any ways of this state distant not more than fifteen miles from said border line, if such motor vehicle is duly registered in the state of its owner's residence and the fee required therefor is paid and such motor vehicle is duly registered by the secretary of this state. The secretary of state shall furnish at his office, without charge, to every person whose motor vehicle is registered as aforesaid, a metal tag of suitable design, and oval in shape, having displayed upon it the number assigned to such motor vehicle, the letters "Me." and figures showing the year of issue; but no such tag shall be furnished for motor cycles. Such tag shall at all times be conspicuously displayed on the front of such motor vehicle. Every application filed under the provisions of this section shall be verified by the oath of the applicant. Every registration under the provisions of this section shall expire with each calendar year.

**Sec. 37. Unless prohibited by special laws, motor vehicles may be operated on highways of this state.** 1911, c. 162, §§ 18, 23. Motor vehicles of every kind or description may be operated on the roads and highways of this state, unless prohibited by special law or town ordinance duly authorized by the legislature, prohibiting the use of automobiles or motor vehicles in certain towns, subject, however, to the provisions of sections sixteen to twenty-two, both inclusive; provided, however, that nothing herein contained shall in any way affect any laws enacted to prohibit the use of automobiles or motor vehicles in certain towns therein specified.

**Sec. 38. Penalty for operating a motor vehicle contrary to law.** 1911, c. 162, § 20. Whoever operates a motor vehicle upon any way, recklessly

or while under the influence of intoxicating liquor, so that the lives or safety of the public are in danger, or upon a bet, wager or race, or for the purpose of making a record, thereby violating the speed regulations, or whoever knowingly goes away without stopping and making himself known after causing injury to any person or property, or whoever uses a motor vehicle without authority from its owner, shall be punished by a fine of not exceeding fifty dollars, or by imprisonment for a term of three months, or by both such fine and imprisonment; and if any person is convicted the second time for violation of this section, he shall be punished by a fine of one hundred dollars or by imprisonment for a term of not less than six months and not more than one year. On conviction of violation of this section, the license of the person so convicted shall be revoked immediately. And if the person so convicted is the owner of a motor vehicle, or has control of any motor vehicle as a manufacturer or dealer, the certificate of registration of all motor vehicles owned or controlled by him shall be revoked.

**Sec. 39. Violation of preceding section shall be reported to secretary of state; license and registration suspended.** 1915, c. 207, § 4. If any motor vehicle is so driven in a reckless manner or by a person apparently under the influence of intoxicating liquor, every officer who is charged with enforcing the laws of the state, and every citizen having knowledge of such act, shall report the same to the secretary of state at once, giving the number on the number plates of the vehicle, the name of the state where such vehicle is registered, and, if known, the name, and permanent or temporary residence of the driver or owner. Upon receiving such complaint the secretary of state shall forthwith investigate the case and may suspend the license to operate of the persons against whom the complaint is made and may suspend the registration of the vehicle operated, for such time as he shall deem advisable. This section shall apply to residents and non-residents operating motor vehicles. No fees shall be allowed to the complainant or to the officer making an arrest under this section.

**Sec. 40. Assessors shall make return of motor vehicles; copy of law printed on license.** 1915, c. 207, § 4. Assessors of cities, towns and plantations shall annually, on or before the fifteenth day of April, make returns to the secretary of state of all persons within their respective cities, towns or plantations owning motor vehicles, as appears by their assessment books. A copy of this section and of the two preceding sections shall be printed on every operator's license.

**Sec. 41. All machines shall be provided with brakes.** 1911, c. 162, § 22. All automobiles and auto trucks of ten horse power or more, shall be provided with two efficient brakes, foot brake and emergency lever brake. Motor cycles shall be provided with at least one brake to be operated by hand. All motor vehicles (automobiles, motor cycles and auto trucks) must be supplied with a muffler, when operated on the roads of this state, of such construction and device as to prevent excessive noise. When motor vehicles are left in the public streets or ways unattended, the drivers or operators shall effectively set the brakes.

**Note.** Penalty for defrauding keepers of public garages, c. 128, § 6.

## CHAPTER 27.

### Ferries and Toll-Bridges.

#### Ferries.

**Sec. 1. County commissioners may license ferries, establish tolls, take bond; property to be appraised on removal of ferryman.** R. S. c. 25, § 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of state, with sureties, for the faithful performance of his duties. Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

8 Me. 368; 42 Me. 20; 100 Me. 216.

**Sec. 2. They may establish ferries to be supported by towns; penalty for neglect.** R. S. c. 25, § 2. 1905, c. 168. They may establish ferries at such times and places as are necessary, and fix their tolls, and in case no person is found to keep them for said tolls, shall regulate and fix the compensation of the ferryman, and shall discontinue such ferries when, in their judgment, it may be expedient. When no person is found to keep them for the tolls, the towns in which they are established shall provide a person to be licensed to keep them, and shall pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they shall be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars.

98 Me. 131; 100 Me. 214.

**Sec. 3. Neglect to keep safe boat, and for neglect of attendance; penalty.** R. S. c. 25, § 3. Every keeper of a ferry shall keep a suitable and safe boat or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance, one dollar, to the prosecutor in an action of debt; and is liable in an action on the case to the party injured for his damages.

**Sec. 4. Action on ferryman's bond.** R. S. c. 25, § 4. Any one injured in person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs.

See c. 85, § 14.

**Sec. 5. Steam or horse ferry.** R. S. c. 25, § 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry shall be established on the same river within one mile above or below it.

**Sec. 6. Keeping a ferry, or conveying passengers or property, contrary to law; penalty.** R. S. c. 25, § 6. A person, who keeps a ferry contrary to the provisions of sections one or two, or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire, a boat or other craft for such purpose, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case.

100 Me. 215.

**Sec. 7. Ice to be leveled and way kept in repair in winter.** R. S. c. 25, § 7. When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them shall level the ice, and clear and repair the passageway from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners shall fix a reasonable compensation therefor, to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

79 Me. 463.

**Sec. 8. Penalty for neglect and liability.** R. S. c. 25, § 8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable, in an action on the case, for damages to any person injured thereby.

**Sec. 9. Use of horse or steamboats.** R. S. c. 25, § 9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to any person or corporation for damages occasioned thereby.

**Sec. 10. Use of other boats.** R. S. c. 25, § 10. Persons required to use, at a ferry, steam or horse boats, may, when the passage by them is dangerous, use other safe boats.

**Sec. 11. Obstructions to ferries, prohibited; penalty.** R. S. c. 25, § 11. Whoever places a weir or other obstacle, or without necessity, anchors or places a raft, vessel or water craft, so as to obstruct the ordinary passageway of any boat at a ferry licensed or established, forfeits twenty dollars to the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing or dock, without unreasonable delay or wilful misconduct.

**Sec. 12. Piers sunk to guide boats at ferries.** R. S. c. 25, § 12. The proprietors of a ferry, to guide their boats, may sink piers near their ferry ways, above, and below the same, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights.

42 Me. 19.

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**Sec. 13. Somerset commissioners, jurisdiction.** R. S. c. 25, § 13. The commissioners of the county of Somerset have exclusive jurisdiction in all matters relating to ferries between the counties of Somerset and Kennebec.

**Note.** Penalty for evading payment of fare on ferry, c. 57, § 8; for disorderly conduct §§ 70, 71.

**Toll-Bridges.**

**Sec. 14. Free passage over toll-bridges.** R. S. c. 50, § 1. All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, and all persons going to or from a funeral, or public worship on the Lord's day, may pass over toll-bridges, free of toll.

**Sec. 15. Persons exempted, to inform the toll-gatherer.** R. S. c. 50, § 2. Every traveler, claiming to pass any toll-bridge free, shall communicate to the toll-gatherer his name and place of abode, if required. Whoever refuses or omits so to do, or wilfully renders a false answer, and thereby evades the payment of his legal toll, forfeits to the proprietors ten dollars to be recovered in an action of debt.

**Sec. 16. Restrictions on weight of teams, and on droves of cattle and horses.** R. S. c. 50, § 3. If any person driving neat cattle or horses over any toll-bridge more than fifty feet in length from one abutment, pier, or trestle part to another, without the consent of the toll-gatherer, or agent of the corporation owning it, permits more than twenty neat cattle or horses to be on such bridge at the same time, or drives or transports over it any loaded cart, wagon or other carriage, the weight whereof exceeds forty-five hundred pounds, exclusive of the team and carriage, and thereby breaks it down or injures it, neither he nor the owner of any property under his charge shall recover any damages against such corporation for his loss or injury.

79 Me. 565.

**Sec. 17. Penalty for delaying passengers.** R. S. c. 50, § 4. If a bridge corporation, or its agent, unreasonably delays or hinders any person driving a cart, wagon, sleigh or other carriage, from passing any toll-gate, such corporation forfeits to such person not less than two, nor more than twenty dollars; to be recovered by an action on the case.

**Sec. 18. Two persons and children can pass in carriage, toll free.** R. S. c. 50, § 5. No more than two persons, and children with them not received for the purpose of evading the payment of toll, have a right to pass a toll-bridge in any carriage, free of the toll payable by foot passengers in addition to the toll due on the carriage.

**Sec. 19. Injuring toll-gates or attempting to pass without paying toll; penalty.** R. S. c. 50, § 6. Whoever maliciously breaks down or otherwise destroys or injures any toll-gate, or toll-bridge, or passes or attempts to pass such gate with intent to avoid the payment of toll, when liable thereto, and it is demanded, forfeits not less than five, nor more than fifty dollars to the proprietors of the bridge, in addition to any actual damages caused by him; but no process shall be maintained to recover such penalty, unless the corporation has complied with its charter, and the bridge is in repair, as public safety and interest require.

28 Me. 304.

**Sec. 20. Covered toll-bridges to be lighted.** R. S. c. 50, § 7. Every toll-bridge, if in whole or in part covered, shall be suitably lighted with not less than one sufficient light for every seventy-five feet in length of the covered part, commencing within twenty minutes after sunset, and continuing until ten o'clock in each evening; except at the seasons of the year, if any, when toll is not demanded; and for each evening's neglect or refusal to do so, the corporation forfeits two dollars, to be recovered by an action of debt, in the county where any part of the bridge is situated, to the prosecutor; and is also liable, in a special action for damages, to any person injured thereby.

**Sec. 21. Covered bridges to be snowed.** R. S. c. 50, § 8. Persons and corporations maintaining covered bridges for public travel, shall keep them snowed at all reasonable times.

**Sec. 22. Surrender of toll-bridges to the county; appeal.** R. S. c. 50, § 9. When a toll-bridge corporation offers to surrender its bridge, free of cost or encumbrance, to the county commissioners of the county or counties where it is established, and they think it for the public interest and convenience, they shall accept it, and it shall thereafter be the property of such county or counties, and be maintained at their expense; but they shall not so accept a bridge connecting with a way not located and accepted by the town or county where it is situated. Any party aggrieved by the doings of the commissioners, as aforesaid, may have a committee or jury to determine the matter as provided in chapter twenty-four.

See c. 24, § 8.

**Sec. 23. Owners of ferries and bridges may take land for tollhouses.** R. S. c. 50, § 10. Towns, corporations and individuals, owning ferries and bridges authorized to receive toll, may take and use land within the limits of the highway for the erection and maintenance of tollhouses, but not to obstruct the public travel.

**Sec. 24. County commissioners may lay out road across toll-bridge; damages, how ascertained.** 1907, c. 179, § 1. County commissioners, upon petition therefor, may lay out a road across any toll-bridge and the approaches thereto, in their county, after notice and hearing, in the manner required by law for the location of highways. Such petition, praying that said bridge may be taken as a county bridge, shall be signed by not less than twenty taxpayers, qualified voters of said county, and shall allege that the bridge is necessary to the accommodation of public travel and that the payment of tolls is burdensome to the traveling public. The damages for laying out such road shall be ascertained, determined and paid in the same manner as in the case of land taken for highways, and persons aggrieved thereby shall have the same rights of appeal as in the case of highways.

**Sec. 25. May maintain bridge as a toll-bridge; tolls shall be set aside.** 1907, c. 179, § 2. If the county commissioners decide to make said bridge a county bridge, they may, for the purpose of defraying the costs or damages for the taking and repair of said bridge, maintain the same for a period not exceeding six years, as a toll-bridge. All money received for tolls after such taking shall be set aside as fast as accumulated, and, with interest and accretions, shall constitute a sinking fund for the payment of any

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bonds or other indebtedness incurred by the county for damages or expenses in taking said bridge.

**Sec. 26. Apportionment of damages.** 1907, c. 179, § 3. When the county commissioners have laid out a road across such toll-bridge and paid the damages therefor as in the case of highways, and abolished the tolls thereof, they may apportion not exceeding one-third of the sum so expended for damages, aside from tolls received, among the several towns benefited, having regard to their valuation and circumstances, whether such bridge shall be within or partly within the boundaries of such town, or not; and thereafter such bridge and its approaches shall be a public highway, and shall be kept safe and convenient for public travel by said commissioners, and maintained by the county free of toll; and the several towns shall pay to the county treasurer the several sums apportioned to each, within such time as the county commissioners may order.

**Sec. 27. Bridge in two counties, proceedings; damages.** 1907, c. 179, § 4. When a petition is presented respecting a toll-bridge in two counties, it shall be signed by at least twenty qualified persons in each county. The commissioners receiving the petition may call a meeting of the commissioners of both counties as provided by section twelve of chapter twenty-four and they shall proceed in the manner provided by law for the location of ways in two or more counties. Damages shall be apportioned between the two counties in proportion to their last state valuation prior to such location, and among the several towns in the manner provided by the preceding section.

Note. County commissioners of York county authorized to act under P. L. 1907, c. 179, in making free all toll-bridges on the Piscataqua river and its branches, between Maine and New Hampshire, P. & S. L. 1911, c. 12.

## CHAPTER 28.

**Fences. Drainage of Salt Marshes.**

**Sec. 1. Legal fences.** R. S. c. 26, § 1. All fences four feet high and in good repair, consisting of rails, timber, stone walls, iron or wire, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which in the judgment of the fence-viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences; provided, however, that no barbed wire fence shall be accounted legal and sufficient, unless it is protected by an upper rail or board of wood, and no division fence built after the twenty-sixth day of March, eighteen hundred ninety-seven, within thirty rods of any dwelling-house in the construction of which barbed wire is used, shall be accounted legal and sufficient, except by mutual written consent of the adjoining owners.

See c. 23, §§ 5, 6.

82 Me. 126; 98 Me. 513; 112 Me. 342.

**Sec. 2. Maintenance.** R. S. c. 26, § 2. The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them.

60 Me. 560; 112 Me. 342.

**Sec. 3. If either neglects, proceedings of fence-viewers on application.** R. S. c. 26, § 3. If any party neglects or refuses to repair or rebuild any such fence, which he is legally required to maintain, the aggrieved party may complain to two or more fence-viewers of the town where the land is situated, who, after due notice to such delinquent, shall proceed to survey it, and if they determine that it is insufficient, they shall signify it in writing to the delinquent occupant, and direct him to repair or rebuild it within such time as they judge reasonable, not exceeding thirty days. If the fence is not repaired or rebuilt accordingly, the complainant may make or repair it.

8 Me. 83; 13 Me. 376; 22 Me. 546; 29 Me. 367; 33 Me. 65; 35 Me. 27; 48 Me. 375; 53 Me. 100; 107 Me. 171; 112 Me. 342.

**Sec. 4. Complainant may recover double compensation for building fence, in certain cases.** R. S. c. 26, § 4. When the complainant has completed such fence, and after notice given, it has been adjudged sufficient by two or more of the fence-viewers, and the value thereof, with the fence-viewers' fees, certified under their hands, he may demand of the occupant or owner of the land, where the fence was deficient, double the value and fees thus ascertained; in case of neglect or refusal for one month after demand, he may recover the same by an action on the case, with interest at the rate of one per cent a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence-viewers, certified by them, double the amount thereof may be recovered by the complainant as herein provided.

22 Me. 547; 29 Me. 366; 50 Me. 86; 58 Me. 452; 78 Me. 244; 87 Me. 116; 107 Me. 171; 112 Me. 342.

**Sec. 5. Proceedings for division of partition fences; record of assignments by fence-viewers; fees.** R. S. c. 26, § 5. When the occupants or



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owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, two or more fence-viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each his share thereof, and limit the time in which each shall build or repair his part of the fence, not exceeding thirty days. Such assignment and all other assignments of proprietors of partition fences herein provided for, recorded in the town clerk's office, shall be binding upon the parties, and they shall thereafter maintain their part of said fence. If such fence has been built and maintained by the parties in unequal proportions, and the fence-viewers adjudge it to be good and sufficient, they may, after notice as aforesaid, in writing under their hands, award to the party who built and maintained the larger portion, the value of such excess, to be recovered in an action on the case against the other party, if not paid within six months after demand. Parties to assignments under the provisions hereof shall pay the fees of the fence-viewers certified under their hands, in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence-viewers may pay the same and recover of said delinquent party, in an action on the case, double the amount of his said proportion thereof.

5 Me. 359; 8 Me. 83; 29 Me. 367; 33 Me. 65; 34 Me. 334; 35 Me. 28; 48 Me. 375; 53 Me. 100; 58 Me. 452; 60 Me. 557, 559; 68 Me. 535; 78 Me. 243; 87 Me. 116; 107 Me. 172; 112 Me. 342.

**Sec. 6. Each party shall build part assigned; if not, remedy for other party.** R. S. c. 26, § 6. If any party refuses or neglects to build and maintain the part thus assigned to him, it may be done by the aggrieved party; who is entitled to double the value and expenses, to be ascertained, and recovered as provided in section four, and shall have a lien therefor on the land owned or occupied by the party neglecting or refusing to build or maintain the partition fence assigned to him by the fence-viewers, to be enforced by attachment made within one year from the day of division by them.

58 Me. 452; 68 Me. 535; 78 Me. 242; 87 Me. 116; 96 Me. 484.

**Sec. 7. Repair.** R. S. c. 26, § 7. All division fences shall be kept in good repair throughout the year, unless the occupants of adjacent lands otherwise agree.

**Sec. 8. Fences may vary from the dividing line in certain cases.** R. S. c. 26, § 8. When in the opinion of the fence-viewers having jurisdiction of the case, it is, by reason of natural impediments, impracticable or unreasonably expensive to build a fence on the true line between adjacent lands, and the occupants disagree respecting its position, on application of either party as provided in section five, and after notice to both parties, and a view of the premises, they may determine, by a certificate under their hands communicated to each party, on which side of the true line, and at what distance, or whether partly on one side and partly on the other, and at what distances, the fence shall be built and maintained, and in what proportion by each party; and either party may have the same remedy against the other, as if the fence were on the true line.

**Sec. 9. Assignment of parts before fence is built.** R. S. c. 26, § 9. When adjacent lands have been occupied in common without a partition fence, and either party desires to occupy his in severalty, or when it is necessary to make a fence running into the water, and the parties liable to build and maintain it disagree, either party may apply to the fence-viewers of the town, who shall proceed as in section five; except that the fence-viewers may allow longer than thirty days for building the fence, having regard to the season of the year. In other respects the remedy shall be as there provided.

**Sec. 10. Occupant ceasing to improve, not to remove his fence if the other will buy.** R. S. c. 26, § 10. When one party ceases to improve his land, or lays open his enclosure, he shall not take away any part of his partition fence adjoining the next enclosure improved, if the owner or occupant thereof will pay therefor what two or more fence-viewers, on due notice to both parties, determine to be its reasonable value.

60 Me. 560.

**Sec. 11. Liability of owner beginning to improve land lying in common.** R. S. c. 26, § 11. When any land, which has been unenclosed, is afterwards enclosed, or used for pasturing, its occupant or owner shall pay for one-half of each partition fence on the line between his land and the enclosure of any other occupant or owner, and its value shall be ascertained in writing; if the parties do not agree, by two or more of the fence-viewers of the town where such fence stands; and after the value is so ascertained, on notice to such occupant or owner, if he neglects or refuses for thirty days, after demand, to pay it, the proprietor of the fence may have an action on the case for such value and the cost of ascertaining it.

60 Me. 560.

**Sec. 12. If fence is on town line, how divided.** R. S. c. 26, § 12. If the line on which a partition fence is to be made or to be divided, is the boundary between two or more towns, or partly in one town, and partly in another, a fence-viewer shall be taken from each town.

**Sec. 13. Division of fences, when binding; owners of land lying common giving six months' notice, not required to build; verbal agreements for division, to be enforced.** R. S. c. 26, § 13. When a fence between owners of improved lands is divided either by fence-viewers, or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall erect and support it accordingly; but if any person lays his lands common, and determines not to improve any part of them adjoining such fence, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such fence while his land so lies common and unimproved. But all partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence-viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement, until otherwise ordered by the fence-viewers, on application to them by either party. And when a party has constructed his part of a fence in pursuance of a parol or written agreement or assignment of fence-viewers, no assignment shall

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thereafter be made by fence-viewers, depriving him of the full value of such fence or any part thereof.

60 Me. 560.

**Sec. 14. Foregoing provisions not applicable to house-lots, nor to agreements.** R. S. c. 26, § 14. Nothing herein extends to house-lots, the contents of which do not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain one-half of the fence between them, whether he improves or not; nor does this chapter make void any written agreement respecting partition fences.

2 Me. 73.

**Sec. 15. Neglect of duty by fence-viewers.** R. S. c. 26, § 37. Any fence-viewer, who, when requested, unreasonably neglects to view any fence, or to perform any other duties herein required of him, forfeits three dollars to any person suing therefor within forty days after such neglect, and is liable for all damages to the party injured.

**Sec. 16. Compensation; recovery.** R. S. c. 26, § 38. Each fence-viewer shall be paid by the person employing him, at the rate of two dollars a day for the time employed. If the party liable neglects to pay the same for thirty days after demand, each fence-viewer may recover double the amount in an action on the case.

### Ditches on Salt Marshes.

**Sec. 17. Ditches subject to jurisdiction of fence-viewers.** R. S. c. 26, § 39. The owners or occupants of salt marsh in any town, enclosed by ditches for drainage and partition, shall maintain such ditches between their own and the adjoining enclosures while they continue to improve them, in proportion to the benefits accruing to each by such drainage, in the judgment of the fence-viewers in such town, who shall have jurisdiction thereof the same as they have of fences; and all the duties, obligations and liabilities of adjoining owners or occupants of such marsh as to making, repairing and maintaining such ditches, and the powers, duties, penalties and fees of fence-viewers in relation thereto shall be the same as prescribed in the preceding sections in relation to partition fences.

**Sec. 18. Width and depth of ditches; complainant to recover of delinquent owners expense of making.** R. S. c. 26, § 40. Said fence-viewers shall determine the width and depth of the ditch, neither to exceed three feet, and the time to be allowed for making it, not exceeding sixty days; notice thereof shall be given to the delinquent proprietor; and if he neglects to make or repair his portion of such ditch, it may be done by the complainant, to be adjudged sufficient by two or more fence-viewers, who shall make a certificate thereof, and of its value and their fees. If such a delinquent owner or proprietor neglects payment of said value and fees, for one month after demand, the complainant may recover of him double the amount thereof with interest at the rate of one per cent a month, in an action on the case.

**Sec. 19. Provisions respecting improved lands; exemption from maintenance of ditches, while lands lie common.** R. S. c. 26, § 41. When a ditch between improved lands of different owners is divided by fence-view-

ers, or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall make and maintain it accordingly; but if any person lays his lands common, determines not to improve any part of them adjoining such ditch, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such ditch while his lands so lie common and unimproved.

### Improvement of Marshes, Meadows and Swamps.

**Sec. 20. Improvement of lands owned by several proprietors.** R. S. c. 26, § 42. When any meadow, swamp, marsh, beach or other low land is held by several proprietors, and it becomes necessary or useful to drain or flow the same, or to remove obstructions in rivers or streams leading therefrom, such improvements may be effected under the direction of commissioners in the manner hereinafter provided.

**Sec. 21. Application to supreme judicial court; notice.** R. S. c. 26, § 43. Such proprietors, or a majority of them in interest, may apply by petition to the supreme judicial court sitting in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor and the court shall cause notice of the petition to be given in such manner as it may judge proper, to any proprietors who have not joined in the petition, that they may appear and answer thereto.

**Sec. 22. Appointment of commissioners.** R. S. c. 26, § 44. If upon hearing, it appears that the proposed improvements will be for the general advantage of the proprietors, the court may appoint three suitable persons as commissioners, who shall be sworn to the faithful discharge of their duties; view the premises, notify parties concerned, hear them as to the best manner of making the improvements, and prescribe the measures to be adopted for that purpose.

**Sec. 23. Commissioners shall make improvements.** R. S. c. 26, § 45. They shall, according to the tenor of the petition and order of court, cause dams or dikes to be erected on the premises, at such places and in such manner as they direct; may order the land to be flowed thereby for such periods of each year as they deem most beneficial; and cause ditches to be opened on the premises, and obstructions in any rivers or streams leading therefrom to be removed; and they shall meet from time to time, as may be necessary, to cause the works to be completed according to their directions.

**Sec. 24. May employ workmen, unless proprietors do the work.** R. S. c. 26, § 46. They may employ suitable persons to erect the dams or dikes, or to perform the other work, under their direction, for such reasonable wages as they may agree upon; unless the proprietors do the same in such time and manner as the commissioners direct.

**Sec. 25. Expenses to be apportioned among proprietors.** R. S. c. 26, § 47. They shall apportion the whole charge and expense of the improvements, and of executing the commission, among the proprietors of the lands, having regard to the quantity, quality and situation of each proprietor's part thereof, and the benefit that he will derive from the improvements, and shall assess the same upon the proprietors.

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**Sec. 26. Collector may be appointed; duties and powers.** R. S. c. 26, § 48. They may appoint a collector of the moneys assessed, and shall give him a warrant to collect, pay over, and account for the same, to such person as they appoint. The collector shall have the same power, and proceed in like manner in collecting the assessment, as is provided for collecting town taxes.

See c. 11, §§ 1-64.

**Sec. 27. Liability of collectors.** R. S. c. 26, § 49. If the collector neglects for twenty days after being thereto required by the commissioners, to account for and pay over the money collected, the commissioners may recover of him the whole amount committed to him for collection, which, after deducting the expense of recovery, shall be applied and accounted for by the commissioners as if it had been collected and paid over by the collector, pursuant to his warrant.

**Sec. 28. Pay of collector and commissioners, how fixed.** R. S. c. 26, § 50. The collector shall be allowed such compensation for his services as may be agreed upon between him and the commissioners; and the commissioners shall be allowed such compensation as may be ordered by the court.

