

MAINE STATE LEGISLATURE

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REPORT
OF
THE COMMISSIONER
ON THE
REVISION AND CONSOLIDATION
OF THE
PUBLIC LAWS
OF THE
STATE OF MAINE
UNDER
RESOLVE OF APRIL 15, 1927

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TITLE TWO.

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

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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. 16, § 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; school with few scholars may be suspended; superintendent to procure conveyance for scholars; committee may furnish board instead of providing conveyance. R. S. c. 16, § 2. 1921, c. 114. 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 the said school as in the judgment of the superintending school committee shall render such conveyance necessary. In all cases, conveyance so provided shall conserve the comfort, safety, and welfare of the children conveyed and shall be in charge of a responsible driver who shall have control over the conduct of the children conveyed. 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 reverts to owner when not used for school purposes for two successive years, subject to right of town to remove building. Land may be taken for schoolhouse lot, playgrounds. R. S. c. 16, § 3. 1921, c. 10. 1927, c. 65. When a location for the erection or removal of a school house and requisite building has been legally designated by vote of the town at any town meeting called for that purpose, and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for it, or resides without the state and has no authorized agent or attorney therein, they may lay out a school house lot and playgrounds, not exceeding five acres, and appraise the damages as is provided for laying out town ways, 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 school house lot has ceased to be used by the town for school purposes for two successive years, said lot reverts to the owner, his heirs or assigns, on demand by him or them in writing made to the municipal officers of the town, subject to the right of the town to enter upon said lot and remove said school house at any time within six months after said demand. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a school house and requisite buildings and playgrounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling house, and all school house 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. 16, § 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. 16, § 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. 16, § 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. 16, § 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. 16, § 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. 16, § 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. 16, § 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. 16, § 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. 16, § 12. 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 commissioner. R. S. c. 16, § 13. The state commissioner of education 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 commissioner of education in procuring such plans and specifications the sum of two hundred dollars annually shall be appropriated.

110 Me. 242.

Sec. 14. Provision for heating, lighting, and ventilating; committee to notify state commissioner of readiness for occupancy and to report whether specifications have been met; he may order inspection and alterations; liability of town.

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R. S. c. 16, § 14. 1917, c. 62. 1921, c. 24. Where the plans and specifications prepared by the state commissioner 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 and plans for the reconstruction or remodeling of any school building, the expense for which shall exceed five hundred dollars, shall be submitted to and approved by the state commissioner of education and the state department 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. The superintending school committee or the school building committee in charge of the erection of a new school building or of the reconstruction or remodeling of any school building as provided for by this section shall seasonably notify the state commissioner of education of its readiness for occupancy and shall report to the state commissioner of education, on blanks furnished by said state commissioner, such facts relative to the arrangement, construction, or reconstruction of said building as shall indicate whether or not the proposals in the plans and specifications previously approved have been met. Whenever it shall appear to the state commissioner of education that such approved plans in their provisions for heating, lighting, ventilating, and hygienic conditions have not been carried out, he may cause an inspection of said building to be made and shall notify said committee of changes required to be made to comply with the conditions previously approved, and it shall be the duty of said committee promptly to rectify said conditions, and failure so to do shall render the town liable to the provisions of section nineteen of this chapter.

110 Me. 242.

Sec. 15. Schoolhouses to be provided with proper exits; municipal officers to correct defects. R. S. c. 16, § 15. 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. 34, § 37; c. 26, § 29.

Duties of Towns.

Sec. 16. Towns to raise money for schools; expenditure. R. S. c. 16, § 16. 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 §§ 197, 198, 203-208; c. 11, §§ 20, 21; c. 20, § 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. 16, § 17. 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. 16, § 18. 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. 16, § 19. 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 to be provided for all pupils. R. S. c. 16, § 20. The school moneys of every town shall be so expended as to give as nearly as practicable the same aggregate annual length of terms in all its schools, and every town shall make provision for the maintenance of all its schools for not less than 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

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of such schools. R. S. c. 16, § 21. 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 not to be purchased; penalty. R. S. c. 16, § 22. 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 seventy-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 § 208.

Sec. 23. Distribution of books, etc. R. S. c. 16, § 23. 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. 16, § 24. 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. 16, § 25. 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 § 155.

Sec. 26. Instruction in industrial or mechanical drawing. R. S. c. 16, § 26.

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. 16, § 27. 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 §§ 153-156.

Sec. 28. Such schools under direction of committee; rules and regulations. R. S. c. 16, § 28. 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. 16, § 29. 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. Schooling for children of parents who have a temporary residence provided for; jurisdiction granted to towns of temporary residence; privileges in town of permanent residence not affected. 1925, c. 100, § 1. In order to facilitate the education of children whose parents find it necessary, in the pursuit of their occupations, to move from place to place and whose children reside with them in such temporary residence, it is hereby provided that the children of such person or persons shall be under the jurisdiction of the towns and plantations in which the parent has temporary residence and shall be subject to the school attendance laws and to the rules and regulations of the towns and plantations in which they with the parent have temporary residence, provided, further, that this does not interfere with the free school privileges of such children in the towns and plantations of the permanent residence of the parent.

Sec. 31. Transportation or board of children in places of temporary residences provided for; procedure to obtain; payment of, how made. 1925, c. 100, § 2. Where the distance from the place of temporary residence to the school is more than two miles and transportation is deemed advisable by the superintending school committee, the superintendent of schools shall report the same to the state commissioner of education with such other information as may be required and if so directed by the state commissioner of education shall procure transportation for such child or children or, if transportation is inadvisable, board in lieu thereof, provided that when there shall be reported to the commissioner of education in connection with the annual report a bill of expenses incurred in connection with such transportation or board, the state commissioner of education is hereby authorized to reimburse such towns and plantations for such expenses, the same to be paid from the equalization fund and at the time of the distribution of the state school fund.

Sec. 32. School age. Kindergartens. R. S. c. 16, § 30. 1917, c. 134. 1925, c. 127. 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

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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; provided, however, that the superintending school committee of any city or town may, and upon the filing with the municipal officers of such city or town of a petition not less than one month before the annual town meeting by the parents or guardians of thirty or more children between four and six years of age living within a mile of a public elementary school, shall, unless otherwise instructed by the town or city, maintain a kindergarten or kindergartens as a part of the common school course, and pupils shall be allowed to attend such a kindergarten or kindergartens upon reaching the age of four years; provided further, that unless the average daily attendance in any kindergarten shall be fifteen or more for any school year the superintending school committee, upon the recommendation of the superintendent of schools, may discontinue the school; provided further, that no person shall be allowed to teach in any kindergarten maintained under the provisions of this section who has not completed at least a two years' course in kindergarten training or its equivalent and received a certificate or diploma from a recognized kindergarten training school approved by the state commissioner of education.

*124 Me. 36.

Sec. 33. Annual school returns to state commissioner. R. S. c. 16, § 31. The assessors or municipal officers of each town, shall, on or before the first day of each May, make to the state commissioner of education, a certificate, embracing the following items:

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

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

III. The amount of money actually expended for common schools during the 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. 34. Election of superintending school committee. R. S. c. 16, § 32. 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. 35. Superintending school committees, when first chosen, to arrange terms of office; vacancies; no member to be employed to teach in his own town. R. S. c. 16, § 33. 1919, c. 155. 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. In case any member of the superintending school committee shall remove from the town or be absent for more than ninety days a vacancy shall be declared to exist and the remaining members

shall within thirty days thereafter choose another member as hereinbefore provided. Whenever the remaining members fail to appoint a person to fill a vacancy the same may be filled by election at a town meeting called for the purpose.