**Sec. 29. Commissioners to make return to court.** R. S. c. 26, § 51. The commissioners shall, as soon as may be after the completion of the business, make a return to court of their doings under the commission, including an account of all money assessed and collected by their order, and of the disbursement thereof.

**Sec. 30. Commissioners to determine the amount to be paid by life tenant and by landlord.** R. S. c. 26, § 52. When it appears to the commissioners, that part of the land is held by a tenant for life, or years, they shall determine how much of the sum apportioned on that part of the premises shall be paid by such tenant, and how much by the landlord or reversioner; and shall assess the same accordingly, unless the parties concerned agree to an apportionment; and every such tenant, landlord and reversioner shall be considered a proprietor.

**Sec. 31. Possessor of mortgaged property, considered proprietor.** R. S. c. 26, § 53. If any part of the land is mortgaged, the mortgagor or mortgagee, in possession, shall be considered the proprietor; and all sums paid by the mortgagee by order of the commissioners, shall be allowed to him, as like sums paid by him for improvements.

**Sec. 32. Commissioners may enter premises of third parties, open flood-gates and build temporary dams.** R. S. c. 26, § 54. When the commissioners find it necessary or expedient to reduce or raise the water, for the purpose of obtaining a view of the premises, or for more convenient or expeditious removal of obstructions, they may open the flood-gates of a mill, or make other needful passages through or around the dam thereof, or erect a temporary dam on the land of any person not a party to the proceedings, and may maintain such dam or passages for the water so long as may be necessary for the purposes aforesaid.

**Sec. 33. Damages for such entry.** R. S. c. 26, § 55. All damages thus occasioned shall be estimated and determined by the commissioners, unless agreed upon between them and the parties concerned; and shall be paid by

the commissioners out of the money to be assessed and collected by them as before provided.

**Sec. 34. Appeal.** R. S. c. 26, § 56. Any person, whether a party to the proceedings or otherwise interested therein or affected thereby, aggrieved by the doings of the commissioners, may appeal to the court at any time after their appointment, and before the end of the term following that at which the return is made.

**Sec. 35. Court may affirm, reverse or alter commissioners' order; jury.** R. S. c. 26, § 57. The court, upon such appeal, may affirm, reverse or alter any adjudication or order of the commissioners, and make such order therein as law and justice require. All questions of fact arising upon the hearing of the appeal, shall, on motion of either party, be tried by a jury in such manner as the court directs.

**Sec. 36. Notice required before entering upon premises of a third party; appeal.** R. S. c. 26, § 58. The commissioners, before proceeding to open flood-gates, or to make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him seasonable notice in writing of their intention, to enable him to appear before them and object thereto; and if he appeals from their determination, and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal is determined; provided, that the appeal is entered at the court held next after the expiration of seven days from the time of claiming the same.

**Sec. 37. Exceptions.** R. S. c. 26, § 59. Any person aggrieved by any opinion, direction or judgment of the court in any matter of law, may allege exceptions thereto, which shall be reduced to writing; and when found to be true and not deemed frivolous, shall be signed by the presiding judge, and thereupon the questions of law arising therein shall be determined, as in other actions.

**Sec. 38. After completion of improvements, repairs made at expense of occupying proprietors.** R. S. c. 26, § 60. After dams, dikes and removal of obstructions have been completed in pursuance of the eighteen preceding sections, repairs thereon may be made on petition to the court, and the proceedings shall be similar to those required for the construction of the original improvements, but such repairs shall be made at the expense of such proprietors only as occupy their lands, take crops therefrom, and are actually benefited by such improvements.

**Sec. 39. Proprietors of low lands, may hold meetings, and make rules for maintenance of dikes.** R. S. c. 26, § 61. In addition to the foregoing provisions for repairing dikes and dams, contained in section twenty and the eighteen following sections, the proprietors of any meadow, swamp, marsh, beach or other low lands, after the completion of the dams, dikes, and removal of obstructions as hereinbefore provided, may hold regular meetings when they adjudge proper, and make such rules for the maintenance and preservation of such dikes and dams as their common interest require.

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**Sec. 40. Meetings, how called.** R. S. c. 26, § 62. Upon written application of any three or more of said proprietors to any justice of the peace, he shall issue his warrant to one of the applicants requiring him to call a meeting of the proprietors, expressing in said warrant the time, place and purposes thereof.

**Sec. 41. Notice of meetings.** R. S. c. 26, § 63. Notice of said meeting shall be served at least fourteen days previous to the time appointed therefor, when all the proprietors reside in the town where the land lies, by reading the warrant to each proprietor, or giving him a copy in hand, or by leaving a copy at his usual place of abode; and in case one or more of the proprietors reside without the town or plantation, notice of such meeting shall be given them by publishing a copy of such warrant in some newspaper printed in the county, or in the state paper three weeks successively, the last publication to be at least fourteen days before the time appointed for said meeting.

**Sec. 42. Votes of each proprietor.** R. S. c. 26, § 64. At such meeting and all other meetings of said proprietors, each shall have one vote for every acre owned by him and one vote for a fraction of an acre greater than one-half. Absent proprietors may vote by written proxy.

**Sec. 43. Officers, election and qualification.** R. S. c. 26, § 65. At such meeting said proprietors may by ballot elect a clerk, three or five assessors, a collector and such other officers and committees as may be deemed needful, and may adopt such needful by-laws and standing regulations as are not inconsistent with law; and may determine the manner of calling and notifying future meetings. The clerk, assessors and collector shall each be sworn. The clerk may be sworn by the moderator presiding at the meeting of his election. Officers, elected at the annual or other meetings shall continue in office until others are chosen and qualified in their stead.

**Sec. 44. Record of proprietors.** R. S. c. 26, § 66. At or immediately after the first meeting the clerk shall enter in a suitable book, the names of the several proprietors and the number of acres owned by each, and the subsequent transfer of interest shall also be entered by him, within three months after it is made, if known to him.

**Sec. 45. Committee may be chosen to ascertain needed repairs.** R. S. c. 26, § 67. At any meeting called for the purpose, a committee of not less than three may be chosen to investigate the condition of such dikes and dams, to ascertain what repairs are needful, and report at an adjourned meeting, at which meeting the same or any other committee chosen therefor may be authorized to make needful repairs, and report the expense thereof at an adjourned or other meeting.

**Sec. 46. Proprietors may raise money and assess same.** R. S. c. 26, § 68. At any meeting called for that purpose, said proprietors may raise money for defraying common charges and for the payment of cost and expenses of such repairs as may have been incurred under the preceding section, which shall be assessed upon the proprietors by the assessors in proportion to their several interests, and which they shall commit to the collector for collection by an appropriate warrant for its collection, directing him to pay

it over to the clerk or other proper officer designated by vote of the proprietors, and the collector shall have the same power and shall collect the same as collectors of towns are authorized to collect town taxes.

**Sec. 47. Proprietor, declining to use land, exempt from payment of taxes.** R. S. c. 26, § 69. If any proprietor declines to cultivate, use or take profit from his portion of such lands, and gives written notice of his intention so to do, to the clerk of the proprietors he shall not be regarded as liable to pay any tax or assessment on account of his portion thereof, while he neglects to cultivate, use and take profit therefrom, nor shall he be entitled to vote at the meetings of said proprietors.

**Sec. 48. Discontinuance of association.** R. S. c. 26, § 70. A two-thirds part in interest of the proprietors entitled to vote at any legal meeting called for that purpose, may discontinue their association, but not to take effect until six months after the vote for that purpose.

## CHAPTER 29.

### Paupers, Their Settlement and Support.

**Sec. 1. Settlements, how acquired.** R. S. c. 27, § 1. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows:

I. A married woman has the settlement of her husband, if he has any in the state; if he has not, her own settlement is not affected by her marriage. When, in a suit between towns involving the settlement of a pauper, it appears that a marriage was procured to change it by the agency or collusion of the officers of either town, or of any person having charge of such pauper under authority of either town, the settlement is not affected by such marriage. And no derivative settlement is acquired or changed by a marriage so procured, but the children of such marriage and their descendants have the settlement which they would have had if no such marriage had taken place. And the same rule applies in all controversies touching the settlement of paupers between the town by whose officers a marriage is thus procured and any other town, whether the person whose marriage is thus procured is a pauper at the time of the marriage or becomes so afterwards.

4 Me. 296; 41 Me. 466, 485; 48 Me. 207; 52 Me. 219; 53 Me. 58; 56 Me. 23; 63 Me. 501; 64 Me. 85; 67 Me. 581; 68 Me. 147; 70 Me. 490; 71 Me. 538; 73 Me. 584, 586; 95 Me. 55; 97 Me. 18; 106 Me. 244.

II. Legitimate children have the settlement of their father, if he has any in the state; if he has not, they have the settlement of their mother within it; but they do not have the settlement of either, acquired after they are of age and have capacity to acquire one.

2 Me. 197; 3 Me. 390; 4 Me. 50, 295; 7 Me. 90, 272; 10 Me. 412; 11 Me. 456; 18 Me. 378; 19 Me. 446; 24 Me. 282; 32 Me. 62; 35 Me. 412; 36 Me. 392; 41 Me. 551; 48 Me. 566; 55 Me. 56, 471; 58 Me. 355; 60 Me. 117; 66 Me. 83; 70 Me. 353, 490; 72 Me. 511; 73 Me. 110; 74 Me. 46; 75 Me. 210; 85 Me. 135; 86 Me. 309; 88 Me. 251, 401; 89 Me. 44, 532; 95 Me. 57; 104 Me. 260; 106 Me. 244; 107 Me. 175; 111 Me. 373.

III. Children, legitimate or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settle-



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ment of their mother, at the time of their birth, but when the parents of such children born after March twenty-four, eighteen hundred and sixty-four, intermarry, they are deemed legitimate and have the settlement of the father.

7 Me. 272; 10 Me. 412; 11 Me. 457; 35 Me. 412; 55 Me. 471; 60 Me. 117; 75 Me. 210; 88 Me. 251, 401; 89 Me. 532; 104 Me. 260.

IV. Upon division of a town, a person having a settlement therein and being absent at the time, has his settlement in that town which includes his last dwelling-place in the town divided. When part of a town is set off and annexed to another, the settlement of a person absent at the time of such annexation is not affected thereby. When a new town, composed in part of one or more existing towns, is incorporated, persons settled in such existing town or towns, or who have begun to acquire a settlement therein, and whose homes were in such new town at the time of its incorporation, have the same rights incipient and absolute respecting settlement, as they would have had in the town where their homes formerly were.

See note by Kent, J., 51 Me. 446; 1 Me. 131; 13 Me. 301; 19 Me. 390; 20 Me. 343; 21 Me. 337; 23 Me. 474; 31 Me. 468; 35 Me. 187; 37 Me. 41; 38 Me. 476; 39 Me. 369; 42 Me. 314, 548; 43 Me. 317; 44 Me. 359; 47 Me. 131; 49 Me. 553; 51 Me. 446, 448; 53 Me. 524; 54 Me. 254; 56 Me. 321; 66 Me. 572; 69 Me. 317; 71 Me. 456; 89 Me. 531; 111 Me. 373.

V. A minor who serves as an apprentice in a town for four years, and within one year thereafter sets up such trade therein, being then of age, has a settlement therein.

10 Me. 358.

VI. A person of age, having his home in a town for five successive years without receiving supplies as a pauper, directly or indirectly, has a settlement therein.

10 Me. 98; 13 Me. 327; 15 Me. 481; 17 Me. 122; 18 Me. 94, 417; 21 Me. 361; 23 Me. 411; 24 Me. 114; 34 Me. 314; 39 Me. 334; 47 Me. 100, 183; 48 Me. 335, 566; 49 Me. 106; 50 Me. 478; 51 Me. 541; 52 Me. 219; 53 Me. 129, 445; 55 Me. 56, 95; 58 Me. 210; 59 Me. 558; 61 Me. 560; 62 Me. 232; 64 Me. 84, 415; 68 Me. 304, 581; 69 Me. 69-71, 507; 70 Me. 443; 72 Me. 256; 73 Me. 109, 111, 231; 74 Me. 155, 237; 85 Me. 135; 87 Me. 41; 89 Me. 531; 95 Me. 56; 97 Me. 31; 98 Me. 495; 105 Me. 155; 106 Me. 245, 397; 111 Me. 373.

See c. 145, § 29.

VII. A person having his home in a town, March twenty-one, eighteen hundred and twenty-one, without having received supplies as a pauper within one year before that date, acquired a settlement therein.

15 Me. 481; 18 Me. 417; 49 Me. 105; 52 Me. 219; 68 Me. 304.

VIII. A person having his home in an unincorporated place for five years without receiving supplies as a pauper, and having continued his home there until the time of its incorporation, acquires a settlement therein. Those having homes in such places for less than five years, before incorporation, and continuing to have them there afterwards, until five years are completed, acquire settlements therein.

11 Me. 457; 21 Me. 61, 269; 30 Me. 453; 33 Me. 580; 55 Me. 119; 66 Me. 572; 89 Me. 531; 111 Me. 373.

Sec. 2. Pauper supplies, how constituted. R. S. c. 27, § 2. To constitute pauper supplies, they must be applied for in case of adult persons of sound mind, by such persons themselves, or by some person by them duly authorized; or such supplies must be received by such persons, or by some person authorized by them, with a full knowledge that they are such sup-

plies; and all care, whether medical or otherwise, furnished to said persons is subject to the same rule.

64 Me. 246; 67 Me. 492; 68 Me. 369; 69 Me. 226; 70 Me. 116; 75 Me. 128;  
78 Me. 423; 97 Me. 32; 105 Me. 139.

**Sec. 3. Settlements remain; living beyond limits of state causes loss of settlement.** R. S. c. 27, § 3. Settlements acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones. Whenever a person having a pauper settlement in a town, has lived, or shall live, for five years in any unincorporated place or places in the state, he and those who derive their settlement from him lose their settlement in such town, and whenever a person having a pauper settlement in any town in the state shall after April twenty-nine, eighteen hundred and ninety-three, live for five consecutive years beyond the limits of the state without receiving pauper supplies from any source within the state, he and those who derive their settlement from him lose their settlement in such town.

55 Me. 119; 58 Me. 355; 71 Me. 456; 77 Me. 594; 85 Me. 127; 96 Me. 502;  
99 Me. 20; 107 Me. 176; 106 Me. 246; 111 Me. 371.

**Sec. 4. Towns relieving persons, who lose settlement under sec. 3, reimbursed by state.** R. S. c. 27, § 4. Whenever a person having a pauper settlement in a town loses such settlement by virtue of the provisions of section three, relief shall be furnished, and towns furnishing such relief shall be reimbursed by the state as provided in section twenty-five of this chapter, in case of paupers having no legal settlement in the state.

106 Me. 242.

**Sec. 5. Bridge-tender or toll-keeper.** R. S. c. 27, § 5. No person acquires a pauper settlement in a town by reason of his residing in said town as tender of a drawbridge, or as toll-keeper of a bridge owned by another town, and living in a tollhouse owned by such other town.

**Sec. 6. Inmates of the National Home at Togus, settlement of.** R. S. c. 27, § 6. Inmates of the National Home for Disabled Volunteer Soldiers at Togus, in the county of Kennebec, and persons subject to the rules and regulations thereof, or receiving rations therefrom, have their settlement in the respective towns in which they had a legal settlement when their connection with said National Home commenced, so long as such connection continues therewith.

See c. 7, § 80; 95 Me. 56.

**Sec. 7. Towns relieving former inmates, to be reimbursed by state.** R. S. c. 27, § 7. If a town furnishes relief to any such person, who becomes a pauper after his connection with said National Home has ceased, having no legal settlement in the state, or to his family, the state shall reimburse such town for the relief furnished, to such an amount as the governor and council adjudge to have been necessarily expended therefor.

**Sec. 8. Orphan asylum at Bath.** R. S. c. 27, § 8. No child acquires a pauper settlement in the city of Bath, by reason of being an inmate of the Bath Military and Naval Orphan Asylum.

**Sec. 9. Soldiers and sailors not to be considered paupers; shall not be supported in the poorhouse; penalty for violation; removal to town of settlement.** R. S. c. 27, § 9. 1907, c. 83. No soldier or sailor who served by

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enlistment in the army or navy of the United States, in the war of eighteen hundred and sixty-one, or in the war with Spain, and who has received an honorable discharge from all enlistments in said service, whether in his own proper name or an assumed name, and who has or may become dependent upon any town, shall be considered a pauper, or be subject to disfranchisement for that cause; but the time during which said soldier or sailor is so dependent, shall not be included in the period of residence necessary to change his settlement; and overseers of the poor shall not have authority to remove to, or support in, the poorhouse, any such dependent soldier or sailor or his family; the word "family" here used shall be held to include the soldier or sailor, his wife, his unmarried minor children living with him and dependent upon him for support, and such other unmarried children of his dependent upon him for support, who by reason of mental incapacity or physical disability are unable to provide for themselves; but the town of his settlement shall support them at his own home in the town of his settlement or residence, or in such suitable place other than the poorhouse, as the overseers of the town of his settlement may deem right and proper. In case of a violation of this section the overseers of the poor shall be subject to a fine of twenty-five dollars. And for every day they allow them to remain in such poorhouse, after reasonable notice, they shall be subject to a further fine of five dollars a day, to be recovered by complaint or indictment. This section shall not be so construed as to deprive overseers of the poor of any right to remove and support such dependent soldier or sailor and his family in the town of his settlement, as herein provided.

See c. 4, §§ 51-53; 71 Me. 574; 80 Me. 124; 92 Me. 443.

**Sec. 10. Revision of laws does not affect settlements.** R. S. c. 27, § 10. Persons who have begun to acquire settlements under existing laws, are not affected by a repeal of them, and a re-enactment of their provisions in substance.

**Sec. 11. Towns to relieve poor.** R. S. c. 27, § 11. Towns shall relieve persons having a settlement therein, when, on account of poverty, they need relief. They may raise money therefor as for other town charges; and may at their annual meeting choose not exceeding seven legal voters therein to be overseers of the poor.

See c. 4, §§ 12, 57; 83 Me. 221; 91 Me. 21; 105 Me. 138.

**Sec. 12. Overseers' duties.** R. S. c. 27, § 12. Overseers shall have the care of persons chargeable to their town, and cause them to be relieved and employed at the expense of the town, and the town may direct their employment.

No child under sixteen years of age shall be placed or suffered to remain in an almshouse, c. 64, § 57; see c. 147, § 8; 64 Me. 415; 70 Me. 115; 93 Me. 184.

**Sec. 13. When overseers of poor are to be designated by governor to take charge of local immigration.** R. S. c. 27, § 13. Whenever the governor has knowledge that, under the provisions of an act of Congress approved August three, eighteen hundred and eighty-two, officers are necessary in any town to take charge of the local affairs of immigration and to provide for the support and relief of immigrants falling into distress, he

shall designate for such duty the board of overseers of the poor and their successors in such town, or any member or members of such board.

**Sec. 14. Poor not sold at auction; towns may contract for support.** R. S. c. 27, § 14. Persons chargeable shall not be set up and bid off at auction either for support or service; but towns at their annual meetings, under a warrant for the purpose, may contract for the support of their poor for a term not exceeding five years.

**Sec. 15. Two or more adjoining towns may maintain union town farm.** 1913, c. 54, § 1. Two or more adjoining towns, by vote thereof at an annual town meeting, may purchase or maintain a union town farm in any one of the towns, upon such terms, not inconsistent with the laws of the state, as may be agreed upon by vote of the towns, or by contract of the municipal officers thereof after the votes of the towns have authorized such purchase or maintenance. Existing town farms may be used as union town farms when the towns so agree and contract.

**Sec. 16. Paupers may be removed to union farm.** 1913, c. 54, § 2. In cases where such union town farms are maintained, the rights of any town composing a part of such union to remove its paupers to the union town farm shall be the same whether said farm is located in the limits of said town or within the limits of some other town which has united for such purpose with said town.

**Sec. 17. Joint board of overseers.** R. S. c. 27, § 16. 1913, c. 54, § 3. The overseers of the poor of the towns composing such a union shall constitute a joint board of overseers, with the same authority over such union town farm and the inmates thereof as the overseers of the poor of a single town have over the separate farm, and its inmates, of such town. The joint board may choose a chairman and a secretary, but in case they fail to do so, the chairman of the board of overseers of the poor of the oldest town of such union shall act as chairman, and the chairman of the same board of the next oldest town shall act as secretary. They may at a full meeting establish rules for the management of such farm, appoint a superintendent, prescribe his powers and duties, and cause all the paupers of such towns to be supported there. They may receive and support there, paupers of other towns. Towns may raise money for the purposes named in this and the two preceding sections.

See c. 147, §§ 7, 8.

**Sec. 18. Kindred liable.** R. S. c. 27, § 17. The father, mother, grandfather, grandmother, children and grandchildren, by consanguinity, living within the state and of sufficient ability, shall support persons chargeable, in proportion to their respective ability.

See c. 143, § 15; c. 145, § 29; 23 Me. 427; 45 Me. 370; 51 Me. 415; 53 Me. 61; 64 Me. 202, 203; 66 Me. 539; 79 Me. 44; 85 Me. 282.

**Sec. 19. Court on complaint may assess kindred.** R. S. c. 27, § 18. A town or any kindred, who have incurred expense for the relief of a pauper, may complain to the supreme judicial court in the county where any of them resides; and the court may cause such kindred to be summoned, and upon hearing or default, may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and may enforce payment thereof by war-

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rant of distress. Such assessment shall not be made to pay any expense for relief afforded more than six months before the complaint was filed.

5 Me. 325; 64 Me. 203; 66 Me. 539; 85 Me. 282; 98 Me. 536.

**Sec. 20. Complaint filed, may be amended.** R. S. c. 27, § 19. Such complaint may be filed with the clerk of the court, who shall issue a summons thereon, returnable and to be served as writs of summons are; and on suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner, and be proceeded against as if originally named.

See c. 86, §§ 17, 18; 85 Me. 282.

**Sec. 21. Assessment for future support; court may order with whom pauper is to live.** R. S. c. 27, § 20. The court may assess and apportion upon such kindred a sum sufficient for the future support of such pauper, to be paid quarterly, until further order; and may direct with whom of such kindred consenting thereto, and for what time, he may dwell, having regard to his comfort and their convenience. On application of the town or person to whom payment was ordered, the clerk may issue or renew a warrant of distress returnable to the next term of the court, to collect what may be due for any preceding quarter.

64 Me. 203; 85 Me. 282.

**Sec. 22. Court may alter assessment.** R. S. c. 27, § 21. The court may, from time to time, make any further order on complaint of a party interested, and after notice given, alter such assessment or apportionment. On failure to sustain a complaint, the respondents recover costs.

64 Me. 203.

**Sec. 23. Person of age, may be bound for one year.** R. S. c. 27, § 28. Overseers may set to work, or by deed bind to service upon reasonable terms, for a time not exceeding one year, persons having settlements in their town or having none in the state, married or unmarried, able-bodied, upwards of twenty-one years of age, having no apparent means of support and living idly; and all persons liable to be sent to the house of correction.

See c. 143, §§ 1, 6; 93 Me. 184.

**Sec. 24. Person bound may complain to court.** R. S. c. 27, § 29. A person so bound may complain to the court, in the county where he or the overseers reside, and the court, after notice to the overseers and master, may, upon a hearing, dismiss such complaint, or discharge him from the master and overseers, and award costs to either party or against the town at discretion.

**Sec. 25. Persons in unincorporated places needing relief, are under care of overseers of oldest or nearest adjoining town; remedy of towns, so relieving state paupers.** R. S. c. 27, § 30. Persons found in places not incorporated and needing relief, are under the care of the overseers of the oldest incorporated adjoining town, or the nearest incorporated town where there are none adjoining, who shall furnish relief to such persons, as if they were found in such towns; and such overseers may bind out persons described in section twenty-three in manner therein provided, residing in such unincorporated place, as if in their own town, and such persons shall be entitled to a like remedy and relief. When relief is so provided, the

towns so furnishing it have the same remedies against the towns of their settlement as if they resided in the town so furnishing relief. And when such paupers have no legal settlement in the state, the state shall reimburse said town for the relief furnished, to such an amount as the governor and council adjudge to have been necessarily expended therefor. And the reasonable expenses and services of said overseers relative to such paupers, shall be included in the amount to be so reimbursed by the state.

16 Me. 139; 55 Me. 96; 60 Me. 155; 65 Me. 598; 68 Me. 593; 90 Me. 515; 99 Me. 20.

**Sec. 26. Towns relieving persons removing from unincorporated place, to be reimbursed by state. R. S. c. 27, § 31.** When persons residing in an unincorporated place, and having no pauper settlement in the state, remove from such place to any town, and there need relief, and the same is furnished to them by such town, the state shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as to the amount reimbursed, as provided in the preceding section.

**Sec. 27. On request of relieving town, governor and council may permit removal; removed paupers gain no residence; if state is liable, pauper may be removed to a state institution; expenses. R. S. c. 27, § 32. 1913, c. 158.** Whenever towns that are compelled to care for and furnish relief to state paupers in unincorporated places, for reasons of economy desire to remove the same into their own town, their overseers of the poor may make a written request, stating their reasons to the governor and council, who shall examine the same, and if in their judgment such state paupers would thereby be supported with less expense to the state, may permit in writing such transfer to be made. Whenever state paupers are thus transferred and maintained in a town for such purposes, they do not become paupers of such town by reason of residence therein, while so maintained. And whenever any person for whose support the state is liable shall be in need of immediate relief, the governor and council may order such person to be removed to any town within the state or placed in the care of any state institution without formal commitment, and such orders shall be carried out by the overseers of the poor of the town required by law to provide relief for such person, or by any official designated by the governor and council. The expenses of such removal shall be paid by the state from the appropriation for support of paupers; provided that no such person or pauper shall be removed into any town, other than a town required by law to provide relief for such person or pauper, without the consent of the overseers of the poor of the town into which it is proposed to move said person or pauper.

**Sec. 28. State shall reimburse for relief furnished persons having no legal settlement. R. S. c. 27, § 33.** Whenever persons who have no legal settlement within the state, and needing immediate relief, are found in any town, or in unincorporated places and are brought into an adjoining town obliged by law to care for and furnish relief to such persons, and relief is so furnished, the state shall reimburse said town for such relief so furnished, in the same manner and under the same restrictions as provided in section twenty-five although the overseers of the poor of said town have

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no permit in writing from the governor and council to remove the same into their town.

99 Me. 20; 106 Me. 398.

**Sec. 29. Limit on bills for relief of state paupers.** 1907, c. 113. All bills for support of state paupers shall be filed with the governor and council within three months after the same are contracted, and no such bills shall be allowed unless they are so filed within thirty days after the thirty-first day of December of the year in which they are contracted.