Sec. 36. Sections 34 and 35 not to apply to certain cities. R. S. c. 16, § 34. 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. 37. Penalty for neglect to choose committee. R. S. c. 16, § 35. 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. 38. Committee to serve without pay; compensation of superintendent. R. S. c. 16, § 36. 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.

Sec. 39. Towns to maintain clean and sanitary toilets in all buildings used for school purposes. 1921, c. 33, § 1. In order to safeguard the health and morals of the children of the state, towns shall from their regular appropriations for schoolhouse repairs, or from special appropriations for the purposes of this section, provide and maintain sanitary, protected, and clean toilets free from all obscene markings in all school buildings or in other buildings rented or used for school purposes.

Sec. 40. Requirements in construction that must be met. 1921, c. 33, § 2. 1923, c. 169. All school buildings or buildings used for school purposes shall be provided with toilet facilities that shall be installed in such manner and location as to insure privacy, cleanliness, and supervision by teachers and that shall meet at least one of the following minimum requirements:

(a) **Flush closets.** Flush water closets connected with sewer, filter bed, septic tanks or protected cesspool with separate compartments for the sexes, accessible only by separate passageways from school rooms or corridors.

(b) **Chemical closets.** Chemical closets, of such types and manufacture as shall be approved by the state superintendent of public schools, with separate compartments for the sexes accessible only by separate passageways from school rooms or corridors.

(c) **Privies.** Privies located in attached buildings provided with separate compartments for the sexes, accessible only by separate ventilated passageways from school rooms or corridors and constructed in such a manner that the vault of said privy shall be at least ten feet from the nearest school room wall and adjacent to the outside wall of the building in which said privy is located, provided that when conditions make it necessary the above specifications may be modified by written agreement of the state commissioner of education and the superintending school committee.

Sec. 41. State commissioner of education to furnish plans for privies and chemical closets. 1921, c. 33, § 3. The state commissioner of education shall furnish to superintending school committees or building committees plans for privies of approved type, lists of chemical toilets of approved type and manufacture, and such other information and material as may assist said committees in complying with the provisions of sections thirty-nine to forty-two.

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Sec. 42. School committees to make provisions for cleaning vaults; annual inspection and report of changes needed; school money to be withheld when the town fails to meet the requirements. 1921, c. 33, § 4. Superintending school committees shall make provision for the cleaning of vaults and tanks and the repair and upkeep of accessories. Said committees shall annually cause an inspection to be made of sanitary conditions in school buildings and shall cause to be reported to the town such construction, reconstruction, or repairs necessary to meet the conditions of sections thirty-nine to forty-two and any town failing to meet the said conditions through neglect of its superintending school committee, or neglect to appropriate funds for the purpose, shall be liable to the penalties of section nineteen.

Powers and Duties of Superintending School Committees and Superintendents.

Sec. 43. Management of schools; election and discharge of superintendent. R. S. c. 16, § 37. 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 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. 44. Duties. R. S. c. 16, § 38. 1919, c. 137. 1921, c. 41. Superintending school committees shall perform the following duties:

I. Direct the general course of instruction and approve a uniform system of textbooks; no textbook thus approved shall be changed for three years unless by vote of the committee; and perform such other functions as may be specified by law.

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; 119 Me. 437; 127 Me. 258.

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; 124 Me. 41.

V. Exclude, if they deem it expedient, any person not vaccinated, although

otherwise entitled to admission, unless a parent or guardian of such person shall present a signed statement that such parent or guardian is opposed to vaccination, in which event such person may only be excluded in the event of an epidemic of small-pox.

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. 45. Secret societies prohibited. R. S. c. 16, § 39. 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. 46. School physicians appointed. R. S. c. 16, § 40. 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. 47. Duties of physician. R. S. c. 16, § 41. 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. 48. Treatment of pupils. R. S. c. 16, § 42. 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. 49. Examination of pupils after absence on account of sickness. R. S. c. 16, § 43. 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-six to fifty-three, both inclusive.

Sec. 50. Notice of disease or defects. R. S. c. 16, § 44. 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

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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. 22, §§ 21, 58-61.

Sec. 51. Examination of sight and hearing; notice of defect or disability to parent or guardian. R. S. c. 16, § 45. 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 commissioner of education shall prescribe after consultation with the state department of health.

Sec. 52. State commissioner of education to prescribe directions for tests. R. S. c. 16, § 46. The state commissioner of education shall prescribe, after consultation with the state department 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. 53. Expense that may be incurred by city or town. R. S. c. 16, § 47. 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. 54. Application of sections 46-53. R. S. c. 16, § 48. The provisions of the eight preceding sections shall apply only to cities and towns having a population of less than forty thousand inhabitants.

Sec. 55. Superintendent, to make school census. R. S. c. 16, § 49. 1919, c. 83. The superintendent of schools in every town shall return under oath to the school committee, in April annually, a certified list of the names and ages of all persons in the 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. 56. Return to state commissioner of education. R. S. c. 16, § 50. He shall annually make returns to the state commissioner of education 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 commissioner on or before the first day of each May. He shall also furnish such other information relating to the public schools as the state commissioner shall at any time require of

him. When the state commissioner of education 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. 57. Annual return of statistics. R. S. c. 16, § 51. 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. 58. Flags to be furnished schools. R. S. c. 16, § 52. 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 flagstaves, 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. 59. Exclusion of pupils from school on account of filth or disease. R. S. c. 16, § 53. 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. 60. Duty of parents; penalty for neglect. R. S. c. 16, § 54. 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. 22, §§ 58-61.

Superintendence of Schools Through the Union of Towns.

Sec. 61. State commissioner of education to combine all towns into unions for supervision; exceptions; aggrieved committees may appeal. R. S. c. 16, § 55. 1917, c. 188, § 1. The several combinations of towns into supervisory unions for the purpose of employing superintendents of schools heretofore constituted under authority of statute shall remain effective except as herein provided. Whenever, upon the representation of the superintending school committee of any town, it shall appear to the state commissioner of education to be to the advantage of said town and of the state to change the combination of towns composing the union of which said town is a part, the said state commissioner of education shall have authority to direct the dissolution and organization of unions so that a more advantageous combination may be effected. Provided, however, that any superintending school committee of a town dissatisfied with the change in the combination proposed by the state commissioner of education to include that town may appeal to the governor and council, who shall make the final decision relative thereto.

Sec. 62. Union to include thirty to fifty schools; proviso. 1917, c. 188, § 1. Any school supervisory union formed under the provisions of the preceding section shall include not less than thirty nor more than fifty schools unless the state commissioner of education shall find upon representation of any school committee that owing to geographical situation or other reasons it is to the advantage of the state and of said towns that a union shall include fewer than thirty or more than fifty schools.

Sec. 63. First meeting to be held upon notification of state commissioner; subsequent meetings; union superintendent removed for cause; salary; tenure, etc. R. S. c. 16, § 56. 1917, c. 188, § 2. 1921, c. 26, § 1. 1923, c. 176. The superintending school committees of the towns composing a union shall form a joint committee, and for the purposes of this section and the seven following sections, said joint committee shall be held to be the agents of each town composing the union, provided, however, that the superintending school committee of any town may authorize one of its members to act for the committee in the meetings of the joint committee, and in such case, the member so authorized, may cast the votes for the full membership of his committee. Said joint committee upon notification by the state commissioner of education shall meet before the first day of July, nineteen hundred eighteen, and between April first and June thirtieth annually thereafter, at a day and place agreed upon by the chairman of the committees of the several towns composing the union, and shall organize by the choice of a chairman and a secretary. Said joint committee 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 commissioners of education, together with the amounts apportioned to each town, provided, that the amount so certified shall be in proportion to the amount of service performed in the several towns. Said joint committee, at the time of its organization, or as soon thereafter as possible, and whenever a vacancy shall occur, shall choose by ballot a superintendent of schools for a term of not more than five years and the term for which a superintendent is elected shall, in all cases, end on the thirtieth day of June of the year in which the contract expires, provided, however, that said committee, by a two-thirds vote of its full membership, after due notice and investi-

gation, may, for cause, discharge a superintendent of schools before the expiration of the term for which he was elected, and after such discharge the salary of said superintendent shall cease.

Sec. 64. Return to be made on or before Aug. 1, annually; union superintendents to be paid out of sum specifically appropriated for that purpose; superintendents may be reimbursed for expenses. R. S. c. 16, § 57. 1917, c. 188, § 3. 1919, c. 18. 1927, c. 136, § 1. 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 commissioner of education, upon the forms prescribed by him, all facts relative to said union and employment of a superintendent. On or before the first day of August, nineteen hundred eighteen, and annually thereafter, 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 a sum equal to 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 twelve hundred dollars in one year nor shall any school union receive less than one thousand dollars per year, and provided further, that the annual appropriation for payments hereunder shall be deducted from state school funds. The state superintendent of public schools annually shall cause an investigation to be made of the conditions of supervision in unions of towns, including the relative financial support for supervision by towns, the relative distances required to be traveled and the relative amounts of expenses to be paid by superintendents of schools directly in connection with the supervision and administration of schools in unions of towns. When it appears to the state commissioner of education that the efficiency of supervision in any union is or may be lessened because of the financial burden to towns, expenses for travel and other purposes required to be paid by the superintendent of such union because of the number and location of schools, geographical or other conditions, said state commissioner of education, annually in August, shall issue to the governor and council a recommendation relative thereto and the governor and council, on the approval of said recommendation, may draw a warrant for payment out of the sum appropriated for superintendence of towns composing school unions in favor of the superintendent or superintendents of schools employed in said union within the school year ending June thirtieth immediately preceding, provided, however, that the amount so paid for the benefit of a single union shall not exceed three hundred and fifty dollars annually and shall be in addition to other payments made to said superintendent as provided in this section and provided further that the amount so available for the equalization of such expenses shall not exceed one-fifth of the appropriation for superintendence of towns composing school unions.

Sec. 65. Towns and cities having fifty schools need not unite; return to be made annually in December; like regulations to be observed as in union. R. S. c. 16, § 57. 1917, c. 188, § 4. 1921, c. 26, § 2. 1927, c. 136, § 2. The superintending school committee of a city or town having under its care and custody an aggregate of more than fifty schools may employ a superintendent of schools without uniting with other cities or towns for the purpose. Said superintendent of schools shall be chosen in the same manner and for the same term, his salary shall be fixed, and he may be discharged under the same conditions as superintendents' employed under the provisions of section sixty-three. Annually, in the month of December the chairman and secretary of said committee shall

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certify to the state commissioner of education, upon forms prescribed by him, all facts relative to the employment of a superintendent including the amount of his salary received, then upon the approval of said certificate by the state commissioner of education 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 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 be at a rate exceeding twelve hundred dollars for one year.

Sec. 66. Appropriation for salary of superintendent. R. S. c. 16, § 58. 1917, c. 188, § 5. Towns shall appropriate for the salary of the superintendent of schools their proportion of the sum paid said superintendent to the amount certified by the joint committee to the town treasurer, and said proportion to be paid by any town may be paid out of an appropriation for the salaries of town officers or out of a special appropriation for the purpose or out of both, but it shall not be paid from any appropriation made for the support or maintenance of common schools or high schools.

Sec. 67. Conference of instruction to be held. R. S. c. 58. 1917, c. 188, § 5. The state commissioner of education shall annually hold a conference for the instruction of superintendents serving under the provisions of the four preceding sections; he may expend not exceeding five hundred dollars out of the appropriation for the superintendence of towns composing school 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. 68. State commissioner of education to make regulations under which certificates shall be issued. R. S. c. 16, § 59. 1917, c. 188, § 6. Persons employed to serve as superintendents of schools under sections sixty-three to sixty-five shall hold state certificates of superintendence grade which shall be issued under such regulations as may be prescribed by the state commissioner of education; 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 commissioner of education and with the consent of the committees employing them.

Sec. 69. Powers and duties of superintendents. 1917, c. 188, § 7. 1921, c. 13. A superintendent of schools employed under the provisions of sections sixty-three to sixty-five shall have the following powers and duties:

(a) **Secretary ex-officio.** He shall be, ex-officio, secretary of the superintending school committee and of any school building committee chosen by the town, and shall perform such duties not herein enumerated as said committees shall direct.

(b) **Auditor; vouchers to be approved by majority of board.** 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.

(c) **Shall visit the schools; annual report.** He shall examine the schools and inquire into the regulations and discipline thereof, and the proficiency of the

pupils, for which purposes he shall visit each school at least the minimum number of times each term which the joint committee may designate. At the annual town meeting, he shall make a written report of the condition of the schools for the past year, with a statement of the condition of school buildings, the proficiency made by the pupils, and the success attending the modes of instruction and government thereof, and transmit a copy to the state commissioner of education.

(d) Shall keep account of finances and report once a term to committee of respective towns. He shall keep a faithful and accurate account of school finances, and he shall report at least once a term in writing to each of the several committees of the supervisory union, including in such report a statement of the condition of the schools, a financial statement, and a statement of the condition of school buildings and outbuildings in the matter of repair, cleanliness, and sanitary arrangements.

(e) Shall nominate teachers; election to be approved by committee. He shall nominate all teachers subject to such regulations governing salaries and the qualifications of teachers as the superintending school committee shall make, and upon the approval of nominations by said committee he may employ teachers so nominated and approved.

(f) Shall supervise work of teachers. He shall direct and supervise the work of all teachers.

(g) Shall select and purchase text books on approval of committee. He shall select text books, supplies, and apparatus subject to the approval of the superintending school committee and shall make all purchases of the same under such regulations as the superintending school committee shall adopt.

(h) Shall distribute and account for supplies. He shall see to it that all necessary apparatus and supplies are seasonably distributed to each school and accurately accounted for and economically used.

(i) Shall enforce rules of committee. He shall enforce or cause to be enforced all regulations of the superintending school committee.