**Sec. 30. Certain larger plantations to maintain their paupers.** R. S. c. 27, § 34. Plantations having a population of two hundred or more, and a valuation of at least one hundred thousand dollars, shall hereafter support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the state.

**Sec. 31. Persons needing relief in certain plantations, under care of assessors; state paupers not affected.** R. S. c. 27, § 35. Persons found in plantations having a population of more than two hundred, to be determined by the returns of the county commissioners, as provided by section one hundred and thirty-seven of chapter four, and a state valuation of forty thousand dollars, and needing relief, are under the care of the assessors of such plantations; and the duties and powers of such assessors relative to such persons, are the same in every respect as overseers of the poor in towns have in like cases; and such plantations shall assess and raise all moneys necessary to defray the expense incurred in the care of such persons; and plantations so furnishing relief, have the same remedies against the towns of their settlement, that towns have in like cases. But this section does not extend to, or affect the laws concerning so-called state paupers or paupers' settlements.

90 Me. 514.

**Sec. 32. Individuals may relieve the sick in such places, and bury the dead.** R. S. c. 27, § 36. A person residing in a place not incorporated, may provide relief and medical aid for any other sick, wounded or injured resident, and in case of his death may cause him to be buried, and may recover the amount necessarily expended, of the town where such person had a settlement, if, within sixty days thereafter, he has delivered into a post-office, postage paid, a written notice signed by him informing the overseers of such town of the name of the person relieved, the nature of his sickness or injury, if known, and the amount expended. Towns paying such expenses or costs may recover the amount, with interest, of the person relieved, or of any one liable for his support.

65 Me. 598.

**Sec. 33. Overseers to relieve persons having settlement in other towns.** R. S. c. 27, § 37. Overseers shall relieve persons destitute, found in their towns and having no settlement therein, and in case of death, decently bury them, or dispose of their bodies according to section three of chapter eighteen; the expenses whereof and of their removal incurred within three months before notice given to the town chargeable, may be recovered of the town liable, by the town incurring them, in an action commenced within

two years after the cause of action accrued, and not otherwise; and may be recovered of their kindred in the manner before provided in this chapter.

3 Me. 454; 15 Me. 365; 16 Me. 385; 26 Me. 463; 27 Me. 493; 28 Me. 296; 29 Me. 316; 33 Me. 453; 38 Me. 476; 40 Me. 288; 41 Me. 484; 42 Me. 568; 43 Me. 318; 46 Me. 560; 48 Me. 356, 420; 49 Me. 385, 554; 50 Me. 518; 51 Me. 603; 53 Me. 42, 445; 55 Me. 119; 62 Me. 247; 64 Me. 415; 67 Me. 533; 71 Me. 576; 83 Me. 78; 85 Me. 282; 93 Me. 184; 102 Me. 38; 103 Me. 502; 110 Me. 394.

**Sec. 34. Recovery, effect of.** R. S. c. 27, § 38. A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering, in any future action brought for the support of the same pauper.

33 Me. 181, 354; 53 Me. 130.

**Sec. 35. Overseers' notice and request to town liable.** R. S. c. 27, § 39. Overseers shall send a written notice, signed by one or more of them, stating the facts respecting a person chargeable in their town, to the overseers of the town where his settlement is alleged to be, requesting them to remove him, which they may do by a written order directed to a person named therein, who is authorized to execute it.

See c. 143, § 13; 1 Me. 229, 331; 3 Me. 198; 4 Me. 478; 15 Me. 172; 21 Me. 303, 445; 26 Me. 66; 31 Me. 126; 41 Me. 600; 45 Me. 408; 46 Me. 460, 560; 48 Me. 356, 420; 53 Me. 38, 42; 56 Me. 12; 59 Me. 295; 62 Me. 233; 63 Me. 580, 583; 72 Me. 204; 76 Me. 130; 98 Me. 140; 101 Me. 263; 104 Me. 256.

**Sec. 36. Answer to be returned within two months.** R. S. c. 27, § 40. Overseers receiving such notice shall within two months, if the pauper is not removed, return a written answer signed by one or more of them, stating their objections to his removal; and if they fail to do so, the overseers requesting his removal may cause him to be removed to that town in the manner provided in section thirty-five; and the overseers of the town to which he is sent shall receive him and provide for his support; and their town is estopped to deny his settlement therein, in an action brought to recover for the expenses incurred for his previous support and for his removal.

3 Me. 454; 4 Me. 302; 5 Me. 34; 30 Me. 213; 48 Me. 422; 53 Me. 43; 63 Me. 582; 72 Me. 204; 75 Me. 209; 104 Me. 256.

**Sec. 37. Notice and answer by mail sufficient.** R. S. c. 27, § 41. When a written notice or answer provided for in this chapter is sent by mail, postage paid, and it arrives at the post-office where the overseers to whom it is directed reside, it is sufficient.

21 Me. 303, 445; 48 Me. 422.

**Sec. 38. Overseers' complaint if pauper refuses to be removed to town of settlement; proceedings; person executing order of magistrate has same power as sheriff in executing criminal warrants; fees and costs.** R. S. c. 27, § 42. When the removal of a pauper to the town of his alleged settlement is sought, under section thirty-five, and the person to whom the order of the overseers is directed, requests him to go with him in obedience thereto, and he refuses to go, or resists the service of such order, the person to whom it is directed may make complaint in writing, by him signed, of the facts aforesaid, to any judge of a police or municipal court or trial justice within the county where said pauper is then domiciled. Said magistrate shall thereupon, by proper order or process, cause said pauper to



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be brought forthwith before him by any officer to whom the same is directed, to answer said complaint and show cause why he should not be so removed. The complaint may be amended at any time before judgment thereon, according to the facts. The complainant and the pauper shall both be heard and if upon such hearing the magistrate finds that the town to which it is proposed to remove such pauper is liable for his maintenance and support, he shall issue his order, under his hand and seal, commanding the person to whom it is directed to take said pauper and transport him to the town aforesaid, and deliver him to the custody of the overseers of the poor thereof. The person to whom said last named order is directed shall have all the authority to execute the same according to the precept thereof, that the sheriff or his deputy has in executing warrants in criminal proceedings. In the foregoing proceedings, the fees and costs shall be the same as for like services in criminal cases, and shall be paid by the town seeking to remove such pauper.

76 Me. 130.

**Sec. 39. Persons removed, returning, may be sent to house of correction.** **R. S. c. 27, § 43.** A person removed, as provided in this chapter, to the place of his settlement, who voluntarily returns to the town from which he was removed, without the consent of the overseers, may be sent to the house of correction or jail as a vagabond.

**Sec. 40. Foreign paupers may be removed; exception of families of volunteers.** **R. S. c. 27, § 44.** On complaint of overseers, that a pauper chargeable to their town has no settlement in this state, any judge of a municipal or police court, or trial justice, may, by his warrant directed to a person named therein, cause such pauper to be conveyed, at the expense of such town, beyond the limits of the state to the place where he belongs; but this section does not apply to the families of volunteers enlisted in the state, who may have been mustered into the service of the United States.

**Sec. 41. Towns liable to individuals relieving.** **R. S. c. 27, § 45.** Towns shall pay expenses necessarily incurred for the relief of paupers by an inhabitant not liable for their support, after notice and request to the overseers, until provision is made for them.

20 Me. 445; 36 Me. 378; 37 Me. 10; 48 Me. 561; 49 Me. 33; 53 Me. 61; 63 Me. 492; 65 Me. 597; 67 Me. 552; 70 Me. 501; 84 Me. 418; 93 Me. 71; 97 Me. 240; 111 Me. 59; 212 Me. 274.

**Sec. 42. Overseers to complain of intemperate paupers.** **R. S. c. 27, § 46.** When a person in their town, notoriously subject to habits of intemperance, is in need of relief, the overseers shall make complaint to a judge of a municipal or police court, or trial justice in the county, who shall issue a warrant and cause such person to be brought before him, and upon hearing and proof of such habits, he shall order him to be committed to the house of correction, to be there supported by the town where he has a settlement, and if there is no such town, at the expense of the county, until discharged by the overseers of the town in which the house of correction is situated, or by two justices of the peace.

11 Me. 212; 51 Me. 460; see c. 143, §§ 7-16.

**Sec. 43. Towns may recover of paupers.** **R. S. c. 27, § 47.** A town, which has incurred expense for the support of a pauper, whether he has a

settlement in that town or not, may recover it of him, his executors or administrators, in an action of assumpsit.

186 Mass. 341; 4 Me. 262; 22 Me. 448; 41 Me. 600; 66 Me. 62; 78 Me. 217;  
94 Me. 474.

**Sec. 44. Overseers to take possession of property of paupers deceased. R. S. c. 27, § 48.** Upon the death of a pauper then chargeable, the overseers may take into their custody all his personal property, and if no administration on his estate is taken within thirty days, they may sell so much thereof, as is necessary to repay the expenses incurred. They have the same remedy to recover any property of such pauper, not delivered to them, as his administrator would have.

8 Me. 318.

**Sec. 45. May prosecute and defend. R. S. c. 27, § 49.** For all purposes provided for in this chapter, its overseers, or any person appointed by them in writing, may prosecute and defend a town.

**Sec. 46. Plantations may raise money. R. S. c. 27, § 50.** Any plantation, at a legal meeting called for the purpose, may raise and expend money for the support of the poor, to be applied by its assessors.

7 Me. 125, 133; 61 Me. 449.

**Sec. 47. Penalty for bringing paupers into a town. R. S. c. 27, § 51.** Whoever brings into and leaves in a town where he has no settlement, any poor, indigent or insane person, having no visible means of support, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or insane as aforesaid, with intent to charge such town in this state with the support of such person, shall be fined not exceeding three hundred dollars, or imprisoned not exceeding one year. And shall be further liable to any town or to the state for such sums of money as are expended by such town or by the state, for the support and maintenance of such person, which may be recovered in an action on the case.

**Note.** Burial of honorably discharged soldiers and sailors, c. 4, §§ 51-53. Duties of overseers of poor as to notice in case of paupers committed to house of correction, c. 143, § 13.

Towns may make provision for support of abused and neglected children, c. 64, § 61.

## CHAPTER 30.

### Enginemmen, Fires and the Prevention of Fires.

- Sections 1-11 Election of Fire Engineers and Fire Wards; their Authority and Duty.  
Sections 12-24 Prevention of Fires.  
Sections 25-36 Inspection of Buildings.  
Sections 37-46 Protection of Life in Buildings used for Public Purposes.  
Sections 47-57 Investigation of Causes of Fires.

### Fire Engineers and Fire Wards.

**Sec. 1. Towns, by-laws for care and management of engines and apparatus; employment of men and appointment of officers.** R. S. c. 28, § 1. Any town, corporation or individuals providing fire engines, hose, ladders or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances or by-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether enginemmen or other persons, and for the appointment of officers to govern them when on duty and to take charge of such apparatus, and may prescribe their style, rank, powers and duties.

78 Me. 119.

**Sec. 2. Such officers have powers of fire wards; towns liable for acts of; powers, privileges and duties of men so employed.** R. S. c. 28, § 2. The engineers, or other officers chosen by any town under any ordinance or by-law, shall in addition to the powers thereby conferred, exercise all the powers and duties of fire wards as prescribed in this chapter, unless restricted by the ordinance or by-law under which they are chosen; and such towns are responsible for the acts of their said officers, as for the acts or orders of fire wards in similar cases; and such firemen and enginemmen, so employed, have all the powers and privileges, and are subject to all the duties and liabilities of enginemmen, as prescribed in this chapter.

**Sec. 3. Enginemmen excused from serving as jurors.** R. S. c. 28, § 3. Such enginemmen shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as are approved by said municipal officers and not repugnant to law, and affix penalties to be recovered by their clerk, not exceeding six dollars for any one offense.

71 Me. 348.

**Sec. 4. Duty of engine companies.** R. S. c. 28, § 4. Companies of enginemmen shall meet once every month, and oftener if necessary, to examine the state of their engines and the appendages thereof; and by night

or by day without delay, under the direction of the fire wards, they shall use their best endeavors to extinguish all fires in the town or in its immediate vicinity.

**Sec. 5. Discharge of negligent enginemen, and selection of enginemen for other duties at fires.** R. S. c. 28, § 5. On proof of negligence, the municipal officers may discharge any engineman or member of the company organized under special laws, and appoint some other person in his stead; and they may select from the enginemen any number for each engine in their town, who shall, under the direction of the fire wards, attend fires therein with axes, fire-hooks, fire sails and ladders, and perform such further duty as said officers from time to time prescribe.

**Sec. 6. Election of fire wards.** R. S. c. 28, § 6. Each town, at its annual meeting, may elect as many fire wards as it deems necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused, the town shall elect another in his place.

See §§ 47-49.

**Sec. 7. Duty of fire wards, and other officers at fires.** R. S. c. 28, § 7. When a fire breaks out in any town, the fire wards shall immediately attend at the place; and when there, any three of them may direct any building to be pulled down or demolished, if they judge it necessary to prevent the spread of the fire; but in their absence the major part of the municipal, or any two civil or military officers present, in the order in which they are named, have the same power.

40 Me. 391.

**Sec. 8. Powers of fire wards at fires; penalty for refusing to obey them.** R. S. c. 28, § 8. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same and to aid in pulling down or demolishing buildings and suppressing disorder and tumult; and generally may direct all operations to prevent further destruction or damage; any person refusing to obey their orders forfeits ten dollars.

63 Me. 47.

**Sec. 9. Officers appointed under special laws have the same powers as fire wards.** R. S. c. 28, § 9. The chief engineer, engineers, fire wards and other officers appointed for particular localities under special laws, have the same power as fire wards to pull down or demolish buildings in order to prevent the spreading of fires, and to do other things for the extinguishment thereof; and the town to which they belong is liable to pay such compensation for damages consequent upon their acts, as other towns are for similar damages; and the members of the fire department in such localities shall enjoy all the privileges, and be liable to all the duties of other firemen; but nothing herein shall be construed to control the manner of their election.

63 Me. 47.

**Sec. 10. Compensation for building demolished.** R. S. c. 28, § 10. If the pulling down or demolishing of any building, except that in which the

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fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town, in a special action on the case.

**Sec. 11. Plundering at fires declared larceny.** R. S. c. 28, § 11. Whoever steals, carries away or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards, shall be deemed guilty of larceny and punished accordingly.

See c. 122, § 3.

Note. Penalty for giving false alarms of fire, c. 129, § 27; by telephone, c. 120, § 21.

## Prevention of Fires.

**Sec. 12. Certain occupations in maritime towns regulated.** R. S. c. 28, § 12. No person shall occupy any tenement in a maritime town for sail-making, rigging or as a livery-stable, except where the municipal officers direct; whoever violates this section, forfeits ten dollars a month during the continuance of such occupancy.

**Sec. 13. Municipal officers to direct defective chimneys and other dangerous conditions to be removed or repaired.** R. S. c. 28, § 13. On complaint of any citizen that a chimney, stove, stovepipe, oven, furnace, boiler or appurtenance is defective, out of repair, or so placed in any building as to endanger it or any other building, the municipal officers of any town of not more than two thousand inhabitants, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he forfeits not less than ten, nor more than one hundred dollars.

102 Me. 286.

**Sec. 14. Penalty for lighting or smoking pipe or cigar in mills, ship-yards, etc., contrary to notice.** R. S. c. 28, § 14. No person shall enter any mill, millyard, factory, machine-shop, shipyard, covered bridge, stable or other building, with a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars, if a notice in plain legible characters that no smoking is allowed therein, is kept in a conspicuous position over or near each principal entrance to such building or place; and whoever defaces, removes or destroys such notice, forfeits ten dollars.

**Sec. 15. Penalty for kindling fire on land, without consent of owner.** R. S. c. 28, § 15. Whoever kindles a fire on land not his own, without consent of the owner, forfeits ten dollars; if such fire spreads and damages the property of others, he forfeits not less than ten, nor more than five hundred dollars, and in either case he shall stand committed until fine and costs are paid, or he shall be imprisoned not more than three years.

**Sec. 16. Penalty for kindling fire with intent to injure another.** R. S. c. 28, § 16. Whoever with intent to injure another, causes a fire to be kindled on his own or another's land, whereby the property of any other person is injured or destroyed, shall be fined not less than twenty, nor more than one thousand dollars, or imprisoned not less than three months, nor more than three years.

**Sec. 17. When lawful fires may be kindled.** R. S. c. 28, § 17. Whoever for a lawful purpose kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner; and is liable, in an action on the case, to any person injured by his failure to comply with this provision.

54 Me. 258; 62 Me. 290; 87 Me. 410.

**Sec. 18. Lumber drivers may kindle necessary fires.** R. S. c. 28, § 18. Persons engaged in driving lumber may kindle fires when necessary, but shall use the utmost caution to prevent them from spreading and doing damage, and if they fail so to do, they are subject to all the foregoing liabilities and penalties, as if said privilege had not been allowed.

**Sec. 19. Common law remedy not taken away; exception.** R. S. c. 28, § 19. The common law right to an action for damages done by fires, is not taken away or diminished, and it may be pursued notwithstanding the penalties herein set forth, but any person availing himself of section seventeen is barred of his action at common law for the damage so sued for. And no action shall be brought at common law for kindling fires in the manner described in section eighteen; but if such fire spreads and does damage, the person who kindled it, and any persons present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, are liable, in an action on the case, for such damage.

**Sec. 20. Municipal officers to make regulations respecting gunpowder, explosive oils, and other dangerous substances.** R. S. c. 28, § 20. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal-oils, burning-fluids, naphtha, benzine and all other explosive and illuminating substances which such officers adjudge dangerous to the lives or safety of citizens; and no person shall keep any such article in any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty, nor more than one hundred dollars for each offense; all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure, may be libeled according to law.

See c. 23, § 9; c. 44, § 27; 102 Me. 286.

**Sec. 21. Recovery of damages by sufferers by explosion.** R. S. c. 28, § 21. A person injured by the explosion of such articles in the possession of any person contrary to such regulations, has an action for damages against such possessor, or against the owner if conusant of such neglect.

**Sec. 22. Town officers may search for powder.** R. S. c. 28, § 22. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be unlawfully concealed there.

102 Me. 286.

**Sec. 23. Regulations not in force until published.** R. S. c. 28, § 23. Rules and regulations, established in any town according to section twenty, shall not be in force until they have been published for three weeks successively in a newspaper in the county, or until attested copies of them have been posted in three public places in said town for at least three weeks.

**Sec. 24. Penalties, how recovered and appropriated.** R. S. c. 28, § 24. Penalties provided in the preceding sections may be recovered by com-

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plaint, indictment or action of debt, half to the town where the offense is committed, and half to the prosecutor.

**Inspection of Buildings.**

**Sec. 25. Appointment of inspector of buildings; jurisdiction. R. S. c. 28, § 25. 1915, c. 40.** In every town and city of more than two thousand inhabitants, and in every town of two thousand inhabitants or less if such town shall so vote at an annual town meeting, the municipal officers shall annually in the month of April appoint an inspector of buildings, who shall be a man skilled in the construction of buildings, and shall determine his compensation. The municipal officers shall define the limits within which the inspector of buildings shall have jurisdiction, which shall include the thickly settled portion of each such city, or of each village in each such city or town.

102 Me. 286.

**Sec. 26. Duty to inspect new buildings, in process of construction. R. S. c. 28, § 26.** Such inspector shall inspect each new building during the process of construction, so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe, and that proper cut-offs are placed between the timbers in the walls and floorings where fire would be likely to spread; and may give such directions in writing to the owner or contractor as he deems necessary, concerning the construction of such building so as to render the same safe from the catching and spreading of fire.

102 Me. 286.

**Sec. 27. Inspection of buildings while being repaired. R. S. c. 28, § 27.** He shall inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catching and spreading of fire, and that the chimneys and flues are made safe; and he may give such directions in writing to the owner as he deems necessary concerning such repairs, so as to render such building safe from the catching and spreading of fire.

**Sec. 28. Inspection of chimneys, flues, funnels, etc., when required. R. S. c. 28, § 28.** He shall at least once in three years, and oftener when required by the municipal officers, inspect chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus in all the buildings within his jurisdiction, in which fire is kept or used, to ascertain if the same are safe against fire. He may give such directions in writing as he may deem necessary to the owner of said building to make changes in the construction or situation of such chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating apparatus, so as to make the same safe as aforesaid. And the municipal officers may require such inspection of any particular building at any time.

**Sec. 29. Inspector may enter any building. R. S. c. 28, § 29.** An inspector of buildings in the performance of his official duty may enter any building for the purpose of making the inspection required by this chapter.

**Sec. 30. Appeal. R. S. c. 28, § 30.** An appeal in writing may be taken from any order or direction of the inspector of buildings to the municipal officers, whose order thereon shall be final.

**Sec. 31. New building shall not be occupied unless inspector certifies as to safety from fire; penalty; appeal.** R. S. c. 28, § 31. No new building shall be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with the provisions of section twenty-six, and so as to be safe from fire; if the owner permits it to be so occupied without such certificate, he shall be liable to a fine of ten dollars for each week he permits such building to be so occupied, to be recovered by complaint or indictment. In case the inspector of buildings for any cause declines to give his certificate and the builder has in his own judgment complied with the provisions of section twenty-six an appeal may be taken to the municipal officers and if on such appeal, it shall be decided by them that the provisions of said section have been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector.

**Sec. 32. Penalty, if owner neglects or refuses to comply with orders of inspector.** R. S. c. 28, § 32. If the owner of any building neglects or refuses for more than thirty days to comply with any direction of the inspector of buildings given as aforesaid, concerning the repairs on any building, as provided in section twenty-seven, or to make such changes in the construction or situation of chimneys, flues, funnels, stoves, furnaces, boilers and boiler connections, and heating apparatus, as may be required by such inspector of buildings, under the provisions of section twenty-eight, or as may be confirmed by the municipal officers on appeal, he shall be liable to a fine of ten dollars for each week he so neglects or refuses, to be recovered by complaint or indictment.

**Sec. 33. Penalty, if owner refuses inspector admission to building.** R. S. c. 28, § 33. Any owner or occupant of a building, who refuses to permit an inspector of buildings to enter his buildings, or wilfully obstructs him in the inspection of such building as required by this chapter, shall be liable to a fine of not less than one, nor more than twenty dollars, to be recovered by complaint or indictment.

**Sec. 34. Inspector and municipal officers may enter building in their jurisdiction; authority and duty to remedy dangerous conditions; appeal.** R. S. c. 28, § 34. The inspector of buildings and the municipal officers of any city or town may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdiction. Whenever any of said officers shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such buildings or premises they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said buildings or premises; provided, however, that if the said owner or occupant shall deem himself aggrieved by such order when made by the inspector of buildings he may, within twenty-four hours, appeal to the municipal officers, and the cause of the complaint shall be at once investigated by the direction of the latter, and unless by their authority the order above named is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. The inspector of buildings or the municipal officers shall make, or cause to be made, an



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immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in said buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, shall be punished by a fine of not less than five dollars for each day's neglect.

See §§ 48, 49; see c. 23, §§ 33-37.

**Sec. 35. Jurisdiction of offenses.** R. S. c. 28, § 35. Municipal and police courts and trial justices shall have jurisdiction of the offenses named in the four preceding sections.

**Sec. 36. Towns may make by-laws.** R. S. c. 28, § 36. Towns and cities may make by-laws not inconsistent with this chapter, defining more particularly the duties of such inspector of buildings, and the rules and regulations by which he is to be governed.

**Protection of Life in Buildings Used for Public Purposes.**

**Sec. 37. Doors of public buildings shall open outwards.** R. S. c. 28, § 37. 1913, c. 178. Every building intended temporarily or permanently for public use, and every schoolhouse of more than one story in height, and every schoolroom therein, shall have all doors, intended for egress, open outwards.

See c. 16, § 15.

**Sec. 38. Suitable fire escapes to be provided for hotels, factories, school-houses, etc.** R. S. c. 28, § 38. 1909, c. 194. 1915, c. 252, § 1. Every public house where guests are lodged, and every building in which any trade, manufacture or business is carried on, requiring the presence of workmen above the first story, and all rooms used for public assembly or amusement, and all tenement houses three stories in height where only one stairway or means of egress from the upper stories of the building is provided, and all tenement houses of four or more stories in height, intended to be occupied by families, boarders or lodgers, above the third story, and all buildings used for school purposes, including school dormitories, two stories or more in height, shall at all times be provided with proper egresses or other means of escape from fire sufficient for the use of all persons accommodated, assembled, employed, lodged or resident therein. These egresses and means of escape shall be kept unobstructed, in good repair and ready for use, and the sufficiency thereof shall be determined as provided in the following section.

See c. 49, § 12; 97 Me. 250; 99 Me. 436.

**Sec. 39. Town officers and fire engineers shall inspect safeguards and order repairs.** R. S. c. 28, § 39. 1915, c. 252, § 2. In towns or parts of towns having no organized fire department, the municipal officers shall annually make, or direct the fire inspector to make, careful inspection of the precautions and safeguards provided in compliance with the foregoing requirements, and pass upon their sufficiency as to arrangement and number, and upon their state of repair; and direct such alterations, additions and repairs as they adjudge necessary. In towns, cities and villages having

an organized fire department, the duties aforesaid shall be discharged by the chief of the fire department.

97 Me. 250.

**Sec. 40. Notice as to sufficiency of safeguards.** R. S. c. 28, § 40. 1915, c. 252, § 3. Such municipal officers or chief of the fire department shall give written notice to the occupant of such building, also to the owner thereof, if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order.

97 Me. 251.

**Sec. 41. Penalty, if owner fails to comply with orders for safeguards; use of such buildings, may be forbidden.** R. S. c. 28, § 41. Any owner or occupant who neglects to comply with such order, within the time so allowed, forfeits fifty dollars, besides five dollars for every day's continuance of such neglect; and the building or part of a building so occupied shall be deemed a common nuisance, without any other evidence than proof of its use; and the keeper shall be punished accordingly. Said officers may forbid the use of such building for any public purpose until their order has been complied with. And if the owner or occupant of said building lets or uses the same in violation of such order, he forfeits not less than twenty, nor more than fifty dollars for each offense.

97 Me. 251, 253.

**Sec. 42. Officers shall give occupant certificate of sufficiency of safeguards; compensation; return to town clerks.** R. S. c. 28, § 42. 1915, c. 252, § 4. Whenever the municipal officers or chief of the fire department, upon inspection, find that proper safeguards and precautions for escape in case of fire, or of alarm, have been provided, they shall give to the occupant of such building a certificate, under their hands, of such fact; which shall be valid for one year only from its date; and a reasonable compensation for such inspection shall be paid by the city or town in which any such building is located, by an order drawn upon its treasurer. Such officers shall return to the clerk's office of their town, monthly, a list of such certificates by them issued, which the clerk shall record in a suitable book.