Sec. 70. Appropriation exclusive of amount required for common school purposes; forfeiture for violation. R. S. c. 16, § 60. No town shall receive state aid under section sixty-four 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. 71. Provisions made applicable to remote towns. State commissioner may take initiative in appointing agent to act as superintendent. R. S. c. 16, § 61. 1917, c. 188, § 8. Whenever the state commissioner of education shall find on investigation that any town or plantation is so situated that it is not practicable to form a union in accordance with the provisions of sections sixty-one to seventy, inclusive, he may place at the service of the committee of such town or plantation the general agent for the schooling of the children in unorganized townships, or any other agent of the state commissioner of education, who shall, when so assigned, serve as the superintendent of schools of said town or plantation; when the said agent shall so serve he shall have the same powers and shall

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perform the same service as superintendent of schools of towns; provided, however, that his visits to the schools of said town or plantation shall be at such intervals as may be directed by the commissioner of education.

Sec. 72. Reimbursements to be added to appropriation for union school superintendents; may be used for traveling expenses of agents. R. S. c. 16, § 62. 1917, c. 188, § 9. Whenever the schools of any town or plantation shall be placed under the supervision of agents of the state commissioner of education, as provided by the preceding section, the treasurer of said town or 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 town or plantation, and the amount so received by the treasurer of state shall be added by him to the appropriation for the superintendence of towns composing school unions and may be used for defraying the traveling expenses of agents so employed.

Compulsory Education.

Sec. 73. Towns may make by-laws concerning truants; approval. R. S. c. 16, § 63. 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. 5, § 134, ¶ 1.

Sec. 74. Violation of by-laws. R. S. c. 16, § 64. Attendance officers elected as provided in section seventy-eight shall alone make complaints for violations of said by-laws, and shall execute the judgments of the magistrate.

65 Me. 130.

Sec. 75. Truant children may be placed in suitable institutions. R. S. c. 16, § 65. 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 seventy-three.

Sec. 76. Children between certain ages required to attend school unless excused or excluded by committee; penalty for neglect; exception for subnormal child. R. S. c. 16, § 66. 1919, c. 122. 1921, c. 5. 1927, c. 87. 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 and every child between the fifteenth and sixteenth anniversaries who has not completed the eighth grade of the elementary school 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 a private school in which the course of study and methods of instruction have been approved by the state commissioner of education, or in any other manner arranged for by the superintending school committee with the approval of the state commissioner of education; 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; provided, further, that a child between the ages of fourteen and sixteen who, because of sub-normal mental capacity, is unable to successfully pass the tests necessary to allow a regular work permit to be issued, may under conditions deemed proper receive a work permit issued jointly by the commissioner of education and the commissioner of labor, such persons to be employed in non-hazardous occupations.

See c. 53, § 19; 124 Me. 40.

Sec. 77. Children may be allowed to attend school in adjoining town, on terms agreed upon; tuition. R. S. c. 16, § 67. 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 ninety-two, 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 ninety-two, 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. 78. Election of attendance officers; their authority and duties; vacancies; penalty for neglect of duty. R. S. c. 16, § 68. 1917, c. 248. The superintending school committee of every city and town shall annually elect one or more persons, to be designated attendance officers, who shall inquire into all cases of neglect of the duties prescribed in section seventy-six and ascertain the reasons therefor and shall promptly report the same to the superintending school committee, and such attendance 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 ninety-three to one hundred ninety-five, inclusive, of this chapter. Attendance 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 fifty-three, 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,

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shall produce for the inspection of such attendance officers all work permits and vacation permits required to be kept on file in such establishments under chapter fifty-three. Superintending school committees shall elect attendance 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 attendance 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. 79. Habitual truant; attendance officer to make complaint. R. S. c. 16, § 69. If a child without sufficient excuse is habitually and wilfully absent from school or fails 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 seventy-six, the provisions of the two following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the attendance officers or any of them shall when so directed by the superintending school committee or superintendent, in writing, enforce said provisions by complaint.

Sec. 80. Persons responsible for truancy punished. R. S. c. 16, § 70. 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. 81. Habitual truants may be committed to state institutions; attendance officer may execute warrants. R. S. c. 16, § 71. On complaint of the attendance 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 seventy-six, seventy-eight and eighty. 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 seventy-six, seventy-eight and eighty, may be directed to and executed by the attendance officer, or either of the attendance 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 for some purposes authority of attendance officers, c. 147, § 23. P. & S. L. 1905, c. 346, § 2.

Free High Schools, Academies, and Seminaries.

Sec. 82. Classification of high schools. R. S. c. 16, § 73. 1919, c. 98, § 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 ap-

proved 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.

Junior High School. This class shall include such schools as maintain a diversified program of studies approved by the state superintendent of public schools, for such grades or years as he shall prescribe, throughout a school year of at least thirty-six weeks, provided, that the last two years of the elementary schools and not more than two grades or years of the high school may be included in such a school, and provided that the cost of maintenance may be taken from high school funds, or from high school funds and common school funds combined, in proportion to the cost of maintenance of the several grades. A school of this class may be maintained in connection with or as a part of a high school as provided in Class A of this section.

Sec. 83. Town not obliged to pay tuition under section 92. R. S. c. 16, § 75. 1917, c. 67. 1919, c. 98, § 3. A town, precinct, or union maintaining a high school, as provided in Class A of section eighty-two, shall not be obliged to pay tuition under section ninety-two of this chapter. A town, precinct, or union maintaining a high school as provided in Class B of section eighty-two or a junior high school as provided in the same section shall not be obliged to pay tuition for any pupil until he has completed that part of the course of said school approved by the state commissioner of education, or the equivalent thereof.

Sec. 84. Schools to be inspected. R. S. c. 16, § 76. 1917, c. 43. All schools of secondary grade receiving state aid shall be inspected under the direction of the state commissioner of education, and for this purpose he shall be authorized to expend not to exceed four thousand 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 eighty-two, 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. 85. Free high schools, number in any town limited; adjoining towns may maintain high schools; conveyance or board of pupils; town to receive and expend gifts, bequests, and funds surrendered by academies; state aid; penalty for misapplication of money appropriated by state. R. S. c. 16, § 78. 1923, c. 59. 1927, c. 106. 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 or board of pupils attending secondary schools, said sum to be expended under the direction of the superintending school committee. Provided, that in cases of pupils who reside on islands within towns and cities and on which there is no secondary school and from which regular transportation lines are established and in operation, said towns and cities shall pay transportation charges of said

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children; provided, however, that such transportation shall be over regular lines, at not to exceed regular fares and no subsidy; provided, also, that transportation lines shall have the privilege of establishing such school fares not to exceed the regular fare, as may be agreed upon by the officials of said transportation lines and the school board or school committee of the town or city of which said islands are a part. 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. 86. Free high school precincts, their organization, and continuance from year to year; sections of adjoining towns may organize precincts. R. S. c. 16, § 79. The inhabitants of any section of a town which fails or neglects to provide for the maintenance of free high schools, may organize a free high school precinct in the manner hereinafter provided, and may establish and maintain a free high school therein, and receive state aid the same as the town might have done; provided, that no more than two such free high schools shall be established in any town, and that the amount of aid extended to the precincts in any town shall not exceed the sum that the town might have received. On petition of any five voters resident in said section, reciting the limits of the precinct proposed, the municipal officers of the town shall call a meeting of the voters within said limits by causing notices, specifying the time, place, and purposes of said meeting, to be posted in two or more conspicuous places within said limits seven days before the time appointed. Said meeting shall choose a moderator and a clerk who shall be sworn, and shall, by a majority vote of those present and voting, determine whether said precinct shall be organized. It shall choose an agent who shall be duly sworn. Such precinct may continue its organization from year to year by the holding of meetings called in the manner aforesaid, so long as the town shall neglect or refuse to support free high schools. Sections of adjoining towns may organize as herein provided, and unite in the support of such schools. But no more than two such precincts shall exist at the same time in any town.

Sec. 87. Location of school; schoolrooms, how supplied and furnished. R. S. c. 16, § 80. 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. 88. Course of study; schools to be free to youth in any town or union of towns, precincts or union of precincts; admission of pupils from without towns or precincts. R. S. c. 16, § 81. 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. 89. Free high schools subject to the school laws, except in certain cases; their management and supervision. R. S. c. § 82. 1921, c. 91. 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 school committee of such town, or of the state commissioner, when the precinct so elects, and under the financial management of the agent of the precinct, who, in connection with said committee or commissioner, 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. 90. Towns may raise money to maintain free high schools. R. S. c. 16, § 83. 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. 91. Provisions for pupils in towns having no free high schools. R. S. c. § 84. 1923, c. 77. Any town which does not maintain a free high school of standard grade may, from year to year, authorize its superintending school com-

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mittee 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 schooling of pupils within said town in the studies contemplated by section eighty-two of this chapter. When the amount to be paid under the contract shall equal or exceed the income of the academy for the preceding year, exclusive of sums paid said academy by the contracting town, a joint committee shall be formed consisting of the superintending school committee of said town and an equal number of the trustees of the academy. Said joint committee shall be empowered to select and employ the teachers for the academy, to fix salaries, to arrange the course of study, to supervise the instruction and to formulate and enforce proper regulations pertaining to other educational activities of the school. The superintendent of schools of the contracting town in which the academy is located shall be secretary ex-officio of the joint committee and shall be assigned such supervisory duties in connection with the school as the joint committee shall determine upon. When a town has made a contract as provided for in this section, the tuition liability of said town shall be the same as if a free high school were maintained in accordance with section eighty-two of this chapter, and the expenditure of any town for schooling of pupils 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. 92. A youth residing in town not supporting a secondary school may attend such school elsewhere; tuition to be paid by town; free tuition while youth maintains satisfactory standards. R. S. c. 16, § 85. 1917, c. 229. 1919, c. 96. 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 commissioner of education, and in such case the tuition of said youth, not to exceed forty-five 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 commissioner of education, or unless such youths shall have satisfactorily completed a standard common school course of study which has been approved by the state commissioner of education; except that any youth who has satisfactorily completed the course of a B class or junior high school, as provided by section eighty-two, 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 class or junior high school 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. Any school receiving tuition pupils under the provisions of this section shall provide, without additional charge, all textbooks, apparatus, and appliances used by said pupils, subject to the provisions of sections twenty-two to twenty-four, inclusive, of this chapter.

100 Me. 549; *101 Me. 553.

Sec. 93. Returns to state commissioner of expenditure for free high schools; state commissioner to certify amounts to which towns are entitled; appeal to governor and council; penalty for defrauding state. R. S. c. 16, § 87. 1921, c. 163. Superintendents shall, annually, before the first day of July, make returns under oath to the state commissioner of education 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 in each branch of study pursued, and the amount received for tuition. If the state commissioner is satisfied that the provisions of sections eighty-two to ninety-one 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; provided that in case any town has failed to comply with any of said provisions by reason of circumstances beyond its control he may, after proper investigation, certify such part of the high school aid as circumstances may justify. 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. 94. High school precinct taxes, how assessed and collected. R. S. c. 16, § 88. 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. 95. Assessors authorized to assess overlay. R. S. c. 16, § 89. The assessors may include in their assessment such sum over and above the sum committed to them to assess, not exceeding five per cent thereof, as a fractional division renders necessary, and certify that fact to the town treasurer.

Sec. 96. Expense of assessment. R. S. c. 16, § 90. The town treasurer shall

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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. 97. Precinct taxes assessed without authority. R. S. c. 16, § 91. Section thirty-one of chapter fourteen 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. 98. Powers and duties of collectors; their compensation. R. S. c. 16, § 92. 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. 99. Money at disposal of agent. R. S. c. 16, § 93. 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 nine.

Sec. 100. Trustees of academies, etc., may surrender property to establish free high schools. R. S. c. 16, § 94. 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. 101. Property, how conveyed. R. S. c. 16, § 95. 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. 102. Income of property, how applied; qualifications of pupils, how determined. R. S. c. 16, § 96. The municipality accepting the property in trust, as named in section one hundred, 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. 103. Tuition to be paid by non-residents. R. S. c. 16, § 97. 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. 104. State aid to academies. R. S. c. 16, § 98. 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 commissioner of education, 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 said commissioner, 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. 105. Mode of payment. R. S. c. 16, § 99. 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 commissioner of education 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. 106. Condition of state aid. R. S. c. 16, § 100. No town shall receive state aid under the provisions of section ninety-one of this chapter if a free high school of standard grade is maintained in such town.

Sec. 107. Incorporation. R. S. c. 16, § 101. No academy shall receive state aid under section one hundred four unless incorporated prior to May one, nineteen hundred and seven.

Sec. 108. Attendance. R. S. c. 16, § 102. No academy shall receive state aid under section one hundred four 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. 109. Income. R. S. c. 16, § 103. No academy shall receive state aid under section one hundred four 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.

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Sec. 110. Institutions receiving state aid to make report to state commissioner of education; construction of terms. R. S. c. 16, § 104. 1919, c. 117. Every educational institution receiving state aid, and the officers and teachers of every academy receiving money from the state, and of every academy or private school approved for attendance or tuition purposes, shall annually, on or before the first day of August, report to the state commissioner of education the total and average attendance, an account of the moneys received and expended during the preceding year, and the number of instructors, and such schools as are approved for state aid or tuition purposes shall report such other items as he may require. Such reports shall be published in the annual report of the state commissioner. 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 one hundred four to one hundred ten, inclusive, the word "academy" occurs, it shall be construed to include "seminary or institute."

University of Maine.

Sec. 111. State commissioner of education ex-officio member of board of trustees of University of Maine. 1923, c. 205. As the state is providing large appropriations for the support of the University of Maine, the state should have a more direct connection with its affairs both financial and educational, therefore, it is provided that the state commissioner of education shall be ex-officio a member of the board of trustees of the University of Maine with all of the powers and privileges of members and that his membership on said board shall be coetaneous with his term of office as state commissioner of education.

Sec. 112. Full time treasurer at University of Maine; compensation. 1921, c. 151, § 1. The trustees of the University of Maine shall appoint a full time treasurer, who shall give bond for the faithful performance of his duties in such amount and with such conditions and sureties, and shall receive such compensation as the governor and council may determine.

Sec. 113. Duties and powers of treasurer. 1921, c. 151, § 2. The treasurer shall have full charge of the purchase of all supplies, material, and equipment for the use of the university, receipts of all moneys, and of all expenditures, said payments to be made when certified by the state auditor, and said treasurer shall have no authority to contract debts or obligations in excess of said appropriation, nor under any conditions use moneys so appropriated for the benefit of any other college or colleges, unless the same is duly and properly authorized by the governor and council.