**Sec. 43. Certificate posted in building, evidence.** R. S. c. 28, § 43. Every person receiving such certificate shall keep the same posted in such building. Such annual certificate, so posted, is prima facie evidence of the inspection of such building, and of the presence of such suitable safeguards and precaution. Every occupant of such building who neglects or refuses to procure such certificate, or to post the same as aforesaid, forfeits ten dollars for every week that he so neglects and refuses.

**Sec. 44. Penalty for town officers' neglect.** R. S. c. 28, § 44. 1915, c. 252, § 5. Every municipal officer or fire inspector or chief of a fire department who refuses or neglects to perform the duties imposed upon him by the seven preceding sections forfeits fifty dollars.

**Sec. 45. Fines, how recovered.** R. S. c. 28, § 45. All fines and forfeitures imposed by the four preceding sections may be recovered by the

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town where the building is located, by an action on the case, or by indictment.

102 Me. 286.

**Sec. 46. Upon complaint, state factory inspector or deputy shall make investigation.** 1911, c. 156. Whenever it comes to the knowledge of the state factory inspector or his deputy, or if complaint is made to such state factory inspector or his deputy by any citizen of the state, that any of the above-named officers have failed to comply with any provision of sections thirty-seven to forty-four, both inclusive, the state factory inspector or his deputy shall at once proceed to investigate such complaint, and if sufficient evidence can be obtained, he shall at once institute proceedings against such officer and the county attorney shall prosecute the same.

### Investigation of Causes of Fires.

**Sec. 47. Election of fire ward required who shall be a fire inspector; duties and compensation of fire inspectors.** 1913, c. 108, § 1. Each town at its annual meeting shall elect at least one fire ward, who shall be a fire inspector and shall perform the several duties prescribed by this section and the two following sections; if more than one fire ward is elected by any town, one of said fire wards shall be designated as fire inspector of said town and the other fire wards shall, under the direction of the fire inspector, assist in performing the duties imposed upon said fire inspector by said sections. Fire inspectors shall receive reasonable compensation for their services to be determined by the town. In towns and cities having an organized fire department, the chief of such fire department shall perform the duties of fire inspector. The municipal officers may authorize such fire inspectors to perform the duties imposed upon them by sections fifty, fifty-one and fifty-three of this chapter, and, when so authorized, said fire inspectors shall have all the powers thereby conferred, and shall perform all the duties therein prescribed. Such fire inspectors shall furnish the insurance commissioner with such information as he may require and shall perform such inspections as the insurance commissioner may direct.

**Sec. 48. Insurance commissioner upon complaint may inspect buildings; combustible or other dangerous matter may be removed.** 1913, c. 108, § 2. The insurance commissioner, his deputy, or the fire inspector, upon the complaint of any person, or whenever he or they shall deem it necessary, may inspect or cause to be inspected all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure which, for want of repairs, or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property, and whenever such officer shall find in or around any building combustible or explosive matter, or inflammable or other conditions dangerous to the safety of such buildings, he shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings. If such order is made by any fire inspector, such owner or occupant may, within twenty-four hours appeal to the insurance commissioner, who shall, within ten days, review such order and file his decision thereon,

and his decision shall be final and shall be complied with within such time as may be fixed in said order or decision of the insurance commissioner.

**Sec. 49. Officer may repair or demolish buildings; special tax may be assessed against land for expenses.** 1913, c. 108, § 3. If any person fail to comply with the order of any officer under the preceding section or with the decision of the insurance commissioner on review, and within the time fixed, then such officer may cause such building or premises to be forthwith repaired, torn down or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the town in which such property is situated; and if the owner thereof, within thirty days after notice in writing of the amount of such expense, fails, neglects or refuses to repay said town the expense thereby incurred, a special tax may be assessed by the assessors of taxes against the land on which said building was located for the amount of such expenses and such amount shall be included in the next annual warrant to the collector of taxes of said town, for collection, and shall be collected in the same manner as state, county and municipal taxes are collected.

**Sec. 50. Municipal officers shall investigate origin of fires; commissioner may direct investigation.** R. S. c. 28, § 46. When property is destroyed or damaged by fire the municipal officers in cities and towns shall immediately notify the insurance commissioner of the same, and shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The investigation shall be commenced within three days after the occurrence of the fire, not including the Lord's day, and the insurance commissioner may supervise and direct such investigation whenever he deems it expedient or necessary.

**Sec. 51. Municipal officers shall file statement of facts relating to cause of fire; record, open to the public.** R. S. c. 28, § 47. When the municipal officers have completed their investigation, which shall be within two weeks after the occurrence of the fire, they shall immediately file with the insurance commissioner a written statement of all the facts relating to the cause, circumstances and origin of the fire; the kind, value and ownership of the property destroyed or damaged, and such other information as may be required by said commissioner. The insurance commissioner shall make a record of all fires investigated under sections fifty to fifty-seven inclusive, together with all facts, statistics and circumstances connected therewith. Such record shall at all times be open to public inspection, and such portions of it as the commissioner deems expedient shall be published in his annual report to the governor and council.

**Sec. 52. Commissioner may examine into cause and origin of all fires; shall take testimony on oath; if evidence is sufficient, he shall cause arrest of person accused.** R. S. c. 28, § 48. The insurance commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances and origin of all fires occurring in the cities and towns within the state, of which he has knowledge, by which property is damaged or destroyed, and may specially examine and decide whether the same was the result of carelessness or design. The insurance commis-

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sioner shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which such examination is made, and may cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offense, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all information obtained by him, including a copy of all pertinent and material testimony in the case.

**Sec. 53. Witnesses may be compelled to attend hearing, and give testimony under oath; commissioner may enter any building when fire is in progress; investigations may be private.** R. S. c. 28, § 49. The insurance commissioner, the deputy insurance commissioner and the municipal officers of cities and towns shall each have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses before them or either of them, to testify in relation to any matter which is by the provisions of the three preceding sections a subject of inquiry and investigation. Said insurance commissioner, deputy insurance commissioner and municipal officers may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Said insurance commissioner and his subordinates shall have authority, at all times of the day or night, in the performance of the duties imposed by this chapter, to enter upon and examine any building or premises where a fire is in progress or has occurred, and other buildings or premises adjoining or near the same. All investigations held by or under the direction of the insurance commissioner, deputy insurance commissioner or the municipal officers may in their discretion be private, and persons other than those required to be present by the provisions hereof may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined.

See c. 124, § 1.

**Sec. 54. Insurance companies shall report to commissioner adjustment of all losses.** R. S. c. 28, § 50. Every fire insurance company or association transacting business in the state shall report to the insurance commissioner, within ten days after the adjustment of every loss, the amount of all policies issued by said company on the property destroyed or damaged, the amount paid or payable on account of such loss, and such other information relating to the matter as the commissioner may require.

**Sec. 55. Insurance commissioner may employ assistants in investigating fires.** R. S. c. 28, § 51. 1913, c. 142. The insurance commissioner may employ such clerks and assistants, provide such blanks and incur such expense as may be necessary to carry out his duties in investigating or causing to be investigated the origin of fires and the inspection of buildings and property, not to exceed an amount equal to twenty-five per cent of the fees received from fire insurance companies, with twenty-five per cent of the amount received by the treasurer of state for the tax on special insur-

ance brokers and twenty-five per cent of the tax on unauthorized insurance in any year, and all bills and expenses incurred shall be audited by the state auditor.

**Sec. 56. Municipal officers shall keep record of returns.** R. S. c. 28, § 52. Municipal officers shall record or cause to be recorded, in a book provided by the insurance commissioner, all returns made under the provisions of the six preceding sections.

**Sec. 57. Penalty for neglect.** R. S. c. 28, § 53. Any city or town officer, or any insurance company neglecting or refusing to perform any duty required by the provisions of the seven preceding sections shall be punished by a fine of not less than ten, nor more than one hundred dollars for each offense.

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## CHAPTER 31.

### Innkeepers and Victualers. Lunch Wagons.

**Sec. 1. Licenses to innkeepers and victualers; may be revoked.** R. S. c. 29, § 1. The municipal officers, treasurer and clerk of every town shall meet annually on the first Monday of May, or on the day succeeding, or both, and at such time and place in said town as they appoint, by posting notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innkeepers and victualers in said town, until the day succeeding the first Monday in May of the next year, in such house or other building, as the license specifies. And at any meeting so notified and held, they may revoke licenses so granted, if in their opinion there is sufficient cause.

24 Me. 442; 93 Me. 485.

**Sec. 2. Bond.** R. S. c. 29, § 2. No person shall receive his license until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties in the penal sum of three hundred dollars, in substance as follows, namely:

"Know all men that we —, as principal, and —, and —, as sureties, are held and stand firmly bound to —, treasurer of the town" (or city) "of —, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the — day of —, in the year nineteen hundred and —.

"The condition of this obligation is such that, whereas the above bounden — has been duly licensed as a — within said town" (or city) "until the day succeeding the first Monday of May next; now if in all respects he shall conform to the provisions of law relating to the business for which he is licensed, and to the rules and regulations as provided by the licensing board in reference thereto, and shall not violate any law of

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the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force."

93 Me. 483.

**Sec. 3. Licenses may be granted for a part of the year.** R. S. c. 29, § 3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on like conditions; but all such licenses expire on the day aforesaid.

**Sec. 4. License fee and record.** R. S. c. 29, § 4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted.

**Sec. 5. Duty of innkeepers to provide entertainment.** R. S. c. 29, § 5. Every innkeeper shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay and provender for their horses and cattle; and with pasturing, if it is required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travelers and others.

71 Me. 19, 316; 76 Me. 542.

**Sec. 6. Duties of victualers.** R. S. c. 29, § 9. Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innkeeper, except furnishing lodging for travelers, and stable room, hay or provender for cattle.

10 Me. 439; 16 Me. 122.

**Sec. 7. Innkeepers and victualers to allow no gambling on their premises.** R. S. c. 29, § 10. No innkeeper or victualer shall have or keep for gambling purposes about his house, shop or other buildings, yards, gardens or dependencies, any dice, cards, bowls, billiards, quoits or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes any of said games, or any other unlawful game or sport therein; and every person who uses or exercises any such game or sport for gambling purposes in any place herein prohibited, forfeits five dollars.

See c. 126, § 36.

**Sec. 8. Nor reveling, drunkenness, etc.** R. S. c. 29, § 11. No innkeeper or victualer shall suffer any reveling, or riotous or disorderly conduct in his house, shop or other dependencies; nor any drunkenness or excess therein.

**Sec. 9. Penalty for neglecting a license.** R. S. c. 29, § 12. No person shall be a common innkeeper or victualer without a license, under a penalty of not more than fifty dollars.

65 Me. 363; 76 Me. 543; 89 Me. 445.

**Sec. 10. Prosecutions.** R. S. c. 29, § 13. The licensing board shall prosecute for any violation of the foregoing sections that come to their knowledge, by complaint, indictment or action of debt; and all penalties recovered shall inure to the town where the offense is committed. Any citizen of the state may prosecute for any violation of the preceding sections in the same manner as the licensing board may prosecute.

12 Me. 204; 65 Me. 363; 93 Me. 484.

**Sec. 11. Liability of hotel keepers, etc., defined.** 1913, c. 101, § 1. No innkeeper, hotel keeper or boarding-house keeper, who constantly has in his inn, hotel or boarding-house a metal safe or suitable vault, in good order and fit for the custody of money, bank notes, jewelry, articles of gold and silver manufacture, precious stones, personal ornaments, railroad mileage books or tickets, negotiable or valuable papers, and bullion, and who keeps on the doors of the sleeping rooms used by guests suitable locks or bolts, and on the transoms and windows of said rooms suitable fastenings, and who keeps a copy of this section printed in distinct type constantly and conspicuously posted in not less than ten conspicuous places in all in said hotel or inn, shall be liable for the loss of or injury to any articles or property of the kind above specified suffered by any guest, unless such guest has offered to deliver the same to the innkeeper, hotel keeper or boarding-house keeper for custody in such metal safe or vault, and the innkeeper, hotel keeper or boarding-house keeper has omitted or refused to take said property and deposit it in such safe or vault for custody and to give such guest a receipt therefor; provided, however, that the keeper of any inn, hotel or boarding-house shall not be obliged to receive from any one guest for deposit in such safe or vault any property hereinbefore described exceeding a total value of three hundred dollars, and shall not be liable for any excess of such property, whether received or not.

72 Me. 274; 74 Me. 229, 262; 77 Me. 360; 91 Me. 279.

**Sec. 12. Special arrangement may be made to receive deposits.** 1913, c. 101, § 2. Any such innkeeper, hotel keeper or boarding-house keeper may, by special arrangement with a guest, receive for deposit in such safe or vault any property upon such terms as they may in writing agree to; and every innkeeper, hotel keeper or boarding-house keeper shall be liable for any loss of the above enumerated articles of a guest in his inn, hotel or boarding-house after said articles have been accepted for deposit, if caused by the theft or negligence of the innkeeper, hotel keeper or boarding-house keeper or any of his servants.

**Sec. 13. Check or receipt shall be given for property delivered for safe keeping.** 1913, c. 101, § 3. Every guest and every person intending to be a guest of any hotel or inn in this state, upon delivering to the proprietor of such hotel or inn or to his servants, any baggage or other articles of property of such guest, for safe keeping, elsewhere than in the room assigned to such guest, shall demand, and such hotel proprietor shall give, a check or receipt therefor in such case, to evidence the fact of such delivery; and no such proprietor shall be liable for the loss of or injury to such baggage or other article of property of this guest, unless the same shall have been actually delivered by such guest to such proprietor or to his servants for safe keeping, or unless such loss or injury shall have occurred through the negligence of such proprietor, or of his servants or employees in such hotel.

**Sec. 14. Liability shall be that of a depository for hire; limit of liability.** 1913, c. 101, § 4. The liability of the keeper of any inn or hotel, for loss of or injury to personal property placed by his guests under his care, other than that described in the three preceding sections, shall be that of a depository for hire, except that in case such loss or injury is caused by fire not



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intentionally produced by the innkeeper or his servants, such keeper shall not be liable; provided, however, that in no case shall such liability exceed the sum of one hundred and fifty dollars for each trunk and its contents, fifty dollars for each valise and its contents, and ten dollars for each box, bundle, or package, and contents, so placed under his care, and for all other miscellaneous effects including wearing apparel and personal belongings, fifty dollars, unless he shall have consented in writing with such guest to assume a greater liability; and provided, further, whenever any person shall suffer his baggage or property to remain in any inn, hotel or boarding-house after leaving the same as a guest, and after the relation of keeper and guest between such guest and the proprietors of such inn or boarding-house or hotel has ceased, or shall forward the same to such inn, hotel or boarding-house before becoming a guest thereof and the same shall be received into such inn or boarding-house or hotel, such innkeeper may at his option hold such baggage or property at the risk of such owner.

74 Me. 229, 262.

**Sec. 15. Lien on baggage or other property deposited for safe keeping.** **R. S. c. 93, § 65.** 1913, c. 101, § 5. The keeper of any inn, boarding-house or hotel, shall have a lien on the baggage and other property in and about said premises belonging to or under the control of his guests or boarders, for the proper charges due him from such guests or boarders for the accommodation, board and lodging, and for all money paid for or advanced to them, and for such other extras as are furnished at their request, and said innkeeper, boarding-house keeper or hotel keeper may detain such baggage and other property until the amount of such charges is paid, and such baggage and other property shall be exempt from attachment or execution until such keeper's lien and the cost of satisfying it are satisfied.

35 Me. 154; 38 Me. 192; 42 Me. 51.

**Sec. 16. Enforcement of lien; notice of sale; disposal of proceeds.** 1913, c. 101, §§ 6, 7. The innkeeper, boarding-house keeper or hotel keeper shall retain such baggage and other property upon which he has a lien for a period of ninety days, at the expiration of which time, if such lien is not satisfied, he may sell such baggage and other property at public auction, after giving ten days' notice of the time and place of sale in a newspaper of circulation in the county where the inn, boarding-house or hotel is situated, and also by mailing a copy of such notice addressed to said guest or boarder at the place of residence registered by him in the register of such inn, hotel or boarding-house; after satisfying the lien and any costs that may accrue, any residue remaining shall, on demand within six months, be paid to such guest or boarder, and if not so demanded within six months from date of such sale, such residue shall be deposited by such innkeeper, boarding-house keeper or hotel keeper with the treasurer of the county in which the inn, hotel or boarding-house is situated, together with a statement of such keeper's claim and the cost of enforcing same, a copy of the published notice, and of the amounts received for the goods sold at said sale; said residue shall by said county treasurer be credited to the general revenue fund of said county, subject to a right of said guest or boarder, or his representative, to reclaim at any time within three years of date of deposit with said treasurer.

**Sec. 17. Penalty for fraud in obtaining food, etc.** 1913, c. 101, § 8. Whoever obtains food, lodging or other accommodations at any hotel, inn, boarding-house or eating-house, with intent to defraud the owner or keeper thereof, shall be punished by fine of not exceeding one hundred dollars, or by imprisonment not exceeding three months.

**Sec. 18. False show of baggage, etc., shall be proof of fraudulent intent.** 1913, c. 101, § 9. Evidence that lodging, food or other accommodations were obtained by false pretense, or by false or fictitious show or pretense of baggage or other property, or that the person refused or neglected to pay for such food, lodging or other accommodation on demand, or that he gave in payment for such food, lodging or other accommodation, negotiable paper on which payment was refused, or that he absconded without paying or offering to pay for such food, lodging or other accommodation, or that he surreptitiously removed or attempted to remove his baggage, shall be prima facie proof of the fraudulent intent mentioned in section seventeen; but this section and the preceding section shall not apply where there has been an agreement in writing for delay in payment for a period to exceed ten days.

**Sec. 19. Copies of law shall be posted.** 1913, c. 101, § 10. R. S. c. 127, § 6. Every hotel keeper, innkeeper, or boarding-house keeper within this state, shall keep a copy of sections seventeen, eighteen and nineteen, printed in distinct type posted in not less than ten conspicuous places in his hotel, inn, boarding-house or eating-house. Judges of municipal and police courts and trial justices shall have jurisdiction of all offenses arising under sections seventeen and eighteen, where the amount of which any such keeper of a hotel, inn, boarding-house or eating-house has been thus defrauded, does not exceed the sum of twenty dollars.

### Lunch Wagons.

**Sec. 20. Lunch wagons may be licensed; license may be revoked; objection of abutters.** 1909, c. 262. The mayor and aldermen of any city, or selectmen of any town, may, if in their opinion public convenience so requires, license any reputable person, upon the payment of an annual license fee, to be fixed by said licensing authority, to maintain a vehicle for the sale of food in such part of any public way and during such hours as the licensing authority may designate, provided that public travel is not incommoded thereby; and no other or further license shall be required for this purpose. Any such license may be revoked, for reasonable cause, at any time, by the licensing authority. No such license, however, shall be granted to use any part of any public way the fee in which is not owned by the city or town, against the objection of the owners of the land abutting on that part of the way.

## CHAPTER 32.

### Public Exhibitions and Amusements.

**Sec. 1. Penalty for pageantry, etc., without a license.** R. S. c. 31, § 1. Whoever, for money or other valuable article, exhibits any images, pageantry, sleight of hand tricks, puppet show, circus, feats of balancing, wire dancing, personal agility, dexterity or theatrical performances, without a license therefor as hereinafter provided, forfeits, for every offense, not more than one hundred, nor less than ten dollars; but this prohibition does not extend to any permanently established museum.

**Sec. 2. Licenses, how granted; fee.** R. S. c. 31, § 2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving for their town such sum as they deem proper; twenty-four hours being allowed for each exhibition or performance; and they shall prosecute, by complaint for the use of their town, all violators of the preceding section.

*Note.* Exhibitions of reproduction of prize fights prohibited, c. 126, § 27. Immoral exhibitions prohibited, c. 126, §§ 28, 29.

### Bowling-Alleys and Billiard Rooms.

**Sec. 3. Penalty for keeping unlicensed alleys and billiard rooms.** R. S. c. 31, § 3. 1915, c. 63, § 1. Whoever keeps a bowling-alley, shooting-gallery, pool, bagatelle or billiard room without a license, forfeits ten dollars for each day that such alley, gallery or room is so kept.

30 Me. 74.

**Sec. 4. Town officers may license alleys and billiard rooms.** R. S. c. 31, § 4. 1915, c. 63, § 2. Municipal officers of towns may license suitable persons to keep bowling-alleys, shooting-galleries, pool, bagatelle, and billiard rooms therein, in any place where it will not disturb the peace and quiet of a family, for which the person licensed shall pay ten dollars to such town; such licenses expire on the first day of May after they are granted, unless sooner revoked.

111 Me. 117.

**Sec. 5. Keepers of alleys, etc., to give bond.** R. S. c. 31, § 5. Every person so licensed shall at the time he receives his license, give bond to the town with two good and sufficient sureties, in not less than one hundred dollars, conditioned that he will not permit gambling or drinking of intoxicating liquors in or about his premises; or any minor to play, shoot or roll therein without the written consent of his parent, guardian or master; or his alley, gallery, pool, bagatelle or billiard room to be opened or used between ten o'clock in the evening and sunrise.

111 Me. 117.

**Sec. 6. Bond violated, license to be revoked, etc.** R. S. c. 31, § 6. On proof that any person, so licensed, has violated any condition of his bond, said officers shall revoke his license and enforce payment of his bond to

their town; and no such person shall afterwards be licensed therein for such purpose.

**Sec. 7. Penalties; officer may enter at any time to enforce the law. R. S. c. 31, § 7.** The keeper of any bowling-alley, shooting-gallery, pool, bagatelle or billiard room, who violates any condition of his bond, forfeits ten dollars for the first offense, and twenty dollars for each subsequent offense; and any marshal, sheriff, police or other officer may at any time enter said alley, gallery, pool, bagatelle or billiard room or rooms connected therewith, to enforce this or any other law; and whoever obstructs his entrance forfeits not less than five, nor more than twenty dollars.

30 Me. 78.

**Sec. 8. Licensed places may be kept open until midnight. R. S. c. 31, § 8.** Any person licensed to own, keep and operate a bowling-alley or bowling-alleys, shooting-gallery, pool, bagatelle or billiard rooms, under the provisions of this chapter, may be granted permission by the municipal officers of the town or city where such alley or alleys, shooting-gallery, pool, bagatelle or billiard rooms are situated, to keep the same open to the public until midnight, when in the opinion of such municipal officers no person or persons residing in the immediate neighborhood will be disturbed thereby. In such case the condition of the bond required by section five shall be varied accordingly.

#### Roller-Skating Rinks.

**Sec. 9. Keepers of skating rinks shall be licensed; penalty. R. S. c. 31, § 9.** Every person who keeps a roller-skating rink or room, shall obtain a license from the municipal officers of the city or town where such rink is located and shall pay therefor such sum as said municipal officers may deem proper. Any person keeping a roller-skating rink without such license, shall be fined ten dollars for each day it is so kept.

**Sec. 10. Hours for closing rinks, fixed; penalty. R. S. c. 31, § 10.** Every person so licensed shall keep such rink closed between ten o'clock in the evening and sunrise, unless express permission in writing, to keep it open a longer time, is obtained from the municipal officers of the city or town where such rink is located. Any person violating this section, shall be fined ten dollars for every such offense.

#### Steam Riding Galleries.

**Sec. 11. License required for operating merry-go-round, etc. R. S. c. 31, § 11. 1915, c. 248.** Municipal officers of any town, upon the payment of a sum not exceeding fifty dollars, shall grant a license to operate or run a merry-go-round or steam riding gallery in their town, but the license shall not exempt the operator from complaint to the supreme judicial court for maintaining a nuisance under section eight of chapter twenty-three.

**Sec. 12. Penalty for operating without license. R. S. c. 31, § 12.** Whoever operates or runs a merry-go-round or steam riding gallery in any town without such license shall be fined five dollars for each and every day that he so operates or runs such merry-go-round or steam riding gallery.

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**Sec. 13. Jurisdiction of offenses.** R. S. c. 31, § 13. Municipal and police courts and trial justices, in their respective counties, shall have jurisdiction of all offenses arising under this chapter. And all penalties herein provided shall be recovered by complaint for the use of the town where incurred.

**The Cinematograph and Moving-Pictures.**

**Sec. 14. Cinematograph or moving-picture machine shall be licensed; apparatus shall be enclosed; provisions not to apply in certain cases.** 1909, c. 21, § 1. 1915, c. 240. No cinematograph or similar apparatus, involving the use of a combustible film more than ten inches in length, shall be kept, used or exhibited in any building, place of public assemblage or place or building used for entertainment, whether such place or building has been licensed for public entertainment or not, unless a license or permit shall have been first obtained from the municipal officers of the city or town in which said cinematograph or similar apparatus is kept or exhibited; said cinematograph or similar apparatus shall be placed in an enclosure or booth consisting of a steel frame covered with asbestos-wood and constructed and located in accordance with the specifications hereinafter provided, and the entrances, exits and fire-escapes connected with such public building, place of public assemblage or place or building shall be erected in accordance with law; provided, that this section, and the four following sections, shall not apply to any cinematograph or similar apparatus operated with only cellulose acetate films not more than one inch and one-fourth in width and using only an enclosed incandescent lamp; provided also, that the manufacturer of such cinematograph or similar apparatus shall apply for and receive the approval of the insurance commissioner; and provided also, that no such cinematograph or similar apparatus shall be used where an admission fee is charged, except in social, fraternal, charitable, religious and educational organizations, where the machine so used is owned by said organization and used in the city or town where said organization is located, and the proceeds of such admission fees are to be devoted to the uses of said organization.

**Sec. 15. Application for license; enclosure and machine shall be inspected; license fee; appeal.** 1909, c. 21, § 2. 1915, c. 241, § 1. Whoever desires to keep, exhibit or use any cinematograph or similar apparatus in any place or building described in section fourteen shall make application to the municipal officers of the city or town in which such place or building is located for a license to keep, exhibit or use such cinematograph or similar apparatus therein, and upon receipt of said application the municipal officers of said city or town shall inspect or cause to be inspected the enclosure or housing provided for such cinematograph or similar apparatus and shall also inspect or cause to be inspected any such cinematograph or similar apparatus, and shall also inspect the entrances, exits and fire-escapes. If, as a result of such inspection they are convinced that the specifications hereinafter provided are fully complied with, and such cinematograph or similar apparatus is found to be in a safe and suitable condition to be stored, exhibited or used, and that the entrances, exits and fire-escapes of such

public buildings, place of public assemblage, or place or building are in accordance with law, they may issue a license to the person desiring to keep, use or exhibit, such cinematograph or similar apparatus, which license shall state the name of the makers, trade name and number and the serial number of such cinematograph and the place in which it is to be kept, used or exhibited. If such officers, after written application to them for a license, unreasonably refuse or neglect to grant it, the applicant by giving them ten days' notice and a bond to pay all costs arising thereafter, may appeal to the county commissioners who after a hearing of the parties, may grant the license or not as they judge reasonable. A fee for such license not exceeding ten dollars shall be fixed by the municipal officers. No license shall be granted under this section for any cinematograph or similar apparatus operated by oxyhydrogen gas, so called, or by lime light.

**Sec. 16. No person shall operate without a license; operator shall be eighteen years of age and thoroughly skilled; license for one year. 1909, c. 21, § 3. 1915, c. 241, § 2.** No person shall operate any cinematograph or similar apparatus in any city or town until he has received a license or permit so to do from the municipal officers thereof; no such license to operate a cinematograph or similar apparatus shall be granted to any person under eighteen years of age, nor until the applicant shall have satisfied the municipal officers that he is thoroughly skilled in the mechanical and electrical apparatus or devices used in the operation of a cinematograph or similar apparatus. An applicant for such license shall have the same right of appeal as is provided in the preceding section. Such license to operate shall continue for one year and the fee therefor not exceeding five dollars shall be fixed by the municipal officers.

**Sec. 17. Specifications of booth or enclosure; fire-escapes. 1909, c. 21, § 4.** The construction of the booth or enclosure for any such cinematograph or similar instrument must conform substantially to the following specifications: All booths, or enclosures, must be at least seven feet high and the floor space to vary according to the number of machines used in said booth or enclosure. At least forty-eight square feet of floor space shall be provided for one machine and twenty-four square feet for each additional machine. The material used in the construction of such booths or enclosures shall be steel or asbestos-wood sheets supported by a skeleton frame of structural steel; the asbestos-wood sides and tops shall not be less than one-quarter inch thick, and the floor space not less than three-eighths of an inch thick. Said structural steel frame shall be made of angles of tee shape not less than one and one-half inches by one and one-half inches by three-sixteenths of an inch. The door of said booth or enclosure shall be made of asbestos-wood and iron and shall be so contrived that it shall be kept closed at all times. The booth shall also be provided with a ventilator pipe not less than twelve inches in diameter leading to the outer air, or to a chimney, with an electric fan installed so as to create at all times when the machine or machines are in operation a forced draft through said ventilator for the purpose of carrying off all gases and smoke which may arise from accidental ignition of the film. Shutters made of one-quarter inch asbestos-wood shall be provided for

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closing the windows in the booth or enclosure which must be so contrived as to close automatically in case of accidental ignition of the film. The enclosure or housing provided for such cinematograph, moving-picture machine, or other similar apparatus, shall be located above the main floor of the hall, room or building where such cinematograph, moving-picture machine, or similar apparatus is located. There shall be a sufficient number of exits and fire-escapes leading into a street, lane or passageway, with no obstruction to free exit.

**Sec. 18. Penalty for violation.** 1909, c. 21, § 5. 1915, c. 241, § 3. Whoever keeps, uses or operates any cinematograph or similar apparatus contrary to the provisions of the four preceding sections shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, to be recovered on complaint or indictment to the use of the city or town in which any such violation occurs; but no final judgment on such complaint or indictment shall be entered during the pendency of an appeal as provided in sections fifteen and sixteen of this chapter and in case such appeal be sustained, such complaint or indictment shall be dismissed.

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## CHAPTER 33.

### Inland Fisheries and Game.

Sections 1- 5	Commissioners of Inland Fisheries and Game; their appointment; authority to make rules and regulations.
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### Commissioners of Inland Fisheries and Game.

**Sec. 1. Commissioners of inland fisheries and game, how appointed; clerk.** R. S. c. 32, § 34. 1905, c. 84, § 1. 1913, c. 206, § 19. The governor, with the advice and consent of the council, shall appoint three persons to be commissioners of inland fisheries and game, one of whom shall be the land agent of the state and shall hold the office so long as he shall continue to be land agent; the other two commissioners, one of whom shall

be designated and commissioned as chairman, shall hold their offices for three years, and until their successors are appointed and qualified; the land agent shall not be eligible to the office of chairman. Said commissioners shall be provided with an office in the state capitol, with suitable furniture, stationery and other facilities for the transaction of the business of the department, and they may appoint a clerk. They may employ attorneys at trials in inferior courts for violations of the provisions of this chapter, and necessary additional clerks in their office, and may have at least two daily newspapers published in the state, to be selected by them, for use in their office, all of which shall be paid for out of the regular appropriation for their department. They shall, on or before the thirty-first day of December of each year, make an annual report to the governor.

95 Me. 585.

Note. This chapter includes section thirty-four of chapter thirty-two of the Revised Statutes of 1903 as amended by section one of chapter eighty-four of the Public Laws of 1905, chapter one hundred and twenty-nine of the Public Laws of 1909, and chapter two hundred and six of the Public Laws of 1913. The act last named was entitled "An act to revise, collate, arrange and consolidate the inland fish and game laws of the state, both general and public and private and special, and the rules and regulations of the Commissioners of Inland Fisheries and Game now in force"; thereby all acts and parts of acts, whether public, or, so called, private and special, which are inconsistent with the provisions of said act, and all acts and parts of acts, whether public or private and special, relating to inland fish and game and birds, which were not incorporated in said act, and all rules and regulations of the Commissioners of Inland Fisheries and Game, were repealed.

**Sec. 2. Duties; may regulate times and places for hunting and fishing; publication of rules.** 1913, c. 206, § 15. The commissioners of inland fisheries and game shall have general supervision of the enforcement of the inland fish and game laws. Whenever they shall deem it for the best interests of the state, after due notice and public hearing in the locality to be affected, they may regulate the times and places in which and the circumstances under which game and inland fish may be taken for a series of years not exceeding four, but they shall not authorize the taking of game or inland fish at a time in which its capture is prohibited by the laws of the state. They may, from time to time, modify or repeal such needful rules and regulations, not contrary to the laws of the state, as they may deem necessary or proper for the protection and preservation of the game and inland fish of the state. They shall file, in the offices of the clerks of the towns in the territory to be affected, a copy of the rules and regulations adopted by them, and publish the same three weeks successively in a newspaper printed in the county, and post on the banks of waters to be affected, as nearly as may be like notices; and whenever any such rules or regulations apply to any unorganized township, a like copy shall be filed with the clerk of courts for that county, and published three weeks successively in a newspaper printed in the county; they shall, immediately upon the adoption of any rules and regulations contemplated by this section, file an attested copy of the same in the office of the secretary of state.

**Sec. 3. Penalty for violation of regulations.** 1913, c. 206, § 15. Whoever fishes for, takes, catches, kills or destroys any inland fish, or hunts, chases, catches, kills, takes or destroys any inland game, in any manner at any time, in violation of any of the rules and regulations of the commissioners of inland fisheries and game, made and promulgated in conformity with the provisions of this chapter, shall be punished in the same manner and to the same extent as is provided by law for the illegal taking,



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catching, killing or destroying of any inland fish or for the illegal hunting, chasing, catching, killing, taking or destroying of any inland game.

**Sec. 4. Penalty for defacing or destroying notices.** 1913, c. 206, § 16. Whoever wilfully mutilates, defaces or destroys any notice, rule, or regulation of the commissioners of inland fisheries and game, posted in conformity with the provisions of this chapter, shall pay a fine not exceeding fifty dollars.

**Sec. 5. Commissioners may take fish and game for scientific purposes; may set apart waters for fish culture; may grant permits to take game for park purposes.** 1913, c. 206, §§ 17, 19. The commissioners of inland fisheries and game may take fish and game of any kind when, where, and in such manner as they choose, for the purposes of science and of cultivation and dissemination, and they may grant written permits to other persons to take fish and game for the same purposes, and may introduce or permit to be introduced, any kind of fish into any waters. They may, after a hearing, set apart, for a term not exceeding ten years, any waters for the use of the state or of the United States commissioner of fish and fisheries, in the prosecution of the work of fish culture and of scientific research relative to fishes. The order setting apart such waters shall be recorded in the registry of deeds in the county or registry district, in which they are situated. In the waters so set apart, they and the United States commissioner of fish and fisheries, and persons acting under their authority may, in their respective fish culture and scientific work, take fish at any time or in any manner, and erect and maintain any fixtures necessary for such purposes. No other person shall take or kill any fish, or use any implement for fishing therein, under a penalty of not less than ten, nor more than one hundred dollars, and a further penalty of one dollar for each fish so taken or killed; provided, however, that before such hearing the commissioners shall give notice thereof, by publication for two successive weeks in at least one newspaper printed in the county where such waters lie. They may grant permission to take moose, caribou, deer, and birds for park purposes in this state, under such rules, regulations, and conditions as they shall establish. They may cause the destruction of any mink or other destructive animal or bird found in or around any fish hatchery or feeding station in this state. They may grant permits to transport beyond the limits of the state, live fish or game taken in the state, for breeding, scientific and advertising purposes.

### **Maintenance of Fishways.**

**Sec. 6. Owners of dams must construct and maintain fishways; proceedings in case of disagreement; appeal; commissioners to prescribe times for open fishways.** 1913, c. 206, § 17. They may compel the owner or occupant of every dam or other artificial obstruction above tide-water in any river or stream frequented by salmon, landlocked salmon, shad, alewives or other migratory fishes, to provide the same with a durable and efficient fishway, of such form and capacity, and in such location as may, after notice in writing to one or more of said owners or occupants and a hearing thereon, be determined by the commissioners; they shall give written notice

to some owner or occupant specifying the location, form and capacity of the required fishway, and the time within which it shall be built; and said owner or occupant shall keep said fishway in repair, and open and free from obstruction for the passage of fish, during such times as are prescribed by law; provided, however, that in case of disagreement between said commissioners and the owner or occupant of any dam, as to the propriety and safety of the plan submitted to the owner or occupant of such dam for the location and construction of the fishway, such owner or occupant may appeal to the county commissioners of the county where the dam is located, within twenty days after notice of the determination from the commissioners of inland fisheries and game by giving to the latter named commissioners notice in writing of such appeal within that time, stating therein the reasons therefor; and at the request of the appellant or the commissioners of inland fisheries and game, the senior commissioners in office of any two adjoining counties shall be associated with the commissioners of the county where the dam is located; they shall appoint a time to view the premises and hear the parties and give due notice thereof, and after such hearing they shall decide the question submitted, and cause record to be made thereof, and their decision shall be final as to the plan and location appealed from. If the requirements of the commissioners of inland fisheries and game are affirmed, the appellants shall be liable for the costs arising after the appeal, otherwise they shall be paid by the county. If a fishway thus required is not completed to the satisfaction of the commissioners of inland fisheries and game within the time specified, every owner or occupant shall forfeit not more than one hundred, nor less than twenty dollars for every day of such neglect between the first days of May and November. On the completion of a fishway to the satisfaction of the commissioners of inland fisheries and game, or at any subsequent time, they shall prescribe in writing the time during which the same shall be kept open and free from obstruction to the passage of fish each year, and a copy of such writing shall be served on the owner or occupant of the dam. The commissioners of inland fisheries and game may change the time as they see fit. Unless otherwise provided, fishways shall be kept open and unobstructed from the first day of May to the fifteenth day of July. The penalty for neglecting to comply with this section, or with any regulations made in accordance herewith, is not less than twenty, or more than one hundred dollars for every day of such neglect.

**Sec. 7. Proceedings when owners neglect to repair fishways; liability of joint owners; penalties may be recovered of non-resident owners by libel against the dam; commissioners may delegate powers. 1913, c. 206, § 18.** Whenever the commissioners of inland fisheries and game find a fishway out of repair or needing alterations, they may, as in the case of new fishways, require the owner or occupant to make such repairs or alterations; and all proceedings in such cases and the penalty for neglect shall be as provided in the preceding section without appeal. If the dam is owned and occupied by more than one person, each is liable for the cost of erecting and maintaining such fishway, in proportion to his interest in the dam, and if any owner or occupant neglects or refuses to join with the others

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in erecting or maintaining such fishway, the other owners or occupants shall erect or repair the same, and have an action on the case against such delinquent for his share of the expenses. If the owner or occupant of such dam resides out of the state, said penalties may be recovered by a libel against the dam and land on which it stands, filed in the supreme judicial court in the county where it is located, in the name of the commissioners of inland fisheries and game or of any inland fish and game warden who shall give to such owner or occupant, and all persons interested therein, such notice as the court or any justice thereof in vacation orders, and the court may render judgment therein, against said dam and lands for said penalties and costs, and order a sale thereof to satisfy such judgment and costs of sale, subject, however, to all said requirements for the erection and maintenance or repair of said fishway. The commissioners of inland fisheries and game may delegate to any inland fish and game warden or other lawful officer of inland fisheries and game any of the powers given to said commissioners in relation to the construction of fishways.

**Fish Hatcheries and Screens.**

**Sec. 8. Commissioners may take and hold land for hatcheries; damages; appeal.** 1913, c. 206, § 23. 1915, c. 277, § 10. The commissioners of inland fisheries and game for the location, construction, repair and convenient operation of a fish hatchery or fish hatcheries and feeding stations for fish may purchase, lease or take and hold, for and in behalf of the state, as for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating fish hatcheries. For real estate so taken, the owners are entitled to damages, to be paid by the state and estimated by the county commissioners, on written application of either party, made within one year after filing the location as hereinafter provided, or if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter. When the commissioners of inland fisheries and game deem that a public exigency requires the taking of any land or rights for the purposes aforesaid, they shall cause the same to be surveyed, located, and so described that the same can be identified, and a plan thereof shall be filed in the registry of deeds in the county, or registry district, where the land or rights are located, and there recorded. The filing of such plan and description shall vest the title to the land and right aforesaid, in the State of Maine, or its grantees to be held during the pleasure of the state. Either party if aggrieved by a decision of the county commissioners rendered in conformity with the provisions of this section, may appeal as in cases of land taken for highways to the supreme judicial court in the county in which the land is situated.

**Sec. 9. May authorize screening of outlets; penalty for injury to screens.** 1913, c. 206, § 20. The commissioners may in their discretion authorize the screening of the outlet of any pond or lake under such conditions as they may determine. Whoever shall take up, destroy or injure any screen erected at the outlet of any lake or pond by authority of the commissioners of inland fisheries and game, shall pay a fine of fifty dollars and costs for each offense.

## Wardens.

**Sec. 10. Fish and game wardens, appointment; term; duties and powers; bond. Sheriffs and other officers have powers of wardens.** 1913, c. 206, § 66. The governor, with the advice and consent of the council, upon the recommendation of the commissioners of inland fisheries and game, may appoint suitable persons as inland fish and game wardens, who shall hold office for a term of three years unless sooner removed, and who shall enforce all laws relating to inland fisheries and game, and all rules and regulations in relation thereto, arrest all violators thereof, and prosecute all offenses against the same; said inland fish and game wardens shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriffs, for like services, and they shall have the same right as sheriffs to require aid in executing the duties of their office. They shall, before being qualified to discharge the duties required by this chapter, give bond to the treasurer of state, in the sum of two thousand dollars, with two sureties, or with a surety company authorized to do business in the state, as surety, approved by the commissioners of inland fisheries and game, conditioned for the faithful performance of the duties of their office. Inland fish and game wardens may serve all processes pertaining to the collection of penalties for violation of the inland fish and game laws.

Sheriffs, deputy sheriffs, police officers and constables are vested with the powers of inland fish and game wardens, and shall receive for their services the same fees.

107 Me. 349.

**Sec. 11. When towns may elect a fish and game warden.** 1909, c. 66. 1913, c. 206, § 79. Any city, town or plantation in which there is a lake or pond that has been stocked with fish by the state and screened partly by the state and partly by the town or by private subscription, may, at its annual meeting, elect an inland fish and game warden, with all the powers of other inland fish and game wardens, whose duty it shall be to care for and protect said screen.

**Sec. 12. Deputy wardens, appointment; powers; term.** 1913, c. 206, § 67. The commissioners of inland fisheries and game may appoint inland fish and game deputy wardens and may revoke such appointment at any time. The appointment and discharge of such deputy wardens shall be in writing, and they shall have the same powers and be subject to the same laws, as inland fish and game wardens appointed by the governor and council. All such appointments shall terminate with the calendar year in which the appointment is made.

## Registration of Guides.

**Sec. 13. Registration of guides; duty of guide to report to commissioners.** 1913, c. 206, § 56. 1915, c. 234. No person shall engage in the business of guiding, either for inland fishing or forest hunting, until he shall have filed with the commissioners of inland fisheries and game a certificate and affidavit signed by the municipal officers, or a majority thereof, of the

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town or plantation within which the applicant resides, or, if the applicant is a resident of an unorganized place, a certificate and affidavit signed by the municipal officers, or a majority thereof, of the nearest town or plantation, setting forth in substance that the applicant is a person of good moral character and sobriety, and is deemed by them to be a suitable person to receive a certificate as a guide, and until he has caused his name, age and residence to be recorded in a book kept for that purpose by said commissioners and has procured a certificate from said commissioners, setting forth in substance that he is deemed suitable to act as a guide, either for inland fishing or forest hunting or both, as the case may be, under a penalty of fifty dollars and costs for each offense. Each registered guide shall, from time to time, as often as requested by the commissioners, forward, on blanks furnished him by the commissioners, a statement of the number of persons he has guided in inland fishing and forest hunting during the time called for in said statement, the number of days he has been employed as a guide, and such other useful information relative to inland fish and game, forest fires, and the preservation of the forests in the localities where he has guided, as the commissioners may deem of importance to the state, under a penalty of fifty dollars for unreasonably or wilfully refusing to comply with these requirements.

94 Me. 108.

**Sec. 14. Application for registration; registration may be canceled. Required qualifications of guides; territory of guides may be restricted; non-residents in territory contiguous to Maine may be licensed. 1913, c. 206, § 56.** Such registration shall be as follows: The applicant shall apply in writing or personally to the commissioners for registration, or to some person designated by the commissioners, setting forth in his application whether he desires to be registered as a general or local guide; and the commissioners shall, as soon thereafter as may be, after such investigation as they deem advisable, register such person as a guide in such class as they shall deem proper; but said commissioners may refuse to register any applicant whom they deem unfit to be a guide, and may, for cause shown, after due notice and hearing, cancel any registration by them made, and may advance anyone from the local class to the general class, whenever they shall deem such person qualified to be a general guide. A fee of one dollar shall be paid annually for the registration as herein provided.

No person shall receive a certificate as a general guide unless he be at least twenty years of age, of good repute, and friendly to the inland fish and game laws, and will discountenance in all proper ways all violations thereof. He shall be thoroughly competent to traverse the hunting grounds in which he is licensed to guide and shall be skilled in the use, management, and handling of such boats or canoes, on lake, pond, or river, as are used in the territory in which he is authorized to guide, and shall be a safe person under all circumstances to be a guide for inland fishing and forest hunting parties. A person may receive a certificate as a local guide who does not, in the judgment of the commissioners, possess all the necessary qualifications of a general guide, yet is deemed suitable to act as such under certain conditions; and guides may be restricted in the territory in

which they are permitted to guide. The commissioners of inland fisheries and game may, in their discretion, license as guides such non-residents as reside in territory contiguous to the state under such conditions as are herein provided for the registration of resident guides; the fee for such non-resident guide license shall be twenty dollars.

Whenever a guide registered, as provided in this section, violates any of the inland fish and game laws, the commissioners may, at their discretion, cancel his certificate of registration and strike his name from the list of registered guides; but such person may thereafter be registered again at the discretion of the commissioners. Any certificate canceled by virtue of this section shall be immediately returned to the commissioners, under a penalty of fifty dollars for refusal or neglect to comply with this requirement.

**Sec. 15. Keepers of sporting camps licensed; consent of land owners; report; penalty.** 1913, c. 206, § 57. No person shall maintain, occupy or keep a sporting camp, lodge or place of resort for inland hunting or fishing parties within the limits of any of the unorganized townships embraced in the Maine Forestry District without annually procuring a license therefor of the commissioners of inland fisheries and game and paying therefor a fee of five dollars; but such license shall not be granted unless the person applying for the same files with his application therefor the written consent of the owner or owners of the land, or his or their agent, upon which such sporting camp, lodge or place of resort for inland fishing and hunting parties is or may be located; and such licensed persons may purchase for consumption in their sporting camps, lodges or places of resort, deer lawfully killed, but they shall keep a record of all such purchases, of whom purchased and the date of the purchase, and on the fifteenth day of December of each year shall send such record to the commissioners of inland fisheries and game, first making oath to the same. The commissioners of inland fisheries and game may refuse to issue a license or licenses to such person or persons as they deem unsuitable. Whoever violates any provision of this section shall pay a fine of fifty dollars and costs for each offense.

### Regulation of Inland Fishing.

**Sec. 16. Definitions.** 1913, c. 206, §§ 1, 4; 1915, c. 277, § 3. The words "closed season" as used in this chapter mean the time or period during which it is unlawful to hunt, pursue, shoot, wound, trap or destroy any bird or animal, or fish for or catch any fish, and the words "open season" mean the time during which it shall be lawful to take these animals, fish and birds as specified and limited by law. The words "tributary" and "tributaries" wherever used in this chapter shall be construed to mean brooks or streams flowing directly or indirectly into a lake or pond or into another brook or stream, and one great pond or lake shall not be construed as a tributary to another great pond or lake.

Note. Authority of governor to suspend the open season in periods of danger from forest fires, c. 8, §§ 38-41.

Jurisdiction of state to regulate and control fisheries in waters of state, 84 Me. 444; 94 Me. 99.

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**Sec. 17. Closed season in lakes and ponds. Taking of landlocked salmon, trout, togue, white perch and black bass, regulated.** 1913, c. 206, § 2. 1915, c. 277, § 1. Except as hereinafter provided, there shall be an annual closed season on landlocked salmon, trout, togue, white perch and black bass, in all the lakes and ponds of the state, as follows:

On landlocked salmon, trout and togue, from the thirtieth day of September until the ice is out of the lake or pond fished in the following spring; on white perch and black bass from the thirtieth day of September until the twentieth day of June following; provided, however, that it shall be lawful to take black bass, with unbaited artificial flies only, from the time the ice is out of the lake or pond fished in the spring until the twentieth day of June following; provided, further, that in Sebago lake and Long pond, in Cumberland county, the annual closed season on landlocked salmon, trout and black bass shall be from the first day of October to the thirty-first day of March of the following year, both days inclusive, and in Thompson pond, situated in Androscoggin, Cumberland and Oxford counties, the annual closed season on landlocked salmon, trout and togue shall be from September first to January first of the following year. But in the brooks, streams and rivers of the state, above tide waters, the annual closed season on trout, salmon and landlocked salmon shall be from September fifteenth to the time the ice is out of the brook, stream or river fished in the following spring; on black bass and white perch from September thirtieth to June twentieth of the following year. During the respective closed seasons on the above-named fish no person shall fish for, take, catch or kill or have any of them in possession; provided, however, that no person shall in any one day during the respective open seasons herein provided take or catch and kill or have in possession at any time, more than fifteen pounds in all of the above-named fish, unless one individual fish caught shall weigh more than fifteen pounds, or unless the last fish caught increases the combined weight thereof to more than fifteen pounds, and provided, further, that no person in any one day shall take, catch and kill or have in possession at any time more than twenty-five fish in all of the above-named fish even though the twenty-five fish caught and killed weigh less than fifteen pounds; provided, however, that no person or party or occupants of any one boat, canoe, raft or other vessel or conveyance propelled by steam, electricity, hand or other power shall catch by still or plug fishing, so called, more than four trout and landlocked salmon in any one day, collectively, nor more than two trout and landlocked salmon in any one day, individually, in the waters of Rangeley, Richardson, Mooselookmeguntic and Cupsuptic lakes, situated in the counties of Franklin and Oxford; provided, further, that landlocked salmon and trout may be caught by artificial fly until October first in Moose river, between Moosehead lake and Brassua lake, in Somerset county.