Sec. 114. Treasurer's report. 1921, c. 151, § 3. The treasurer shall prepare a complete report for the periods ending on June thirtieth and December thirty-first of each year, and forward a copy of said semi-annual report of the colleges to the governor and council and also the board of trustees.

Sec. 115. Resident auditor to be appointed by state auditor. 1921, c. 151, § 4. The state auditor shall appoint a resident auditor for the University of Maine, whose duties shall be to audit the accounts, and perform such other work as may be required of him, under direction and by the state auditor, suitable office quarters to be furnished by the university. The salary and just expenses of the resident auditor to be paid from the state auditor's appropriations.

Duties and Qualifications of Instructors. Degrees. Holidays.

Sec. 116. Presidents of colleges, tenure of office. R. S. c. 16, § 105. Presi-

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

Sec. 117. Conferring literary or academic degrees without authority of legislature prohibited; penalty. 1923, c. 99. No person, partnership, or institution and no corporation shall be empowered to confer educational, literary, or academic degrees unless thereunto expressly authorized by an act of the legislature. Any person, partnership, institution or corporation offering or conferring degrees, or purporting to offer and confer degrees without being thereunto duly authorized, shall be punished by a fine of not more than one thousand dollars, or by imprisonment of not more than one year, or by both such fine and imprisonment.

Sec. 118. Fees for degrees conferred. R. S. c. 16, § 106. 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. 119. Teachers to keep school register; not to be paid until register is completed. R. S. c. 16, § 107. 1919, c. 55. 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 textbooks 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, or at such shorter intervals as the committee may determine, 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. Five days constitute the school week, and four weeks a school month.

See c. 53, § 39; 63 Me. 244.

Sec. 120. Instructors of colleges, etc., to inculcate certain virtues; kindness to birds and animals to be taught in public schools. R. S. c. 16, § 108. 1917, c. 228. 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 one half hour of each week of the school term to teaching to the children under their charge, in correlation with other studies of the school curriculum, the great principles of humanity as illustrated by kindness to birds and animals and regard for all factors which contribute to the well being of man.

78 Me. 511.

Sec. 121. Readings from scriptures in public schools; no sectarian comment or teaching. 1923, c. 166. To insure greater security in the faith of our fathers, to inculcate into the lives of the rising generation the spiritual values necessary to the well being of our and future civilizations, to develop those high moral and religious principles essential to human happiness, to make available to the youth

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of our land the book which has been the inspiration of the greatest masterpieces of literature, art, and music, and which has been the strength of the great men and women of the Christian era, there shall be, in all the public schools of the state, daily or at suitable intervals, readings from the scriptures with special emphasis upon the Ten Commandments, the Psalms of David, the Proverbs of Solomon, the Sermon on the Mount, and the Lord's Prayer. It is provided further, that there shall be no denominational or sectarian comment or teaching, and each student shall give respectful attention but shall be free in his own forms of worship.

Sec. 122. First Friday in March Temperance Day; state commissioner to prepare material; school teachers to comply with provisions. 1921, c. 109, §§ 1, 2. The first Friday in March of each year or the school day in each year nearest that date shall be designated as Temperance Day, and in every public school in the State of Maine not less than forty-five minutes of the school session shall be set apart and used for instruction and appropriate exercises relative to the history and benefits of prohibition and prohibitory laws; said schools to continue their work so far as practicable during the remainder of the day.

It shall be the duty of the state commissioner of education to prepare suitable material for the observance of Temperance Day. It shall be the duty of all school officials in the several towns of the state and all public school teachers within the state to comply with the provisions of this section.

Sec. 123. School holidays; special observance of Washington's Birthday and Columbus Day. R. S. c. 16, § 109. 1923, c. 50. 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; Armistice day, November eleven; 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; Armistice day, November eleven; 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 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. 124. Teachers and school officers may form associations for improvement in the art of teaching. R. S. c. 16, § 110. 1917, c. 60. 1919, c. 45. 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 commissioner of education 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 commissioner the state shall defray the necessary expenses attending the holding of such conventions. Whenever a superintendent of schools shall hold a meeting or institute of the teachers of several towns for the purpose of giving instruction in methods of teaching or the conduct of schools or for the training of teachers already in service in a manner approved by the state commissioner of education, financial assistance may be given by the state in defraying the expenses of such meetings. For the purpose of this section the sum of four 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.

Sec. 125. Teachers may suspend schools during conventions. R. S. c. 16, § 111. 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 commissioner of education, 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 commissioner of education, showing such attendance.

Sec. 126. Governor to draw warrants to pay expenses. R. S. c. 16, § 112. 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 twenty-four, when such bills shall have been approved by the state commissioner of education, 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 Territory.

Sec. 127. Powers of plantations to maintain schools. R. S. c. 16, § 113. 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. 5, § 194; 61 Me. 449.

Sec. 128. School moneys of plantations, how expended. R. S. c. 16, § 114. 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

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case of towns, and the same shall be expended by such plantations, under the same restrictions and limitations as are required of towns.

Sec. 129. Children between five and twenty-one in unorganized territory entitled to school privileges; term "unorganized territory" defined. 1919, c. 127, § 1, ¶ 1. All children between the ages of five and twenty-one years who reside with a parent or legal guardian in unorganized territory within this state (within the meaning of this act unorganized territory shall include all territory not a part of any city, town, or plantation, and an unorganized unit shall be any unorganized township, gore, strip, tract, surplus, point, patent, peninsula, island, disorganized town or plantation or any other distinct and separate portion of unorganized state territory) shall be entitled to school privileges which shall be provided under the direction of the state commissioner of education under such rules and regulations as may be made from time to time by him and approved by the governor and council.

Sec. 130. Elementary schools to be established or children sent to schools already established; tuition, transportation, board. 1919, c. 127, § 1, ¶ 11. Elementary school privileges may be provided by the state commissioner of education by establishing and maintaining in the unorganized territory such elementary schools, the minimum school year of which shall be thirty weeks, as may seem advisable and by sending such children to elementary schools anywhere within the state as tuition pupils as he may deem expedient. All children so sent by the state commissioner as tuition pupils to any public elementary school in the state shall be admitted by the school authorities having charge thereof upon receiving notice of such intention from the state commissioner or any of his duly authorized agents and they shall be entitled to all privileges and benefits, and be subject to the same rules and regulations as children residing in the municipality to which they are sent; tuition shall be paid by the state for said pupils in accordance with the proportional cost per pupil of the school attended unless a rate of tuition is otherwise agreed upon; transportation or board, in full or in part, may be paid for such pupils at the discretion of the state commissioner.

Sec. 131. State to pay tuition in secondary school. 1919, c. 127, § 1, ¶ III. 1921, c. 149. Any youth who resides with a parent or legal guardian in the unorganized territory of this state and who may be judged by the state commissioner of education qualified to enter a secondary school may attend any such 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 commissioner of education. In such case the tuition of said youth not to exceed the same amount towns not supporting and maintaining a standard secondary school are required by law to pay annually for secondary school tuition, shall, provided a satisfactory standard of scholarship and deportment is maintained, be paid by the state under such rules and regulations as may be made by the state commissioner.