75 Me. 290; 87 Me. 498.

**Sec. 18. Fishing through the ice, regulated.** 1913, c. 206, § 2. 1915, c. 277, § 2. It shall be unlawful to fish through the ice at any time for any kind of fish except as hereinafter provided; pickerel may be taken at any time through the ice in waters open to ice fishing for landlocked salmon,

trout, togue, white perch and black bass as hereinafter provided, but in no other waters, with not more than five set lines to each family when fishing through the ice in the day time and when under the immediate personal supervision of the person fishing, and during February and March, citizens of the state may fish for and take landlocked salmon, trout, togue, white perch and black bass with not more than five set lines to each family when fishing through the ice in the day time and when under the immediate personal supervision of the person fishing and may convey them to their own homes for consumption therein but not otherwise, in the following named and specified lakes, ponds and rivers, but in no other waters, namely:

In all the lakes, ponds and rivers wholly or partly in Androscoggin county except Lake Auburn and Androscoggin lake, and Pleasant pond in Turner; in all the lakes, ponds and rivers in Cumberland county except Little Sebago and Forest lakes and Sabbathday, Thomas, Panther and Anonymous ponds; in Drury pond in Temple and in all the lakes and ponds situated wholly in the town of Chesterville, (on Friday and Saturday of each week) in Franklin county; in all the lakes, ponds and rivers in Hancock county, except in Turtle and Narraguagus lakes, and except in Noyes pond; in all the lakes, ponds and rivers in Kennebec county except Cobbosseecontee, Maranacook, Wilson, Echo, Pocasset and Annabessacook lakes and Cochnewagon, Great, East, Long, North, Little, Ellis, McGraw, Snow, Narrows, Buker, Sand, Purgatory, Little Purgatory, Flying, Parker, and Jimmy ponds, the latter named pond being in Litchfield; in all the lakes, ponds and rivers in Knox county, except Crystal lake; in all the lakes, ponds and rivers in Lincoln county, except Dyers pond, and in the following named lakes and ponds in Oxford county: North and Bird ponds in Norway, The Five Kezars, Moose, Bear, Long, Two Spec, Pappoose, and McWain ponds in Waterford, Kneeland, Songo, Burnt Land and Crocker ponds in Albany, Proctor pond in Albany and Stoneham, Upper Stone and Horseshoe ponds in Stoneham, Bradley, Farrington and Slab City ponds in Lovell, Moose, Beaver, Long, Grandeur and Little ponds in Denmark, Lovewell's, Clay, Haley, Charles, Pleasant, Lower Kimball and Bog ponds, situated wholly or partly in Fryeburg, and Burnt Meadow pond in Brownfield, Moose and Mud ponds in Paris, Hogan and Whitney ponds in Oxford, the Two Clemons ponds and Bungamuck pond in Hartford, Roxbury pond in Roxbury, Keyes and Stearns ponds in Sweden, Bickford, Long and Colcord ponds in Porter, Rattlesnake pond, easterly of the Maine Central Railroad, in Brownfield, North and Round ponds in Greenwood and Woodstock, Pleasant, Labrador and Little Labrador ponds in Sumner, and Half Moon pond; in all the lakes, ponds and rivers in Penobscot county, except Cold Stream, Brewer, Ware, Davis and the Puffer ponds; in the following named lakes and ponds in Piscataquis county: Moosehead, Seboeis, Cedar, Schoodic, North and South Twin, Pemadumcook, Ambajejus, Debsconeag, Nahmakanta, Chesuncook, Sebec, Joe Mary, Caribou, Lobster, Chamberlain, Telos, Webster, Eagle, Allegash, Munsungan, Millinocket, Caucogomoc, Churchill, Chemquassabamticook, Grand, Second and Ragged lakes, and in Fourth Buttermilk, Little Benson, Ebemee, First Buttermilk, Big Benson, Big Huston, Center, Pepper, Large Greenwood, South Branch, Carpenter, Littlefield, Fowler and Whetstone ponds; in the following named



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lakes and ponds in Somerset county: Moosehead, Great Moose and Brassua lakes, (and in Hayden lake and Lake George on Saturday only of each week) and in Morrill, Palmer, Ellis, Round, Ten Thousand Acre, Rowell, Smith, Oaks, Pickerel, Gilman, Sibley, Fahi, Sandy, Wyman, Weeks, Mud, Stafford, Starbird, Douglass, Mayfield, Kingsbury, Dead Stream, Lower Cold Stream, Horseshoe and Big Wood ponds, and in Gammon pond (and Great Embden pond on Saturday only of each week); in all the lakes, ponds and rivers in Aroostook county; in all the lakes, ponds and rivers in Sagadahoc county; in all the lakes, ponds and rivers in Waldo county; in all the lakes, ponds and rivers in Washington county; in all the lakes, ponds and rivers in York county, except Bonneg Beg, Messabesic, Littlefield, Square, Middle Branch, Mousam, Long and York ponds; provided, further, that no citizen of the state shall in any one day, during the open season herein provided for fishing through the ice, take, catch or have in possession more than fifteen pounds in all of the above-named fish, unless one individual fish caught shall weigh more than fifteen pounds; and provided, further, that no person in any one day shall take, catch and kill more than twenty-five fish in all of the above-named fish even though the twenty-five fish caught and killed weigh less than fifteen pounds; and provided, further, that no landlocked salmon less than twelve inches in length, no trout less than six inches in length, no black bass less than ten inches in length and no white perch less than six inches in length shall be caught and killed or had in possession by any person at any time, except that in Great, Long, East, North, Ellis, McGraw and Snow ponds, said ponds being part of the Belgrade chain of lakes, in Kennebec and Somerset counties, no trout less than ten inches or black bass less than twelve inches in length shall be caught and killed at any time; and provided, further, that no person shall take, catch and kill in any one day more than six black bass in all in either of said ponds or in Lake Kezar or in Lower Kezar pond in Oxford county.

**Sec. 19. Protected waters.** 1913, c. 206, § 2. In the following named waters it shall be unlawful for any person at any time to fish for in any way or take, catch or kill any fish, except as may be hereinafter provided:

**Androscoggin County.**

In any of the tributaries to Lake Auburn (and all that part of the waters of said Lake Auburn and Townsend brook, to a point five rods below the bridge on the Turner road shall be considered as tributary waters to said Lake Auburn), or in any of the tributaries to Taylor pond in Auburn, or in any of the tributaries to Round and Long ponds in Livermore, or in any of the tributaries to Pickerel (or Beals) pond, in Turner.

**Aroostook County.**

In that part of Presque Isle stream above Grindstone, in Chapman plantation, and all the tributaries flowing into said Presque Isle stream except the North Branch of said stream commonly called the Mapleton Branch, the inlet stream of Squa Pan lake and the East Branch of said inlet stream above Thomas Thibodeau's lower landing.

**Cumberland County.**

In any of the tributaries to Sebago lake; but in Crooked river from its junction with Songo river to Crooked river bridge, and in Songo river above Songo lock it shall be lawful to fish in accordance with the general law of the state.

**Franklin County.**

In any of the tributaries to Rangeley lake, or in Coos brook, a tributary to Wilson lake, in Wilton, to the upper side of the Wilkins bridge, or in Holland brook, a tributary to said Wilson lake up to its junction with Coos brook, or in any of the tributaries to Varnum and North ponds in Temple and Wilton, or in any of the tributaries to Clearwater pond in Farmington and Industry, or in any of the tributaries to Long pond and Sandy river pond wholly or partly in Sandy River plantation, or in any of the tributaries to Webb pond in Weld, except Alder brook down as far as the mill dam at Hildreth's mills, or in Staples pond in Temple or in any of its tributaries, or in any of the tributaries to Four ponds in Townships E and D, or in any of the tributaries to Tim and Mud ponds in Township Two, Range four, or in Whetstone brook, which flows into Kennebago stream, or in Metalluc and Mill brooks which flow into upper Richardson lake, or in Kamankeag brook, a tributary to Kennebago stream, situated in the town of Rangeley, or in any of the tributaries to Tuft's and Dutton ponds in Kingfield, or in the outlet of the same from Dutton pond to Reed's Falls, or from Tuft's pond to Alder stream or in any of the tributaries to Mooselookmeguntic lake, or in any of the tributaries to Cupsuptic lake, except Cupsuptic river and its tributaries above the foot of the first falls near its mouth, from May first to July first, or in any of the tributaries to Bigelow pond, in Township Number Four, Range three, or in Carrabasset river and tributaries above the bridge at Bigelow.

It shall be unlawful to fish except with unbaited artificial flies in the usual manner, or carry away or transport any fish so taken, in any of the waters in Davis, Stetson, or Seven Ponds Townships and Massachusetts Gore, in Franklin county, except fish so taken in said waters may be transported from the place where caught to a lodge, camp, dwelling-house or hotel situated in the above-named territory.

But in Kennebago stream during open season for fishing it shall be lawful to fish, in accordance with the general law, from Indian Rock to Big Falls in the ordinary way with artificial flies, and to kill two fish in one day when accompanied by a registered guide; also from the sign at the old wharf near the head of Rangeley stream down to the dam across said stream, and from the upper end of the dead water to Indian Rock, in the usual way with artificial flies and kill one fish in any one day.

**Hancock County.**

In any of the tributaries to Bubble pond or Turtle lake, on Mount Desert Island, or in Upper Patten Pond brook in Orland, or tributaries to Eagle lake.

**Kennebec County.**

In any of the tributaries to Flying pond in Vienna, except Sucker brook, above the Whittier dam, or in Jimmy pond in Litchfield, or in any of the tributaries to said pond, or in the outlet stream of said pond down as far as Buker pond, or in any of the tributaries to Great, Long, East, North, Little, Ellis, McGraw and Snow ponds, except the Belgrade stream, a tributary to Snow pond up as far as Wing's mill dam, situated wholly or partly in the county of Kennebec, or in any of the tributaries to Cobbosseecontee lake, or in any of the tributaries to Lake Maranacook or in Little pond in Belgrade or in any of the tributaries to Parker pond.

**Knox County.**

In any of the tributaries to Norton pond, or in any of the tributaries to Alford's lake in Hope, or in any of the tributaries to Lermond's pond in Hope and Union, or in any of the tributaries to Canaan lake in Knox and Waldo counties, or in any of the tributaries to Crystal lake in Washington.

**Oxford County.**

In any of the tributaries to Indian pond in Greenwood, or in any of the tributaries to South pond in Greenwood, or in any of the tributaries to Twitchell pond in Greenwood, or in any of the tributaries to North pond in Woodstock, or in any of the tributaries to Round pond in Greenwood, or in any of the tributaries to Marshall pond, situated wholly or partly in Oxford, except it shall be lawful to fish in that portion of Donham brook, a tributary to said Marshall pond, which is down stream from a certain rock with staples driven therein, or in any of the tributaries to Rattlesnake pond, in Brownfield, or in any of the tributaries to Garland pond, or in any of the tributaries to Little Pennesseewassee in Norway, or in any of the tributaries to Lake Pennesseewassee in Norway, or in any of the tributaries to Pickerel pond in Denmark, or in any of the tributaries to Songo pond in Albany, or in Ellis river or in any of its tributaries in Andover, Andover West, North Surplus, Roxbury, Township C and Township D, except on Tuesdays, Thursdays and Saturdays, or in Rapid river or in Pond-in-the-River except in the ordinary way of casting with artificial flies or fly-fishing, or in any of the pools below the dam to the rock at the mouth of the river at Upper Dam except in the ordinary way of casting with artificial flies or fly-fishing.

**Penobscot County.**

In any of the tributaries to Lumbert lake in Springfield and in Lakeville plantation, or in Wallace brook in Carroll, a tributary to Shaw lake, or in Lowell brook in Lakeville plantation, a tributary to Duck lake, or in Dill brook in Lakeville plantation, a tributary to Bottle lake, or in Getchell brook in Lakeville plantation, a tributary to Duck lake, from the mouth of said brook up to the head of Muzzy Meadows, one mile from Duck lake, or in Sebasticook river from the fish screen or middle bridge to Sebasticook lake.

**Piscataquis County.**

In Long Pond stream, or in Ship Pond stream above Buck's Falls, or in Davis stream in Willimantic, or in Monson Pond stream, a tributary to said Davis stream, or in Vaughan stream, a tributary to Long Pond stream, or in any of the tributaries to Moosehead lake except Moose river, or in Wilson stream, a tributary to Sebec lake, or in Wilson river, between Wilson pond and Toby Falls.

**Somerset County.**

In any of the tributaries to Lake George in Canaan, or in Beaver brook in Holeb, or in any of the tributaries to Hayden lake in Madison, or in Mosquito stream below the railroad bridge, or in any of the tributaries to Great Embden pond in Embden, or in Misery stream, an inlet of Brassua lake, or in any of the tributaries to Great Moose lake in Hartland and Harmony, except Main stream, or in Goodwin's brook and Higgins stream below the first dam on said Higgins stream, or in the West Outlet of Moosehead lake, or in any of the tributaries to Parlin or Lang pond, in Township Three, Range seven, or in Lang stream or in any of its tributaries.

**Washington County.**

In any of the tributaries to Lambert lake; provided that Grand Lake stream, the outlet of Grand lake, and so much of Grand lake as is one hundred yards above the dam at the outlet shall be annually closed to all fishing from the first day of October to the thirty-first day of May of the following year, both days inclusive, and provided, further, that from said dam to a point one hundred yards below said dam on said stream it shall be unlawful to fish for any kind of fish at any time, and it shall be unlawful during open season on said stream and one hundred yards above the dam at the outlet of said lake, to fish for, take, catch or kill any fish by any other method than by the ordinary way of angling with artificial flies.

**York County.**

In any of the tributaries to Bonneg Beg pond in Sanford and North Berwick, or in York pond in York and Eliot, or in McIntire or Junkins brooks, in York, or Boyd's pond in Limington, or in Dole pond in said Limington.

**Sec. 20. Manner of fishing; number of lines limited. 1913, c. 206, § 2.** No person shall in any manner, except when fishing through the ice, as now provided by law, fish with more than two lines at any time.

*Note.* The legislature of 1915 enacted sixty-seven laws, classed as public laws, modifying chapter two hundred and six of the public laws of 1913. These laws are applicable only to certain specified localities. With the approval of the legislative committee on the revision of the statutes, the commissioner has arranged these laws in the following list. They are not included in the repealing act and accordingly remain in force.

Androscoggin County.

Hooper pond, in Greene, and its tributaries, c. 13.

As to ice fishing in Androscoggin lake, c. 8.

Arroostook County.

Burnt land brook, a tributary to Presque Isle stream and the east branch of said

Presque Isle stream, c. 23.

Violette brook, in Van Buren, above Hammond's Mills, c. 302.

As to ice fishing in Ross lake and Cary lake, Littleton, c. 187.

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## Cumberland County.

North Branch brook and its tributaries, c. 18.

Island pond and its tributaries in Harrison, c. 7.

Otter pond in Bridgton, c. 14.

As to ice fishing in Lower Kezar pond, in Bridgton, c. 132; in Forest lake, c. 64.

## Franklin County.

Brook Number One and Brook Number Two, above the railroad track, above Lowell town, c. 76, § 2.

Tufts, Dutton and Grindstone ponds, in Kingfield, c. 156.

Rangeley stream from the sign at the old wharf near the head of said stream, down to the dam across said stream; Kennebago stream from Big Falls to Indian Rock; Little Kennebago stream from Little Kennebago lake to its junction with Kennebago stream, c. 157.

Bent's pond in New Sharon, c. 171.

Metalluc brook and Mill brook, c. 191.

Mud pond; Mirror lake, sometimes called Parkis pond, and their tributaries; Bog stream, the outlet of said Mirror lake, and its tributaries down as far as North Pond stream, in Jay and Chesterville, c. 226.

Carrabassett river and its tributaries above the bridge at Bigelow, c. 227.

Stratton brook and its tributaries, and Mount Bigelow ponds, c. 245.

Kennebago lake, Little Kennebago lake and Little Kennebago stream, c. 290.

## Hancock County.

As to ice fishing in Passadumkeag river, c. 67; in Brewer pond, in Bucksport, c. 87.

## Kennebec County.

Jimmy pond and its outlet stream down as far as Buker pond, c. 6.

Pattee's pond in Winslow; Wilson brook from the Abbott road to the junction of said brook with the outlet stream of said Pattee's pond, c. 12.

Bent's pond, in Vienna, c. 171.

Fifteen Mile stream and its tributaries, c. 185.

Mud pond; Mirror lake, sometimes called Parkis pond, and their tributaries; Bog stream, the outlet of said Mirror lake, and its tributaries down as far as North Pond stream, in Fayette, c. 226.

Belgrade stream, a tributary to Snow pond, from Long pond to Belgrade bridge, c. 229.

As to ice fishing in Androscoggin lake, c. 8; in Tilton pond, David pond and Basin pond, in Fayette, c. 85; in Berry pond in Winthrop and Wayne, and as to fishing in the tributaries of said Berry pond, c. 211; as to ice fishing in Pleasant pond, in Gardiner, West Gardiner and Litchfield, and in Mud pond in Litchfield, and in Horseshoe pond and Oxbow pond, in West Gardiner, c. 214.

## Knox County.

Fresh pond, in North Haven, c. 16.

As to the use of firearms upon Megunticook lake, formerly called Canaan lake, and its tributary lakes, ponds and streams, and upon the land bordering the same, c. 133.

## Lincoln County.

As to ice fishing in Little Dyer's pond, in Jefferson, c. 4.

## Oxford County.

Island pond and its tributaries in Waterford, c. 7; Ward's brook and Ward's pond, in Fryeburg, c. 20; Rapid river, from Lower Richardson lake to Umbagog lake, and Pond-in-the-River, c. 131.

Aziscohos lake and its tributaries; Parmachenee lake and its tributaries; Long pond; Magalloway river above Aziscohos dam, and its tributaries above Aziscohos dam; Little Magalloway river below Wheeler dam, c. 135.

Kennebago stream from Big Falls to Indian Rock, c. 157.

Bryant's pond and its tributaries, c. 160.

Above dead water in any of the tributaries to Lake Kezar, in Lovell, Stoneham and Stowe; and the tributaries to Kezar river, in Lovell and Sweden, c. 161.

Overset pond, in Greenwood, c. 163.

Dead Cambridge river, in Upton, from Umbagog lake to C pond; C pond; and their tributaries except Swift Cambridge river, c. 188.

Mill brook and Metalluc brook, tributaries to Upper Richardson lake, c. 190.

Shagg pond, in Woodstock; Little Concord pond, in Woodstock, and Abbott pond, in Sumner, c. 228.

From the mouth of Cupsuptic stream at high water mark to Little Falls on said stream, c. 279.

As to ice fishing in Webber pond in Sweden, Dan, Charles and Cushman ponds, in Lovell, Horseshoe pond in Lovell and Stoneham, Little pond in Sweden, Shell pond in Stowe and Black pond in Fryeburg, c. 5; in Lower Kezar pond, in Fryeburg, c. 132; and Lake Kezar, in Lovell, Stoneham and Stowe, c. 155; in Sand pond, in Denmark, c. 212.

As to fly-fishing in the pool at Upper Dam and in the river running from said pool to Lake Mollychunkamunk, c. 128.

As to taking smelts in Bryant's pond and its tributaries in Greenwood, c. 160.

As to protection of muskrats in Lower Kezar pond and its outlet and in Kezar meadows, c. 19.

## Penobscot County.

Booker brook, in Levant, c. 225.

As to ice fishing in Passadumkeag river, c. 67; in Brewer pond, in Orrington and Holden, c. 87.

## Piscataquis County.

Horseshoe pond, in West Bowdoin College township, c. 158.

Tributaries to Upper Wilson pond and tributaries to Lower Wilson Pond, c. 162.

Rum pond, in Greenville and in township eight, range ten, N. W. P., c. 192.

Davis stream, down as far as Hathaway brook, and Monson pond stream, c. 208.

Ship pond stream, c. 209.

As to ice fishing in Whetstone pond, in Kingsbury and Blanchard, c. 210.

As to ice fishing in Kingsbury pond, and in the Bennett ponds in Guilford, c. 216; in Lake Hebron, in Monson, c. 11; in Harlow pond, in Parkman, c. 53; in four Davis ponds, in Guilford and Willimantic, c. 134.

## Sagadahoc County.

As to ice fishing in Pleasant pond, and in Mud pond, in Richmond, c. 214.

As to protection of fish, game and birds on southerly point of Swan Island, in Perkins, c. 93.

## Somerset County.

Big Turner pond; Little Turner pond; Calf pasture adjacent to said Big Turner pond;

Fish pond; Little Fish pond and McKenney pond, c. 76, § 1.

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Ellis pond, southerly of the boat landing on the west side of said pond and southerly of the first point above the outlet on the east side of said pond, in township one, range six, B. K. P. W. K. R., c. 186.

Jackson pond, in Concord, c. 215.

As to ice fishing in Big Indian pond, in St. Albans, c. 88; in Martin pond, sometimes called Long pond, in The Forks plantation, c. 77; in Barker pond, in Cornville, c. 213; in the Kennebec river, c. 246.

Waldo County.

Meadow brook and its tributaries in Stockton Springs and Prospect, c. 52.

Fifteen Mile stream and its tributaries, c. 185.

Washington County.

Simpson pond in Roque Bluffs, c. 189.

York County.

Little river and its tributaries in Old Orchard, c. 54.

Great brook, a tributary to Salmon Falls river, and Dixon brook, a tributary to said Great brook, c. 301.

**Sec. 21. Penalty for violation of four preceding sections. 1913, c. 206,**

**§ 3.** Whoever violates any provision of the four preceding sections shall pay a fine of not less than ten, nor more than thirty dollars, and costs of prosecution, for each offense; and in addition thereto one dollar for each fish taken, caught, killed or had in possession in violation of any provision of said sections.

**Sec. 22. Penalty for unlawfully selling or purchasing fish. 1913, c. 206,**

**§ 5.** Whoever by himself, his clerk, servant, or agent, directly or indirectly, sells or purchases any landlocked salmon, trout, togue, black bass or white perch, shall pay a fine of not less than ten, nor more than thirty dollars, and costs of prosecution, for each offense, and in addition thereto one dollar for each fish sold, purchased or had in possession in violation of this section.

**Sec. 23. Penalty for fishing on inland waters above tide-waters for hire.**

**1913, c. 206, § 26. 1915, c. 277, § 11.** Whoever shall, for the whole or any part of the time, engage in the business or occupation of fishing on any of the inland waters of the state above tide-waters, for landlocked salmon, togue, trout, black bass, pickerel, or white perch, for gain or hire, shall for every such offense pay a fine of fifty dollars and costs; provided, however, that nothing in this section shall be construed as prohibiting the sale of pickerel legally taken by the person taking the same.

**Sec. 24. Illegal mode of fishing; use of dynamite prohibited; penalty.**

**1913, c. 206, § 6. 1915, c. 277, § 4.** Whoever fishes for, takes, catches, kills or destroys any fish, with fish spawn, or grapnel, spear, trawl, weir, gaff, seine, trap, (or set lines, except when fishing through the ice, and then with not more than five set lines to a family in the day time) or shall use any dynamite or other explosive or poisonous or stupefying substance for the purpose of destroying or taking fish, or takes any kind of fish, except suckers, eels, hornpouts and yellow perch, as hereinafter provided, with any device or in any other way than by the ordinary mode of angling with single-baited hook and line, artificial flies, artificial minnows, artificial insects, spoon-hooks and spinners, so called, shall pay a fine of not less than ten, nor more than thirty dollars, and costs of prosecution, for each offense; and in addition thereto one dollar for each fish taken, caught, killed or had in possession in violation of any provision of this section; and when prohibited implements or devices are found in use or possession they are forfeit and contraband and any person finding them in use may destroy them.

**Sec. 25. Spear, trawl, dynamite, etc., if found in camp may be seized.**

**1913, c. 206, § 7. 1915, c. 277, § 5.** No person shall have in possession at any time any jack-light, spear, trawl, or net (except such as are authorized

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for the taking of suckers, eels, hornpouts and yellow perch, as provided in section twenty-seven of this chapter) other than a dip-net, in any camp, lodge or place of resort for hunters or fishermen, or in its immediate vicinity, or on any of the lakes, rivers or streams of the state, or in their immediate vicinity, in the inland territory of the state, under a penalty of not less than ten, nor more than thirty dollars and costs of prosecution for each offense, and when such implements or devices are found in possession in violation of this section they are forfeit and contraband and may be seized by any person authorized to enforce the inland fish and game laws.

80 Me. 349.

**Sec. 26. Taking of smelts above tide-waters, minnows, white fish and cusk, regulated.** 1913, c. 206, § 8. 1915, c. 277, § 6. It shall be lawful, however, to take smelts in all the inland waters of the state above tide-waters with a dip-net in the usual and ordinary way, and to catch them through the ice in the day time with single hook and line at any time in waters open to ice fishing, but they shall not be taken for sale or sold at any time except for bait for fishing in this state; provided, however, that it shall be lawful to take smelts at any time for sale in any of the tributaries to Sebago lake, with a dip-net in the usual and ordinary way, and in Sebago lake, with single hook and line, during January, February and March of each year; provided, further, that it shall be lawful to take minnows and other fish usually used for bait in fishing and to sell the same for bait for fishing only in this state; and provided, further, that it shall be lawful to catch white fish and cusk with single hook and line at any time, but they shall not be taken at night with set lines; and provided, further, that it shall be lawful to take suckers with spears during April and May of each year. Whoever violates any provision of this section shall pay a fine of thirty dollars and costs for each offense.

*Note.* Taking of smelts in Bryant's pond or in any of its tributaries, in Woodstock and Greenwood, in Oxford county, regulated, P. L. 1915, c. 160; this act is not repealed.

**Sec. 27. Commissioners may regulate the taking of suckers, eels, hornpouts, etc.** 1913, c. 206, § 9. 1915, c. 277, § 7. Suckers, eels, hornpouts and yellow perch may be taken with eel-pots, traps, spears or nets, in such inland waters and under such rules and regulations as may be established by the commissioners of inland fisheries and game. The commissioners shall establish and designate by public notice the waters in which suckers, eels, hornpouts and yellow perch may be taken as provided in this section. No person shall take, catch, kill or destroy any suckers, eels, hornpouts or yellow perch, or have in possession any of said fish, in violation of any provision of this section. Whoever violates any provision of this section shall pay a fine of thirty dollars and costs for each offense.

**Sec. 28. Limit of weight of fish for transportation; transportation in possession of owner.** 1913, c. 206, § 10. 1915, c. 277, § 8. No person shall transport more than fifteen pounds of landlocked salmon, trout, togue, white perch or black bass in all in any one day, nor shall any corporation or common carrier transport more than fifteen pounds in all, of landlocked salmon, trout, togue, white perch or black bass in any one day as the property of one person, but nothing herein contained shall prevent any person, corporation or common carrier from transporting one fish weigh-

ing more than fifteen pounds; nor shall any such be transported except in the possession of the owner thereof, plainly labeled with the owner's name and residence, and open to view, except as is provided in the following section. Whoever violates any provision of this section shall pay a fine of not less than ten, nor more than thirty dollars and costs for each offense, and in addition thereto one dollar for every pound of fish being transported in violation of any provision of this section; and all such fish being so transported in violation of this section shall be seized and shall be forfeited to the state; provided, however, that nothing herein contained shall prohibit any person having less than twenty-five fish weighing in all less than fifteen pounds from transporting one additional fish, nor prohibit any transportation company from transporting said additional fish under the conditions prescribed in this section for the transportation of fish.

90 Me. 55.

**Sec. 29. Transportation of fish not accompanied by owner.** 1913, c. 206, § 11. 1915, c. 277, § 9. No landlocked salmon, trout, togue, black bass or white perch shall be carried or transported in any way except in the possession of the owner, accompanied by him, plainly labeled with the owner's name and address, and open to view, except any person who has lawfully in his possession one landlocked salmon, one trout, one togue, one black bass or one white perch, or ten pounds of any kind of these fish, may transport the same to his home or to any hospital in this state without accompanying the shipment, by purchasing of the duly constituted agent therefor a tag, paying for a landlocked salmon, trout, togue or black bass, one dollar for each, or one dollar for each ten pounds of the same, and fifty cents for one white perch or ten pounds of the same; provided, however, that no person shall, under any of these provisions, send more than one box of fish once in thirty days, except that one box of fish as aforesaid, may be sent as herein specified once in ten days by one person taking them lawfully from Moosehead lake. Whoever violates any provision of this section shall pay a fine of not less than ten, nor more than thirty dollars and costs, for each offense, and in addition thereto one dollar for each pound of fish transported in violation of any provision of this section.

**Sec. 30. Introduction of fish in waters of the state without permission, forbidden.** 1913, c. 206, § 12. Whoever introduces fish of any kind into any of the waters of the state by means of live fish or otherwise, except upon written permission of the commissioners of inland fisheries and game, shall pay a fine of not less than fifty, nor more than five hundred dollars.

**Sec. 31. Advance baiting prohibited.** 1913, c. 206, § 13. Whoever deposits any meat, bones, dead fish or parts of the same, or other food for fish, in any of the inland waters of the state, for the purpose of luring fish known as "advance baiting," shall pay a fine of not less than ten, nor more than thirty dollars and costs of prosecution, for each offense.

See c. 45, § 84.

#### Protection of Streams.

**Sec. 32. Mill waste shall not be deposited in lakes and ponds.** 1913, c. 206, § 14. No person or corporation shall place or deposit in any of the lakes or ponds of the state, or into any of the following named rivers,



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brooks and streams, to wit, in Aroostook county, the Aroostook river or any of its tributaries above the mouth of Beaver brook, in Sheridan plantation, except sawdust made by gang saws, main rotaries, up and down saws in water mills in use prior to nineteen hundred and three; Fish river and all its tributaries down as far as the foot of Eagle lake, except Sly brook; Wallagrass river for a distance of three miles from its mouth; Little Madawaska river or any of its tributaries; in Cumberland county, in any of the rivers, brooks or streams lying wholly or in part in the towns of Naples, Casco and Raymond; Breakneck brook and its tributaries; in any of the tributaries to Highland lake; Mill brook in Westbrook; in Franklin county, in any of the tributaries to Lake Webb; in Kennebec county, in any of the tributaries to McGraw, Ellis, East, North, Great, Long, Little and Snow ponds; in Potter mill stream, in Litchfield; in any of the tributaries to any of the lakes or ponds lying wholly or partly in the towns of Vienna and Mount Vernon; in Knox county, in any of the tributaries to Crawford pond in Union and Warren; in Lincoln county, in Jackson mill stream, or in Joe Weeks' mill stream, tributaries to Damariscotta lake; in Oxford county, Bog brook and its tributaries, in Oxford and Hebron (and in Minot and Mechanic Falls in Androscoggin county); Swift river and its tributaries, in the counties of Oxford and Franklin; the outlet of Worthley pond in Peru; in Ellis river and its tributaries; Cambridge river, in Upton and Grafton; Bear river, in Newry and Grafton; Cold river and its tributaries, in Stowe; the tributaries to Upper Kezar pond in Lovell; in Penobscot county, the West branch of Mattawamkeag stream and its tributaries; Kimball brook, Shin brook and Seboeis river, tributaries to East branch of the Penobscot river; Fish stream, a tributary to Mattawamkeag river; Olamon stream; in Piscataquis county, Ferguson stream; the South branch of the Piscataquis river and its tributaries in the town of Kingsbury; Thorn brook and its tributaries in the towns of Abbot, Kingsbury and Blanchard; Higgins stream and its tributaries in the counties of Somerset and Piscataquis; in Waldo county, Half Moon or Sandy stream and its tributaries; the tributaries to Seven Tree pond; the tributaries to Unity pond; St. Georges river, in Montville and Searsmont; Ellis stream, in Waldo, Brooks and Belfast; in Washington county, Baskahegan stream, in the town of Danforth; in York county, Heath brook, in the town of Acton; Little Ossipee river, within the limits of the towns of Shapleigh, Newfield, Waterboro, Limerick and Limington; Norton and Brown brooks and their tributaries, in Shapleigh and Limerick, or allow the same to be done by anyone in their employ, any slabs, edgings, sawdust, chips, bark, mill waste, shavings or fibrous material created in the manufacture of lumber, or place or deposit the same on the banks of any of the above-named waters in such negligent or careless manner that the same shall fall or be washed into said waters, or with the intent that the same shall fall or be washed into said waters. Whoever violates any provision of this section shall pay a fine of not less than five dollars and not exceeding one hundred dollars and costs for each offense.

### Private Fish Ponds.

**Sec. 33. Riparian proprietors may enclose waters for cultivation of fishes; persons legally engaged in cultivation of fishes, may take and sell same.** 1913, c. 206, § 21. Any riparian proprietor may, within the limits of his own premises, enclose the waters of a stream not navigable, for the cultivation of useful fishes; provided that he furnishes suitable passages for migratory fishes naturally frequenting such waters, and does not obstruct the passage of boats and other craft and materials, in places where the same have a right to pass. Any person legally engaged in the artificial culture and maintenance of fishes, may take them in his own enclosed waters wherein the same are so cultivated and maintained, as and when he pleases, and may at all times sell, ship or transport them from his own pools or ponds, without accompanying the shipment, having first procured a license therefor and tagged said fish in accordance with the rules and regulations established by the commissioners of inland fisheries and game.

**Sec. 34. Penalty for taking fish from such enclosure without permission.** 1913, c. 206, § 22. No person without permission of the proprietor, shall fish in that portion of a pond or other water in which fish are artificially cultivated or maintained by written permission of the commissioners of inland fisheries and game, under a penalty of not less than ten, nor more than one hundred dollars, besides two dollars for each fish so taken or killed; and, in default of payment, such offender shall be imprisoned at the expense of the prosecutor, until said forfeiture is paid or he is otherwise discharged by due process of law.

**Sec. 35. Application of this chapter.** 1913, c. 206, § 24. The provisions of this chapter, so far as they relate to fish of all varieties and fishways, apply to fish and fishways down to tide-waters.

### Regulation of Hunting.

**Sec. 36. Unlawful hunting of caribou or moose; term "calf moose" defined.** 1913, c. 206, § 27. Whoever hunts, pursues, kills or has in possession any caribou or any cow moose or any calf moose, or part thereof, at any time, shall pay a fine of two hundred dollars and costs for each offense; and the term "calf moose" as herein used, shall be construed to mean that these animals are calves until they are at least one year old and have at least two prongs or tines not less than three inches long to each of their horns.

82 Me. 179; 89 Me. 209.

**Sec. 37. Closed time on bull moose.** 1913, c. 206, § 28. 1915, c. 146. There shall be a closed time on bull moose until the first day of November in the year nineteen hundred and nineteen; until said date no person shall hunt, take, catch, kill, destroy or have in possession any bull moose or part thereof. On and after the first day of November, nineteen hundred and nineteen, no person shall, except as otherwise provided, between the first day of December of each year and the thirty-first day of October of the following year, both days inclusive, hunt, take, catch, kill, destroy or have in possession any moose or part thereof, and no person shall during the month of November of each year hunt, take, catch, kill, destroy or have

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in possession more than one bull moose or part thereof. Whoever violates any provision of this section shall pay a fine of not less than one hundred, nor more than two hundred dollars and costs for each offense or be imprisoned not exceeding four months. A person lawfully killing a bull moose in open season shall have a reasonable time in which to transport the same to his home and may have the same in possession at his home in close season.

**Sec. 38. Closed season on deer in certain counties. Deer destroying crops may be killed.** 1913, c. 206, § 29. There shall be an annual closed season on deer in the counties of Aroostook, Franklin, Hancock, Oxford, Penobscot, Piscataquis, Somerset and Washington from December sixteenth of each year to September thirtieth of the following year, both days inclusive, (except that on the island of Mount Desert no deer shall be pursued or killed at any time), during which said closed season, except as hereinafter provided, it shall be unlawful to hunt, chase, catch or kill any deer or have in possession any part or parts thereof whenever or wherever taken, caught or killed; and no person shall between October first and December fifteenth next following of each year, both days inclusive, except as hereinafter provided, take, catch, kill or have in possession, whenever or wherever taken, caught or killed, more than two deer or parts thereof.

There shall be an annual closed season on deer in the counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo and York from the first day of December of each year to the thirty-first day of October of the following year, both days inclusive, during which closed season, except as hereinafter provided, it shall be unlawful to hunt, chase, catch or kill any deer, or have in possession any parts thereof, taken in the counties named in this paragraph; and no person shall between the first day of November and the thirtieth day of November, of each year, both days inclusive, except as hereinafter provided, take, catch or kill in the counties named in this paragraph more than one deer; it shall also be unlawful for any person to have in possession more than one deer, or parts thereof, taken in the counties named in this paragraph in one open season; a person lawfully killing a deer in open season shall have a reasonable time in which to transport the same to his home and may have the same in possession at his home in closed season.

Provided, however, that if a deer is found doing actual, substantial damage to any growing cultivated crops, the cultivator of such crops may kill the deer, and may consume said deer in his own family but not otherwise; but he shall not pursue the deer beyond the limits of his cultivated land in which the damage is being done; provided, further, that whoever kills a deer in accordance with the provisions herein contained shall forthwith give notice in writing to the commissioners of inland fisheries and game, at Augusta, Maine, of the fact of such killing and the character and estimated amount of damage done; whoever fails to give such notice shall in no wise be protected by the provisions hereof. Whoever shall cultivate any crops for the manifest purpose of killing deer under the provisions of this paragraph shall in no wise be protected thereby; and it shall be unlawful to place salt in any place for the purpose of enticing deer thereto. Whoever

violates any provision of this section shall pay a fine of forty dollars and costs for each offense.

83 Me. 236; 87 Me. 208; 88 Me. 385.

**Sec. 39. Use of dogs, jack-lights, etc., forbidden.** 1913, c. 206, § 30. No person shall at any time hunt, catch, take, kill, or destroy, with dogs, jack-lights, artificial lights, snares, or traps, any moose, caribou or deer, under a penalty of one hundred dollars and costs for each offense.

**Sec. 40. Keeping any dog for hunting moose, etc., forbidden.** 1913, c. 206, § 31. Any person owning or having in his possession any dog for the purpose of hunting or chasing moose, caribou or deer, or who permits any dog owned by him or in his possession to hunt or chase moose, caribou or deer, after notice that such dog has chased moose, caribou or deer, shall pay a fine of forty dollars and costs for each offense.

**Sec. 41. Selling or giving moose or deer to be transported out of state, forbidden.** 1913, c. 206, § 32. No person shall sell or give away any moose or deer or part thereof to be transported or carried beyond the limits of this state; and no person shall buy or accept as a gift any moose or deer or part thereof to so transport the same; and no citizen of this state shall carry or transport in any manner beyond the limits of this state more than one deer or part thereof in any one year. Any citizen of Maine who has lawfully in his possession a bull moose may personally take the same out of the state by procuring a license therefor from the commissioners of inland fisheries and game, paying therefor a fee of five dollars, and said license shall be attached to said moose or part thereof being transported. Whoever violates any provision of this section shall pay a fine of forty dollars and costs for each offense.

**Sec. 42. License for transportation of moose or deer within the state.** 1913, c. 206, § 33. Any citizen of the state who has lawfully killed a bull moose or a deer may send the same to his home or to any hospital in the state, without accompanying the same, by purchasing of the duly constituted agent therefor a tag, paying for the moose five dollars, for a deer two dollars, and said tag shall be attached to the bull moose or deer, or part thereof, being transported. The commissioners of inland fisheries and game may appoint agents in convenient localities who may sell these tags, under such rules and regulations as said commissioners may adopt.

**Sec. 43. Number of deer kept in any lumber camp.** 1913, c. 206, § 36. No owner, keeper or occupant of any camp, house or other building used partly or wholly in lumbering operations, shall have, use or keep in any manner more than six deer, in any one open season for deer in any one year, under a penalty of forty dollars and costs for each deer so had in possession or used in violation hereof.

**Sec. 44. Moose or deer shall be plainly labeled when transported.** 1913, c. 206, § 37. Except as herein provided no person or corporation shall carry or transport from place to place any bull moose or deer or part thereof in closed season nor in open season unless open to view, tagged, and plainly labeled with the name and residence of the owner thereof, and accompanied by him while being transported and identified by him at such places as the commissioners of inland fisheries and game shall have designated by publication in the daily newspapers in the state, under a penalty of forty dollars

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and costs for each bull moose, deer or part thereof so transported or carried, and any person not the actual owner of such bull moose or deer, or part thereof, who, to aid another in such transportation, falsely represents himself to be the owner thereof, shall be liable to the same penalty; and it shall be prima facie evidence that said moose or deer or part thereof, that is being transported or carried in violation of this section, was illegally killed. Whoever lawfully kills a bull moose, shall, while the same, or any part thereof, is being transported, preserve and transport it with the evidence thereon of the sex of the same.

**Sec. 45. Commissioners may declare open season on beaver when necessary; unlawful to take beaver except during such open season.** 1913, c. 206, § 39. 1915, c. 222. The commissioners of inland fisheries and game, upon written complaint of any land owner that beaver are doing actual, substantial damage to his property, shall have authority to declare an open season for beaver upon such land for such period of time as they may deem necessary to remove the beaver that are doing the damage complained of, during which open season it shall be lawful for any licensed hunter and trapper of fur-bearing animals to trap beaver thereon. No open season for beaver as contemplated by this section shall take effect until the commissioners of inland fisheries and game shall have caused notice of such proposed open season to be published once in a newspaper printed in the county in which the land on which the open season for beaver is declared is located, and said commissioners shall also file copy of said notice of open season with the clerk of the town or plantation in which such land is located, or if the land is in an unorganized place, with the clerk of courts for the county in which the land is located. Whenever during a special open season on beaver as is contemplated by this section it shall appear to the commissioners of inland fisheries and game that the privileges of such open season are being abused in any place, said commissioners of inland fisheries and game may suspend the open season and declare it close season for beaver on such land for such time as they may designate. No person shall take any beaver anywhere in the state at any time except during such open season as may be declared by the commissioners of inland fisheries and game in accordance with the provisions of this section. Whoever takes any beaver in violation of any provision of this section shall be punished by fine of twenty-five dollars and costs for each beaver taken, caught or killed in violation of any provision of this section. It shall also be unlawful, under the same penalty, for any person to have in possession at any time, any beaver, or part thereof, taken in violation of any provision of this section.

**Sec. 46. Closed season on fur-bearing animals; exceptions.** 1913, c. 206, § 40. 1915, c. 334. Whoever, from the first day of March to the thirty-first day of the following October, both days inclusive, hunts, traps, kills, pursues or catches any fur-bearing animal (except bears, muskrats, bobcats, beaver, loupervier, Canada lynx, and weasels) or whoever, from the first day of May to the thirty-first day of the following October, both days inclusive, hunts, traps, kills, pursues or catches, any muskrat, shall pay a fine of ten dollars and costs for each offense and in addition thereto three dollars for each fur-bearing animal hunted, trapped, killed, pursued or

caught in violation hereof, or whoever at any time hunts, traps, kills, pursues, catches or has in possession any beaver, or part thereof, except as provided in the preceding section, shall pay a fine of one hundred dollars and costs for each offense. It shall be unlawful to set a trap within twenty-five feet of a muskrat house, under penalty of ten dollars and costs for each offense. The foregoing provisions shall not apply to fur-bearing animals artificially propagated and under control of the owner. Provided, however, that any person may lawfully kill any wild animal (other than beaver) or any wild bird found destroying his property.

*Note.* An act relating to the protection of muskrats in Lower Kezar pond and its vicinity in Fryeburg and Bridgton, P. L. 1915, c. 19, is not repealed.

**Sec. 47. Closed time on foxes.** 1915, c. 51. No person shall at any time between the first day of March and the first day of November following of each year dig out, molest or destroy in any way any fox den or fox dens, or remove or cause to be removed therefrom any fox or foxes, except those enclosed in private fox ranches. Whoever violates any provision of this section shall pay a fine of ten dollars and costs for each offense.

**Sec. 48. Closed season on gray squirrels.** 1913, c. 206, § 35. 1915, c. 277, § 12. There shall be an annual closed season on gray squirrels during which closed season no person shall shoot at, kill, or have them in possession except alive, from the first day of November of each year until the thirtieth day of September of the following year, both days inclusive; provided, however, that there shall be a perpetual closed season on gray squirrels within all public or private parks and within the limits of the compact or built-up portion of any city or village. Whoever shall shoot at or kill or have in possession any gray squirrel in violation of any provision of this section shall pay a fine of not more than five dollars and costs, for each offense.

**Sec. 49. Closed season on rabbits.** 1913, c. 206, § 38. 1915, c. 154. There shall be an annual closed season on wild hares or rabbits, during which closed season no person shall hunt, kill, catch, pursue or have them in possession except alive, during the months of April, May, June, July, August and September of each year. No person shall use any snares, traps or other devices in the hunting, pursuing or killing of wild hares or rabbits, or hunt or kill the same except in the ordinary method of shooting with guns in the usual manner; provided, however, that it shall be lawful to catch wild hares or rabbits in common box traps during the open season provided in this section. Whoever violates any provision of this section shall pay a fine of ten dollars and costs, for each offense.

**Sec. 50. Trappers of fur-bearing animals licensed.** 1913, c. 206, § 58. Whoever hunts, captures or traps any fur-bearing animals in any of the unorganized townships of the state shall annually procure a license therefor, from the commissioners of inland fisheries and game, paying therefor a fee of five dollars; and he shall, on or before the fifteenth day of December of each year, make such report to said commissioners as may be called for by them. Whoever violates any provision of this section shall pay a fine of fifty dollars and costs, for each offense.

**Sec. 51. Traps shall be labeled with owners' name.** 1913, c. 206, § 59. 1915, c. 277, § 16. No person shall at any time set a snare for any fur-

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bearing animal, nor shall any person at any time set any trap or traps of any kind for any wild animal without having the trap or traps plainly labeled with his full name and address, either by having the same stamped on the trap or on a metal tag, firmly attached to the trap. Whoever violates any provision of this section shall pay a fine of five dollars and costs for each offense and in addition thereto five dollars for each trap set and not marked as provided herein, and shall forfeit the trap or traps, and any wild animal found therein, to any person finding the same. Provided, that no person shall set a bear trap at any time unless a written or printed notice stating that such a trap has been set is posted conspicuously in the immediate vicinity, under a penalty of fifty dollars and costs for each offense; and no person shall set a bear trap at any time unless the same is enclosed in a hut, so called, under the same penalty.

**Sec. 52. Care of traps; consent of owner of land.** 1913, c. 206, § 60. 1915, c. 277, § 17. Any person setting a trap in any organized or incorporated place shall visit said trap, or cause the same to be visited, at least once in every twenty-four hours and remove therefrom, or cause to be removed, any animal found caught therein. No person shall set traps in any organized or incorporated place without first obtaining the written consent of the owner or occupant of the land on which said traps are to be set. Whoever violates any provision of this section shall pay a fine of not less than ten, nor more than fifty dollars and costs for each offense.

*Note.* An act for the protection of fish, game and birds on southerly point of Swan Island in town of Perkins, in Sagadahoc county, P. L. 1915, c. 93, is not repealed.

**Bounties.**

**Sec. 53. Bounty on bobcats and on Canada lynx.** 1913, c. 206, § 41. A bounty of four dollars for every bobcat, loupcevrier or Canada lynx killed in any town shall be paid by the treasurer of state to the person killing it upon compliance with the following conditions:

No bounty shall be paid unless the claimant, within five days after he has killed such animal, or has returned from the hunting in which he killed it, exhibits to the town treasurer the entire skin thereof with the ears, nose and tail thereon in as perfect a state as when killed, except natural decay, and signs a certificate under oath, which said treasurer may administer, stating that he killed such animal and the time and place, which shall be within the state, and the treasurer shall thereupon cut off the whole of the tail from such skin and forward the same by mail to the commissioners of inland fisheries and game, at Augusta, Maine, together with the claimant's certificate, which certificate shall be in the following form:

**CLAIMANT'S CERTIFICATE.**

To the treasurer of the town of \_\_\_\_\_ :

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_, at \_\_\_\_\_, in the State of Maine, I killed the bobcat, loupcevrier or Canada lynx, the skin of which I now exhibit to you, and I claim the bounty allowed by law for killing the same.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

Claimant.

Subscribed and sworn to before me the day and year aforesaid.

Treasurer of \_\_\_\_\_

And the treasurer of said town shall make and send at once to the commissioners of inland fisheries and game a certificate which shall be in the following form:

TOWN TREASURER'S CERTIFICATE.

To the commissioners of inland fisheries and game:

I hereby certify that as required by law, \_\_\_\_\_, of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_, at \_\_\_\_\_, exhibited to me the whole of the skin of a bobcat, loupcevrier or Canada lynx, and signed and made oath to the following certificate:

To the treasurer of the town of \_\_\_\_\_:

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_, at \_\_\_\_\_, in the State of Maine, I killed the bobcat, loupcevrier or Canada lynx, the skin of which I now exhibit to you, and I claim the bounty allowed by law for killing the same.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_. \_\_\_\_\_ Claimant.

I further certify that I cut off the whole of the tail from the skin of the bobcat, loupcevrier or Canada lynx described in this certificate and enclose the same herewith.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

Treasurer of the town of \_\_\_\_\_

Subscribed and sworn to the day and year aforesaid.

Justice of the Peace.

Upon receipt by the state auditor of a certificate from the commissioners of inland fisheries and game showing that said commissioners have received the tail of the bobcat, loupcevrier or Canada lynx from the treasurer sent as aforesaid, together with said treasurer's certificate, said state auditor shall audit the claim for bounty and the same shall be paid forthwith by the treasurer of state to the claimant from the appropriation for bounties on bobcat, loupcevrier or Canada lynx. The town treasurer for administering the oath to a claimant's certificate as above, and for forwarding the same with the tail of the animal to the commissioners of inland fisheries and game, shall be paid by the claimant the sum of twenty-five cents.

Game Birds.

**Sec. 54. Hunting of Hungarian partridge, etc., forbidden; penalty.** 1913, c. 206, § 42. No person shall hunt, chase, catch, kill, destroy or have in possession at any time any Hungarian partridge or any capercailzie, or cock of the woods, or any black game, or any species of the pheasant, except ruffed grouse or partridge. Whoever violates this section shall pay a fine of ten dollars and costs for each offense.

**Sec. 55. Closed season for partridge, woodcock and ducks; number of birds to be taken regulated; transportation regulated.** 1913, c. 206, § 43. 1915, c. 258. There shall be an annual closed season for ruffed grouse, commonly called partridge, spruce partridge, woodcock, all varieties of wild ducks, brant, geese, plover, snipe, sora and other rails, coots and gallinules, as follows:



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On partridge and woodcock, above named, in the counties of Oxford, Franklin, Somerset, Piscataquis, Penobscot, Aroostook, Washington and Hancock, from the fifteenth day of November of each year until the fourteenth day of September of the following year, both days inclusive, and in the counties of Androscoggin, Cumberland, York, Knox, Waldo, Lincoln, Sagadahoc and Kennebec, from the first day of December of each year until the thirtieth day of September of the following year, both days inclusive; on all varieties of ducks, brant and geese, from the sixteenth day of December of each year to the thirty-first day of August of the following year, both days inclusive; on black-breasted and golden plover, jacksnipe or Wilson snipe, and greater and lesser yellowlegs, from the first day of December of each year to the fourteenth day of August of the following year, both days inclusive; on rails, including sora, coots and gallinules, from the first day of December of each year to the thirty-first day of August of the year following, both days inclusive, during which closed seasons it shall be unlawful to hunt, chase, catch, kill or have in possession any of the above-named birds except as hereinafter provided; provided, further, that it shall be unlawful to hunt, chase, catch, kill or destroy or have in possession at any time, any curlew, wood duck, or any shore birds except black-breasted and golden plover, Wilson or jacksnipe, woodcock, and greater and lesser yellowlegs; and no person shall, during the respective open seasons for the above-named birds, take, catch, kill, destroy or have in possession in any one day more than five partridge or ruffed grouse, ten woodcock, ten ducks, five plover and ten snipe; nor shall any person at any time buy or sell any of the above-named birds; nor shall any person or corporation carry or transport from place to place any of the birds mentioned in this section in closed season (except that a person shall have a reasonable time after the beginning of closed season to transport, as hereinafter provided, to his home game birds legally killed by him in open season), nor in open season unless open to view, tagged and plainly labeled with the owner's name and residence, and accompanied by him, unless tagged with a transportation tag as hereinafter provided; nor shall any person or corporation carry or transport in any one day more than ten ducks, five plover, ten snipe, five partridges and ten woodcock, as the property of one person. Whoever violates any of the provisions of this section shall pay a fine of ten dollars and costs for each offense, and in addition thereto one dollar for each bird of the above-named varieties taken, caught, killed, had in possession or transported in violation hereof.

Provided, however, it shall be lawful for a citizen of this state who has purchased a transportation tag therefor of the commissioners of inland fisheries and game, and paid five dollars for the same, to take with him out of the state five partridges or ten ducks or ten woodcock which he himself has lawfully killed, by attaching said tag to the birds being transported by virtue of this paragraph.

Provided, further, that any citizen of this state who has lawfully in his possession one pair of either of the birds named in this section, may send the same anywhere in this state without accompanying the same, by purchasing of the duly constituted agent therefor a transportation tag, paying

therefor the sum of fifty cents, and attaching said tag to the pair of birds. Provided, further, that no person shall under any of the provisions of this paragraph send as aforesaid more than one pair of game birds once in seven days.

113 Me. 459.

**Sec. 56. Penalty for taking protected birds; implements forfeited.** 1913, c. 206, § 44. 1915, c. 277, § 13. Whoever at any time or at any place with any trap, net, snare or contrivance other than the usual method of shooting with firearms takes any bird of any variety in anywise protected by this chapter shall pay a fine of five dollars and costs for each bird so taken, and when such prohibited implements or devices are found in possession they are forfeit and contraband and may be seized by any person authorized to enforce the inland fish and game laws.

**Sec. 57. Protection of wild birds; plumage, etc., shall not be sold, nor nests destroyed; game birds defined.** 1913, c. 206, § 46. No person shall within the state, kill or catch or have in his or her possession, living or dead, any wild bird, other than a game bird, nor purchase, offer or expose for sale, any such wild bird after it has been killed or caught. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale. Nor shall any person take or needlessly destroy the nest or the eggs of any wild bird, nor have such nest or eggs in possession. The English or European house sparrow, the common crow, and the hawks and owls, mud hens (or bittern), kingfishers, loons and blue herons are not included among the birds herein protected; and for the purposes of this chapter the following only shall be considered game birds; the anatidæ, commonly known as swans, geese, brant, and river and sea ducks; the rallidæ, commonly known as rails, coots, and gallinules; the lemicolæ, commonly known as shore birds, plovers, surf birds, snipe, woodcock, sandpipers, tattlers and curlews; the gallinæ, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quails. Nothing in this section, however, shall be construed to affect in any way the protection of game birds, as provided in sections fifty-four and fifty-five. Any person who violates any of the provisions of this section shall pay a fine of five dollars and costs, for each offense, and an additional five dollars for each bird, living or dead, or part of a bird, or nest, or egg possessed in violation of this section, or be imprisoned for ten days.

**Sec. 58. Hunting water fowl in motor boats forbidden.** 1913, c. 206, § 47. 1915, c. 345. No person shall at any time use a boat or launch of any kind propelled by steam, naphtha, gasoline or electricity, or any other mode than the ordinary sailboat or rowboat, in chasing, hunting or gunning any sea birds, duck or water fowl in any inland waters of this state, or in the Kennebec river below the Gardiner and Randolph bridge, or in Eastern river, or in Merrymeeting bay, so called, or in Bluehill bay, so called, on the coast of Maine, in Hancock county, or in Eggemoggin reach, so called, in said Hancock county, or in Saco bay, so called, in Cumberland county and in York county, or in Frenchman's bay, so called, in

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Hancock county, under a penalty of not less than twenty-five, nor more than one hundred dollars and costs for each offense.