Sec. 132. State to cooperate with U. S. government for schooling of children on government reservation. 1919, c. 127, § 1, ¶ IV. Special arrangements may be made to provide elementary school privileges in cooperation with the United States government for a child or children residing with a parent or legal guardian at any light station, fog warning station, life saving station, or other place within a United States government reservation, under such rules and regulations as may be made by the state commissioner and approved by the governor and council.

Sec. 133. \$35,000 annually to be set aside from school funds; how expended.

1919, c. 127, § 2. For the purpose of carrying out the provisions of the preceding section, there is hereby appropriated the sum of thirty-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. All of this appropriation not expended during any financial year, shall, on the first day of July next following, be added to the permanent school fund. The state commissioner of education is hereby authorized to use this appropriation for any purpose in connection with the schooling of children in the unorganized territory of the state, including: teachers' salaries, board and traveling expenses; fuel and janitor service; tuition, board, and transportation of elementary school pupils; secondary school tuition; textbooks, school apparatus and supplies; erection, equipment, repair and maintenance of schoolhouses and requisite buildings, all of which schoolhouses shall conform to the minimum requirements for school buildings as provided by section fourteen; lots for school buildings or leases thereof; services and expenses of agents and attendance officers, and clerical assistance; and any other expenses he may deem necessary.

Sec. 134. Census to be procured before school privileges provided. 1919, c. 127, § 3. Before school privileges are provided in accordance with sections one hundred twenty-nine to one hundred thirty-two for a child or children in any unorganized unit, it shall be the duty of the state commissioner of education through his agents to procure returns showing an assessment of the school tax as provided in section one hundred thirty-five, and the number of persons, including the names and ages of those between five and twenty-one years, resident therein, together with such other information as he may deem necessary, and similar returns shall be required by him annually thereafter on the first day of April, or corrected to the first day of April, as long as school privileges are so provided.

Sec. 135. Special school tax to be assessed on male residents. 1919, c. 127, § 4. Whenever school privileges are first provided in accordance with sections one hundred twenty-nine to one hundred thirty-two for a child or children resident in any unorganized unit and annually thereafter on the first day of April as long as school privileges are provided, all male residents of such unorganized unit twenty-one years of age and over shall be assessed and shall pay to the state commissioner of education or his duly authorized agent a school tax of three dollars. The obligation to pay this tax shall in no way be removed in case a resident pays or has paid a poll tax in a town. The state commissioner shall have authority to abate said tax in any case when conditions appear to warrant such action. All of said taxes so collected by agents shall be remitted by them to the state commissioner, who shall transfer such taxes to the treasurer of state to be credited to the appropriation for schooling in unorganized territory.

Sec. 136. School agents and attendance officers may be appointed; duties. 1919, c. 127, § 5. The state commissioner of education shall have authority to appoint agents for the whole and any portion of the unorganized territory, and said agents shall perform such duties in connection with the schooling of children, including the assessing and collecting of the school tax, as the state commissioner may authorize or delegate in each particular appointment. Said agents in the collection of the school 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 shall act as attendance officers for the territory covered by their appointment. Special attendance officers as may appear necessary may be appointed by the state commissioner for any unorganized unit. Attendance officers for the

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unorganized territory shall have the same authority and be under the same obligations as provided in section seventy-eight, with such changes as provided in section one hundred forty-two.

Sec. 137. State may take land for schoolhouses and appraise damages when owner refuses to sell or demands unreasonable price. 1917, c. 127, § 6, ¶ I. When a location for a schoolhouse and requisite buildings in any unorganized unit has been designated by the state commissioner, and the owner thereof refuses to sell, or, in the opinion of the state commissioner asks an unreasonable price for it, or resides without the state and has no authorized agent or attorney therein, the state commissioner or his duly authorized agent, any time after thirty days from the time of notifying the said owner of the designation of said lot, may lay out a schoolhouse lot, not exceeding three acres, and appraise the damages; and on payment and tender of such damages, or if said owner does not reside in the state, upon depositing such damages with the state treasurer for his use, may take such lot to be held and used for the purposes aforesaid, and should a school building not be erected thereon within a period of three years from the date the lot was taken by the state it shall revert to the owner, his heirs, or assigns. The state commissioner 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 state.

Sec. 138. Owner of land taken may appeal to state assessors. 1919, c. 127, § 6, ¶ II. If the owner is aggrieved at the location of the lot or the damages awarded, he may apply to the board of state assessors within three months, who may change the location and assess the damages. If the damages are increased or the location changed, the state shall pay the damages and costs; otherwise the costs shall be paid to the suppliant.

Sec. 139. When unorganized unit becomes organized, school buildings must be taken over and paid for. 1919, c. 127, § 7. Whenever any unorganized unit becomes organized as a town or plantation, such town or plantation shall, within two years of the date of said organization, through the state commissioner, pay to the treasurer of state for each school building within its limits erected or remodeled in accordance with sections one hundred twenty-nine to one hundred forty-two inclusive a sum to be determined by the state commissioner of education and not less than two-thirds of the cost to the state of such building, lot, and improvements, which sum shall be credited to the appropriation for schooling in unorganized territory. A record shall be kept by the state commissioner of the cost of all such buildings, lots, and improvements, which shall be used as a basis for such settlement. It is further provided that any town or plantation dissatisfied with the sum determined upon by the state commissioner in such case may, after a vote taken by the town or plantation at a regular or special meeting called for the purpose appeal to the governor and council who shall make the final decision relative thereto.

Sec. 140. School property in unorganized territory to be taken over by state; when town or plantation is disorganized school property to be taken by state. 1919, c. 127, § 8. Any school building in unorganized territory may be used and held for school purposes by the state commissioner of education, and all repairs, changes, or additions thereto shall be made under his direction or that of a duly authorized agent. All school buildings not privately owned in unorganized territory shall become the property of the state. Whenever a town or plantation becomes disorganized by act of the legislature all school property therein shall

become the property of the state and under the charge of the state commissioner, the same as other school property in unorganized territory.

Sec. 141. When town or plantation fails to elect officers, state to take charge of school property and provide school privileges. 1919, c. 127, § 9. Whenever the civil organization of any town or plantation becomes defunct through failure to hold the annual town or plantation meeting, failure to fill vacancies in necessary offices, or in any other manner, it shall be the duty of the state commissioner of education to assume charge of all school property therein, to require an accounting for all town or plantation school funds, and to provide school privileges for children between five and twenty-one years of age whose parents are residents of such town or plantation, until such time as it shall recover its civil organization or is disorganized by act of the legislature. The state commissioner may provide the school privileges in such manner as he may deem expedient under the supervision of any of the agents of the unorganized territory or a special agent appointed by him for the purpose. The expense of such school privileges shall be paid from the appropriation for schooling in unorganized territory, and in case any such town or plantation recovers its civil organization within a period of two years the amount of any such expense paid by the state shall, upon recommendation of the state commissioner, be deducted by the treasurer of state from any school funds that may subsequently become payable to such town or plantation by the state and credited to the appropriation for schooling in unorganized territory.

Sec. 142. Law as to compulsory school attendance, etc., to be applicable in unorganized territory; state to distribute laws. 1919, c. 127, § 10. The compulsory school attendance laws, child labor laws, and sections fifty-nine and sixty and one hundred ninety-two to one hundred ninety-six, inclusive, shall apply to children of the unorganized territory of the state the same as to the children of cities, towns, and plantations with such changes thereof relative to officials, courts, disposal of fines, etc., as may be made by the state commissioner of education and approved by a judge of the supreme judicial court to make these laws applicable to the unorganized territory while retaining the general principles of the laws; and it shall be the duty of the state commissioner to have these laws, with the changes as made, printed in sufficient quantity for use in the unorganized territory, and to supply to any person making application therefor.