For the purposes of this section Bluehill bay, so called, is defined and bounded as follows: On the west by Bluehill and Brooklin to the end of Naskeag point, so called; on the east by Long island and Tinkers' island to Pond island, so called; on the south by a direct line from the southern extremity of said Pond island to the end of Naskeag point, so called.

For the purposes of this section Eggemoggin reach, so called, shall be considered to be the waters extending from Little Deer Isle to Cape Rosier on the west; thence easterly to the end of Naskeag point, so called; thence in a direct line to the eastern end of Stinson's neck, so called, in the eastern part of Deer Isle, said waters being bounded on the north by the towns of Brooksville, Sedgwick and Brooklin and on the south by Deer Isle and Little Deer Isle.

For the purposes of this section Saco bay, so called, shall be considered to be the waters lying within those points of land marked by Cape Elizabeth Light, in the town of Cape Elizabeth, on the east, and by Wood Island Light near the entrance to the Saco river, on the west.

For the purposes of this section Frenchman's bay, so called, is defined and bounded as follows: On the north by the towns of Hancock and Sullivan; on the east by the towns of Gouldsboro and Winter Harbor; on the south by Mount Desert island and a straight line from Schoodic point, so called, to Great Head, so called; on the west by Thompson's toll-bridge.

**Non-Resident Hunters' Licenses.**

**Sec. 59.** Non-resident hunters shall procure licenses; licensed hunters may take game home under regulations. 1913, c. 206, § 51. 1915, c. 230. Persons not bona fide residents of the state, and actually domiciled therein, shall not hunt, pursue, take or kill any deer, ducks, partridges, woodcock, or other wild birds or wild animals, or have the same or any part thereof, in possession, at any time without first having procured a license therefor as hereinafter provided. Such licenses shall be issued by the commissioners of inland fisheries and game, upon application in writing and payment of fifteen dollars to hunt deer, ducks, partridges, woodcock and other birds and wild animals during their respective open seasons, and in the manner provided by law, in October, November and December. But to hunt ducks, and other birds and wild animals in their respective open seasons, and in the manner provided by law, in the counties of Aroostook, Washington, Hancock, Penobscot, Piscataquis, Somerset, Franklin and Oxford up to October first of each year a license fee of five dollars shall be paid annually, provided, further, that in the counties of Androscoggin, Cumberland, Knox, Kennebec, Lincoln, Sagadahoc, Waldo and York such person may procure a license for five dollars to hunt, in the respective open seasons and in the manner provided by law, ducks, partridges, woodcock and other birds and wild animals except during the month of November, during which month a fifteen-dollar license shall be required in said counties. A person having paid the fee of five dollars may procure a license

to hunt deer and other wild animals and wild birds, in their respective open seasons and in the manner provided by law, during the open season on deer by paying an additional fee of ten dollars. Such license shall entitle the purchaser to take to his home in addition as now provided, properly tagged with the tag detached from his license, and open to view, five partridges, ten ducks and ten woodcock that he has himself lawfully killed under such rules and regulations to be established by the commissioners as may be required to carry out the true intent of this chapter and not inconsistent herewith.

**Sec. 60. Coupons; detached by railroad official; detached coupons forwarded to commissioners.** 1915, c. 230. Each license shall be provided with two coupons, each of which shall permit the transportation of the carcass of one deer, or part thereof, and shall be divided into two sections each, lettered "A" and "B" and "C" and "D" respectively, and shall be called the deer coupons.

The holder of a non-resident hunter's license shall be entitled to offer for transportation and have transported, within or without this state, by any railroad company, express company, boat or other transportation company, the carcass of one deer, or part of the carcass of one deer, that he himself has lawfully killed, on each of the deer coupons attached to his said license, by presenting to the agent of any transportation company, his license, with the coupons attached to the license at the time when he shall offer the deer or part thereof for shipment. If but one deer is offered for shipment the agent shall detach section "A" from the first "deer" coupon of the license, cancel the same by writing or stamping thereon the date and place of shipment and his name, and shall forward the same forthwith to the commissioners of inland fisheries and game, at Augusta, Maine; section "B" of said coupon shall be likewise canceled and shall be attached to the carcass, or part of the carcass, of the deer offered for shipment and shall remain attached to the same while it is being transported in this state.

In case two deer are offered for shipment the agent receiving the same for shipment shall detach sections "A" and "C" from the "deer" coupons and after canceling the same shall forward them to the commissioners as aforesaid, and sections "B" and "D" shall be likewise canceled and attached to the carcasses of the deer, or parts thereof, offered for shipment, and shall remain attached to the same while they are being transported in this state.

**Sec. 61. Shipment of game, regulated.** 1915, c. 230. No person shall transport any deer, or part thereof, for any non-resident, otherwise than as provided in this section and the two preceding sections. No agent, servant or employee of any transportation company, railroad company, express company, boat or common carrier shall receive for shipment or transport, or have in his possession with intent to ship or transport any carcass of a deer, or part of the same, or any game birds, for a non-resident, except as provided in this section and the two preceding sections, or refuse or neglect to detach the sections of the coupons as therein provided, or fail to forward to the commissioners of inland fisheries and game, at Augusta, Maine, as therein provided, the sections of coupons by him detached; provided, how-

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ever, that any person who has purchased a non-resident hunter's license and who has in his possession one pair of game birds which he has legally killed may transport the same to his home or to any hospital in this state without accompanying the shipment, by purchasing of the duly constituted agent therefor a tag, paying for the same fifty cents, and by presenting said tag with the pair of game birds offered for shipment to the agent of any transportation company or common carrier, together with his non-resident hunter's license. Before accepting a pair of game birds for shipment as herein provided, the agent of the transportation company or common carrier to whom the same is offered for shipment shall be satisfied that the person presenting the pair of game birds for shipment is the person to whom the non-resident hunter's license offered for inspection was issued, and shall securely affix the tag to such shipment; provided, further, that no person shall send more than one pair of game birds under a special tag, as provided herein, but once in thirty days.

**Sec. 62. Penalty for violation of §§ 59-61. 1915, c. 230.** Whoever violates any provision of the three preceding sections, or who shall furnish to another person, or permit another person to have or use any license or coupon issued to him, or change or alter the same in any manner, or who has or uses any license or coupon issued to another person, or whoever knowingly guides any non-resident in hunting who has not a license to hunt as herein provided, shall pay a fine of not less than twenty-five, nor more than one hundred dollars and costs, for each offense.

**Sec. 63. Non-residents shall employ guides. 1913, c. 206, § 53.** Non-residents of the state shall not enter upon the wild lands of the state and camp or kindle fires thereon while engaged in hunting or fishing, without being in charge of a registered guide, during the months of May, June, July, August, September, October and November, and no registered guide shall, at the same time, guide or be employed by more than five non-residents in hunting.

**Sec. 64. Penalty for violation of section 63. 1913, c. 206, § 54.** Any such non-resident who enters upon the wild lands of the state and camps or kindles fires thereon, while engaged in hunting or fishing without being in charge of a registered guide, during the months of May, June, July, August, September, October and November, in violation of the provisions herein contained, or any guide who shall guide at the same time, or be employed by, at the same time, more than five non-residents in hunting, shall pay a fine of forty dollars and costs for each offense.

**Sec. 65. Unnaturalized persons not residents of state for two years shall take out license annually. 1913, c. 206, § 55. 1915, c. 277, § 15.** It shall be unlawful for any unnaturalized foreign-born person who is not a taxpayer upon real estate within this state and who has not resided within the limits of this state for two years continuously prior to the time he desires to hunt, to hunt in any manner, at any time, or pursue, catch, kill or have in possession any wild animals or birds, within the limits of this state, unless he is annually licensed so to do as hereinafter provided. The commissioners of inland fisheries and game, upon the application of any unnaturalized foreign-born person who is a resident of any city, town or

plantation within the state, and upon the payment of a fee of fifteen dollars may issue to such person a license upon a form to be supplied by them, bearing the name, age and place of residence of the licensee with a description of him as near as may be, authorizing the said licensee to hunt and kill game birds, game or other wild animals on any lands on which said hunting or killing is not forbidden by law, or by written or printed notices posted thereon by the owner, lessee or occupant thereof. Such license shall authorize the hunting or killing of game birds, game or other wild animals only in their respective open seasons and in the manner provided by law; it shall not be transferable and shall be exhibited upon demand to any of the commissioners of inland fisheries and game, and to any inland fish and game warden or deputy inland fish and game warden, and to any sheriff, constable, police officer or other officer qualified to serve process. The fees received from said licenses shall annually be paid into the state treasury.

**Sec. 66. Seizure of weapons of unnaturalized persons, who are not licensed.** 1915, c. 277, § 15. No unnaturalized, foreign-born person required to be licensed under the provisions of the preceding section shall have in possession, when he is upon the wild lands or in the woods or fields of the state, any firearm or firearms unless he is licensed as herein provided and all firearms found in his possession in violation of this section shall be forfeit and contraband and shall be seized by any person authorized to enforce the inland fish and game laws. All firearms seized by virtue of this section shall forthwith be forwarded to the commissioners at Augusta by the person seizing the same, and upon conviction of the person or persons from whom they were seized said firearms shall be sold, and the proceeds from such sale paid to the treasurer of state. Whoever violates any provision of this or the preceding section shall pay a fine of twenty-five dollars and costs, for each offense.

#### Regulations as to Trade.

**Sec. 67. Taxidermists may be licensed; licenses may be revoked; report.** 1913, c. 206, § 64. The commissioners of inland fisheries and game may, upon application and payment of a fee of two dollars by the applicant, issue a license to such persons as taxidermists, who, in their judgment, are skilled in that art, of good reputation, and friendly to the inland fish and game laws of the state; taxidermists licensed as aforesaid may at all times have in their possession, at their places of business, fish and game lawfully caught or killed in open time, for the sole purpose of preparing and mounting the same; and such fish and game, or parts thereof, may be transported to such licensee and retained by him for the purposes aforesaid, under such rules, restrictions and limitations as shall, from time to time, be made by said commissioners. Such licenses may be revoked by said commissioners, at any time after notice and an opportunity for a hearing; each person so licensed shall, on or before the twentieth day of December of each year, make a detailed report to said commissioners of all they have done during the year by virtue of such license; every licensee or common carrier violating any provision of this chapter, or any of the rules, restrictions, or limitations made by said commissioners in accordance

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with the provisions of this section, shall pay a fine of not less than twenty, nor more than fifty dollars and costs for each offense.

**Sec. 68. License to buy and sell deer skins; record shall be kept; penalty for buying without a license or failure to keep record.** 1913, c. 206, § 61. 1915, c. 277, § 18. The commissioners of inland fisheries and game may annually issue licenses to residents of this state to buy and sell deer skins, and the heads of deer if not detached from said skins, during the months of October, November and December. Such licensee shall keep a record, which shall be open to inspection by the commissioners of inland fisheries and game or any person authorized to enforce the inland fish and game laws, of all such heads and skins purchased, of whom purchased and the date of each purchase, and shall send such record annually to the commissioners of inland fisheries and game on or before the twentieth day of December of each year. The fee for such license shall be ten dollars, to be paid to the said commissioners. All deer skins and deer heads purchased by virtue of this section shall be transported only under such rules, restrictions and limitations as shall, from time to time, be made by said commissioners. Whoever buys any skins or heads of deer without being licensed as herein provided, or whoever, licensed as aforesaid, neglects to keep the record and forward the same to said commissioners as herein provided, or whoever refuses to exhibit said record upon request to the commissioners of inland fisheries and game or to any person authorized to enforce the inland fish and game laws, shall pay a fine of fifty dollars and costs for each offense.

**Sec. 69. Buyers of skins of fur-bearing animals shall be licensed; record shall be kept; penalty; forfeiture of skins.** 1913, c. 206, § 62. 1915, c. 277, § 19. The commissioners of inland fisheries and game may annually issue licenses to residents of this state to engage in the business of buying otter, sable or fisher skins or the skins of any other fur-bearing animals. Said licensee shall keep a record, which shall be open to inspection by the commissioners of inland fisheries and game or any person authorized to enforce the inland fish and game laws, of all skins purchased, as aforesaid, in an appropriate book furnished them by the said commissioners, and shall send such record, under oath, to said commissioners on or before the twentieth day of December of each year. The fee for such license shall be two dollars to be paid to the said commissioners. Whoever buys any skins of otter, sable or fisher or the skins of any other fur-bearing animals without being licensed as herein provided, or whoever, licensed as aforesaid, neglects to keep the record and forward the same to said commissioners as herein provided, or whoever refuses to exhibit said book for inspection by the commissioners of inland fisheries and game or any person authorized to enforce the inland fish and game laws, shall pay a fine of ten dollars and costs for each offense. All skins of fur-bearing animals bought in violation of the provisions of this section shall be forfeit and contraband and shall be seized by any person authorized to enforce the inland fish and game laws and upon conviction of the person or persons from whom they were seized, they shall be sold, and the proceeds from such sale paid to the treasurer of state.

**Sec. 70. Marketman may have three deer and sell the same after procuring license; record shall be kept; penalty; fee for license.** 1913, c. 206, § 63. Any marketman or provision dealer having an established place of business in the state, may purchase and have in possession at his said place of business not more than three deer, lawfully killed or destroyed, or any part thereof, at one time, and may sell the same at retail to his local customers, and may sell the heads of such deer to any licensed taxidermist; provided, however, that said marketman or provision dealer, shall annually procure a license of the commissioners of inland fisheries and game to carry on said business of buying and selling deer as aforesaid; and provided further, that said marketman shall record in a book kept for that purpose, and open to the inspection of inland fish and game wardens and the commissioners of inland fisheries and game, the name and residence of each person of whom he purchases any deer, and the date of such purchase; and if any marketman or provision dealer shall violate any provision of this section, he shall pay a fine of five hundred dollars, for each offense, and be prohibited for five years thereafter from the benefits of this section. All marketmen or provision dealers licensed as aforesaid shall pay to the commissioners of inland fisheries and game in cities and towns of over three thousand inhabitants, five dollars annually, and three dollars in all other places; said marketmen and provision dealers holding these licenses shall, on the twentieth day of each December, make, sign and send to the commissioners, under oath, a statement setting forth in detail the number of deer by them bought, and of whom bought, and the date of each purchase, during the time covered by their licenses; and whoever fails to make such report shall pay a fine of one hundred dollars and costs.

**Sec. 71. Expiration of licenses.** 1913, c. 206, § 65. All licenses or certificates issued by virtue of the provisions of this chapter shall expire with the calendar year in which issued.

**Sec. 72. Revocation of licenses.** 1913, c. 206, § 74. If the holder of any license, certificate or permit, issued in conformity with any provision of this chapter, shall flagrantly or knowingly violate or countenance the violation of any provision of this chapter, such license, certificate or permit may be revoked by the commissioners of inland fisheries and game after due notice given of the alleged violation, and an opportunity afforded to appear and show cause against the same.

#### General Provisions.

**Sec. 73. Sunday is a closed season for game or birds.** 1913, c. 206, § 50. 1915, c. 277, § 14. Sunday is a closed season, on which it is not lawful to hunt, kill or destroy any wild animals or wild birds of any kind. Whoever hunts, kills, or destroys any wild animal or wild bird on Sunday shall pay a fine of not less than ten, nor more than forty dollars and costs for each offense; provided, however, that if protected wild animals or wild birds are hunted, killed, destroyed or had in possession in violation of this section, the penalty shall be the same as is now imposed therefor during other closed season; but the penalties imposed for the violation of the Sunday laws of the statutes of this state are not hereby repealed or diminished.



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**Sec. 74. Closed time on wild birds and wild animals during night.** 1915, c. 170. There shall be a closed season on wild birds in this state from sunset to sunrise of the following morning, and on wild animals from one hour after sunset until one hour before sunrise of the following morning, during which closed season it shall be unlawful to hunt, kill or destroy wild birds or wild animals, of any kind. No person shall have in possession, at any time, any wild bird or wild animal, or part thereof, taken in violation of any provision of this section. Whoever violates any provision of this section shall pay a fine of not less than ten, nor more than fifty dollars and costs for each offense; provided, however, that if protected wild birds or wild animals are hunted, killed, destroyed or had in possession in violation of said section the penalty shall be the same as is now imposed therefor during other closed season.

**Sec. 75. Penalty for introducing wild bird or animal without permission.** 1913, c. 206, § 52. Whoever introduces any wild bird or wild animal of any kind or species into the state, except upon written permission of the commissioners of inland fisheries and game, shall forfeit not less than fifty dollars nor more than five hundred dollars, for each offense.

**Sec. 76. Hunting on Kineo Point prohibited.** 1913, c. 206, § 48. 1915, c. 75. No person shall at any time hunt, pursue, shoot at or kill any wild animal or bird on Kineo point, in Kineo, in the county of Piscataquis. Whoever violates this section shall pay a fine of fifty dollars and costs for each offense.

**Sec. 77. Hunting in a part of town of Eden prohibited.** 1913, c. 206, § 49. No person shall, except as herein provided, at any time, hunt, pursue, shoot at or kill any wild animal or any game or other wild bird within the following described territory situated in the town of Eden, in the county of Hancock; bounded on the north and east by the Atlantic ocean; on the south by the highway leading from Hull's Cove bridge to the Beaver Dam bridge near Shea brothers' farm; and on the west by the highway leading from said Beaver Dam bridge to Salisbury cove. The provisions of this section shall not prohibit any person residing within the limits of the above described territory from shooting at or destroying any wild bird, except ruffed grouse or Hungarian partridge, or any wild animal, when found destroying his property; and provided, further, that the provisions of this section shall not be construed to prohibit the trapping of wild animals within this territory in accordance with the general laws of the state. Whoever violates this section shall pay a fine of fifty dollars and costs for each offense.

**Sec. 78. Hunting wild birds in Back bay prohibited.** 1915, c. 153. No person shall hunt, chase, catch, kill or destroy any water fowl or any other wild bird, at any time, in Back bay, so called, in Portland, in the county of Cumberland, above the Grand Trunk Railway bridge. No person shall have in possession, at any time, any water fowl or any other wild bird taken in violation of any provision of this section. Whoever violates any provision of this section shall pay a fine of ten dollars and costs for each offense; and in addition thereto one dollar for each bird taken, caught, killed, destroyed or had in possession in violation of any provision of this section.

**Sec. 79. Use of firearms prohibited upon the shores and waters of Lake Megunticook and its tributaries. 1915, c. 133.** The use of firearms is hereby prohibited from the first day of April of each year to the thirtieth day of September following, both days inclusive, upon the waters of Megunticook lake, formerly called Canaan lake, and its tributary lakes, ponds and streams, and upon the land bordering on the same included within the following roads: Beginning at Hopkins' Corner, so called, in the town of Camden; thence via the Turnpike road, so called, to Lincolnville Center; thence to Wiley's Corner in Lincolnville; thence to the Mansfield school-house in the town of Camden; thence via the fish hatchery to place of beginning. All of said lake, its tributaries and shores being located in the towns of Camden, Lincolnville and Hope, in the counties of Knox and Waldo. Whoever violates any provision of this section shall pay a fine of not less than ten, nor more than thirty dollars and costs for each offense.

**Sec. 80. Use of firearms fitted with device to deaden sound, prohibited; seizure of firearms; military organizations not affected. 1909, c. 129.** No person shall sell, offer for sale, use or have in his possession, any gun, pistol, or other firearm, fitted or contrived with any device for deadening the sound of explosion. Whoever violates any provision of this section shall forfeit such firearm or firearms and the device or silencer, and shall further be subject to a fine not exceeding one hundred dollars, or to imprisonment not exceeding sixty days, or to both fine and imprisonment. Any sheriff, deputy sheriff, constable, inland fish and game warden or deputy inland fish and game warden may seize any firearm or firearms and any device or silencer found in possession of any person in violation of this section, and on conviction of the party from whom such firearm or firearms are seized, such firearm or firearms shall be sold, the proceeds to be paid to the treasurer of state, and the device or silencer shall be destroyed. This section does not apply to military organizations authorized by law to bear arms, or to the national guard in the performance of its duty. All fines, penalties and forfeitures recovered by any person for any violation of this section shall be paid forthwith by the person receiving the same to the treasurer of state, to be credited to fines and license fees for the protection of birds and game.

#### Prosecutions.

**Sec. 81. Birds, fish, game or wild animals, unlawfully taken, may be seized, and forfeited upon conviction. 1913, c. 206, § 68.** All birds, fish, game or other protected wild animals, hunted, caught, killed, destroyed, bought, sold, carried, transported, or found in possession of any person or corporation, in violation of any provision of this chapter, shall be liable to seizure, and in case of conviction for such violation, the same shall be forfeited to the state, to be sold for the benefit of the state. Any person whose fish, game, or birds has been seized for violation of any game or fish law, shall have it returned to him on giving to the officer a bond with sufficient sureties, residents of the state, in double the amount of the fine for such violation, conditioned that, if convicted of such violation, he will, within thirty days thereafter, pay such fine and costs. If he neglects or

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refuses to give such bond and take the game, fish or birds so seized, he shall have no action against the officer for such seizure or for the loss of the game or fish seized.

**Sec. 82. All seizures shall be reported to commissioners.** 1913, c. 206, § 78. In all cases, the officer making any seizure or sale of fish, game or birds, shall within ten days thereafter, report all the particulars thereof and an itemized statement of the proceeds, expenses and fees, and the disposition thereof to the commissioners of inland fisheries and game at Augusta. The failure of any person or officer to perform any act, duty, or obligation enjoined upon him by this chapter, shall be deemed a violation thereof.

**Sec. 83. Commissioners and officers may make arrests; may enter camps; magistrates may issue search warrants.** 1913, c. 206, § 69. The commissioners of inland fisheries and game and every inland fish and game warden may arrest, with or without a warrant, any person whom he has reason to believe guilty of a violation of any provision of this chapter and with or without a warrant, may open, enter and examine all buildings, camps, vessels, boats, wagons, cars, stages, tents, and other receptacles and places, and examine all boxes, barrels and packages where he has reason to believe that game, fish or game birds or protected wild animals, or parts thereof, taken or held in violation of this chapter are to be found, and seize such game, fish, or game birds or wild animals, or parts thereof, if any be found therein; but no dwelling-house shall be searched for the above purposes without a warrant and then only in the day time, and no sealed railroad car shall be entered for the above purposes without such warrant. Any magistrate may issue warrants to search, within his jurisdiction, any dwelling-house, in the day time, or any other place at any time, for the purposes above set forth, to any inland fish and game commissioner or to any inland fish and game warden, sheriff or any of his deputies; such warrants shall be issued subject to the requirements of section thirteen of chapter one hundred and thirty-four; provided, however, that the inland fish and game commissioners shall, on or before the first day of October of each year, in writing, notify the superintendents of all transportation companies doing business within the state, of the names of the inland fish and game wardens by them designated to exercise the right of search of railroad cars as herein provided, which number shall not exceed four for any one transportation company, and no others shall, except those so designated, be authorized to exercise the powers herein mentioned as to search of railroad cars.

**Sec. 84. Violators may be arrested without process; jurisdiction.** 1913, c. 206, § 70. Any officer authorized to enforce the inland fish and game laws may, without process, arrest any violator of said laws, and shall with reasonable diligence, cause him to be taken before any trial justice or any municipal or police court, in the county where the offense was committed, or in any adjoining county, for a warrant and trial. Jurisdiction in such cases is hereby granted to all trial justices and all other courts to be exercised in the same manner as if the offense had been committed in that county; and any officer who shall maliciously, or without probable cause, abuse his power in such proceedings shall upon conviction be punished by a fine of not exceeding one hundred dollars, and costs, or by imprisonment not exceeding three months.

**Sec. 85. Jurisdiction of court.** 1913, c. 206, § 71. Trial justices, police and municipal courts within their counties shall have, upon complaint, original and concurrent jurisdiction with the supreme judicial court and superior courts in all prosecutions under any inland fish and game law.

**Sec. 86. Disposition of fines.** 1913, c. 206, § 72. All fines and penalties recovered, or money received or collected, under any provision of this chapter, after deducting legal taxable costs, shall be paid forthwith by the person receiving the same to the commissioners of inland fisheries and game, at Augusta, Maine, to be paid by them to the treasurer of state. Any officer or other person who shall receive any fine or penalty or any part thereof, for the violation of any inland fish or game law, and shall neglect for more than thirty days to pay the same to the commissioners of inland fisheries and game, as herein provided, shall pay a fine of not less than fifty, nor more than one hundred dollars, and costs of prosecution.

**Sec. 87. Provisions of c. 45, § 93 apply.** 1913, c. 206, § 25. The provisions of section ninety-three of chapter forty-five, relating to the powers of the commissioner of sea and shore fisheries, are hereby extended to the commissioners of inland fisheries and game.

**Sec. 88. Service of warrant on a corporation.** 1913, c. 206, § 73. In case of violation of any provision of this chapter by a corporation, the warrant may be served by an attested copy, on the president, secretary, manager, or any general agent thereof in the county where the action is pending, and upon return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation; but this section shall not be deemed to exempt any agent or employee from prosecution.

**Sec. 89. Duty of county attorneys.** 1913, c. 206, § 75. Each county attorney shall prosecute all violations of this chapter occurring within his county, when such cases may come to his knowledge, or when he may be so requested by the commissioners of inland fisheries and game, or any officer charged with its enforcement; such prosecution shall at all times be subject to the supervision and control of the commissioners.

**Sec. 90. Witnesses may be compelled to testify.** 1913, c. 206, § 76. In any prosecution under this chapter, any participant in a violation thereof, when so requested by the county attorney, commissioners of inland fisheries and game, or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating the same, but his evidence so given shall not be used against himself in any prosecution for such violation.

**Sec. 91. Report of magistrate or clerk of court.** 1913, c. 206, § 77. Every magistrate or the clerk of the court before whom any prosecution under this chapter is commenced, or shall go on appeal, within twenty days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and the disposition thereof, to the commissioners of inland fisheries and game at Augusta.

Note. Notices on petitions to legislature for special legislation relating to fish and game, c. 2, § 40.

Fish and game wardens are constituted state fire wardens, c. 8, § 34.

Notice of special benefits from legislation for protection of fish to be posted on banks and shores of protected waters, c. 45, § 87.

Penalty for falsely assuming to be an inland fish and game warden, or a commissioner of inland fisheries and game, c. 124, § 25.