State Commissioner of Education.

Sec. 143. Appointment and term of office. R. S. c. 16, § 120. 1923, c. 5. The governor with the advice and consent of the council shall appoint a state commissioner of education, 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. Whenever the title "state superintendent of public schools" is used, it shall mean the state commissioner of education.

Sec. 144. Office at the capital. R. S. c. 16, § 121. 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.

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Sec. 145. Duties. R. S. c. 16, § 122. 1919, cc. 26, 146. 1921, c. 25. 1925, c. 95. 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.

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 public schools and in private schools approved for attendance and tuition purposes, reserving to superintending school committees, trustees, or other officers in charge of such public or private schools the right to prescribe additional studies, and the course of study prescribed by the state commissioner of education shall be followed in all public schools and in all private schools approved by the state commissioner for attendance or tuition purposes; provided, however, that upon the approval by the state commissioner of any course arranged by the superintending school committee of any town, or by the trustees or other officers of any private school, said course shall be the authorized course for said town or private school; provided, further, that the basic language of instruction in the common school branches in all schools, public and private, shall be the English language; and provided, further, that American history and civil government, including the constitution of the United States, shall be taught in all common schools of elementary and high school grades, both public and private, and that American history and civil government shall be required for graduation from all grammar schools,

both public and private. Nothing in this section shall be construed to prohibit the teaching in elementary schools of any language as such.

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 commissioner 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.

XII. To cause an inspection to be made and to report to the school committee his findings and recommendations whenever the superintending school committee or the superintendent of schools of any town, or any three citizens thereof, shall petition him to make an inspection of the schools of said town; and to prepare a list of standards of buildings, equipment, organization, and instruction, and to give such ratings upon such list of standards to any schools that are inspected under the provisions of this paragraph as their general condition, equipment, and grade of efficiency may entitle them to.

Sec. 146. Commissioner to furnish blanks for fiscal returns and the return list of towns making same. R. S. c. 16, § 123. The state commissioner shall prepare and furnish to the town officers such blanks as he deems proper to secure the fiscal returns required in section thirty-three. 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. 147. Commissioner to prepare and forward blanks for school returns. R. S. c. 16, § 124. 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-six, and shall, on the first day of each May, forward to said superintendents blanks for the returns required by section fifty-seven.

Sec. 148. Notice to delinquent committees. R. S. c. 16, § 125. 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 Examination of Teachers.

Sec. 149. State examination of teachers. R. S. c. 16, § 126. The state commissioner of education 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. 150. Tests required. R. S. c. 16, § 127. The examination herein pro-

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vided 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 commissioner may determine. Due public notices of the times, places, and other conditions of the examinations shall be given.

Sec. 151. Certificates issued by state commissioner; knowledge of physiology and hygiene requisite; certificates may be granted without examination; state commissioner to prescribe regulations. R. S. c. 16, § 128. 1919, c. 69, § 1. Certificates of qualification signed by the state commissioner of education 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 fulfill 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 commissioner 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; provided, however, that no certificate of secondary grade shall be granted to any person who has not completed the equivalent of two years of a college or normal school course. 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 years' service and satisfactory fitness, on the presentation of such evidence of fitness and under such special conditions as the state commissioner may prescribe. Provided, further, that certificates may, under the rules prescribed by the state commissioner, 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. 152. List of persons certificated to be kept. R. S. c. 16, § 129. A list of persons so certificated shall be kept in the office of the state commissioner of education and copies of the same with such information as may be desired shall be sent to school committees and superintendents upon their request.

Sec. 153. Persons not holding state certificate not to be employed. R. S. c. 16, § 130. 1919, c. 69, § 2. 1925, c. 93. No persons shall be employed to teach in any school under the supervision and control of any school board of any city, town, or plantation of this state, who does not hold a state certificate as herein provided. Provided, further, that all state certificates heretofore granted shall continue in force in accordance with the terms stated therein. The state commissioner of education is hereby authorized to formulate all rules and regulations necessary for the carrying out of the provisions of this section and of the four preceding sections.

Sec. 154. Penalty for teaching without certificate. R. S. c. 16, § 131. 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. 155. Appropriation. R. S. c. 16, § 132. 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.

Registration of Teachers.

Sec. 156. Teachers may register with state commissioner. Lists to be furnished upon request; fee. 1917, c. 137, § 1. Any person holding a state teachers' certificate and any person holding a temporary teaching permit, or eligible to receive such a permit may, upon the payment of three dollars and upon application to the state commissioner of education in such manner as may be prescribed by him, register as a candidate for employment as a teacher in the public schools within the state. It shall be the duty of the state commissioner to furnish to superintending school committees or superintendents of schools, upon request, information relative to persons registered as hereinbefore provided, and to furnish persons thus registered information relative to vacancies in positions in public schools within the state; but neither the state commissioner nor any person employed under his direction shall be held responsible for, nor be understood to vouch for the fitness or success of any teacher who may secure a position in a public school through the operation of this section, nor shall the acceptance of this enrollment and the payment of the required fee be construed as a guarantee for securing employment as a teacher. The payment of the above fee shall entitle the person registering to the benefit of such registration for a period of three years.

Sec. 157. State commissioner may employ clerical assistance; must furnish bond; fees to be paid into state treasury monthly. 1917, c. 137, § 2. The state commissioner of education shall make the necessary rules and regulations for carrying out the provisions of section one hundred fifty-six and for obtaining whatever information is required as to the experience, qualifications, and character of persons seeking employment as teachers, and a teacher shall be entitled to consideration for employment only so long as he complies with such rules and regulations. He shall employ such clerical and other assistants as may be required, and they shall perform their duties under the general supervision of said commissioner. He shall collect and receipt for all registration fees, and report and pay said fees to the treasurer of state once in each month. He shall furnish to the state a surety bond in sum to be fixed by the governor and council and at the expense of the state.

Sec. 158. Appropriation; registration fees to be used for administration. 1917, c. 137, § 3. For the necessary expenses of carrying out the provisions of the two preceding sections there may be annually expended the amount of the fees received under the provisions of section one hundred fifty-six together with such part as may be required of the sum of five hundred 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. 159. Duty of state commissioner of education. R. S. c. 16, § 133. The state commissioner of education 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

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and academies, and he shall have authority to approve such courses in all schools aided by the state.

Sec. 160. Manual training to be introduced into all normal schools. R. S. c. 16, § 134. 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. 161. State aid to towns maintaining manual training in elementary schools. R. S. c. 16, § 135. Whenever the superintendent of schools of any town shall certify under oath to the state commissioner of education 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 commissioner of education, 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 commissioner of education.

Sec. 162. State aid for maintaining manual training in high school or academy. R. S. c. 16, § 136. 1919, c. 93. 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 seven hundred and fifty 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 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 commissioner of education.

Sec. 163. State aid to towns maintaining evening schools; Americanization and reducing illiteracy. R. S. c. 16, § 137. 1919, c. 148. 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 commissioner of education; 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; provided, however, that for the purpose of Americanization and also for the purpose of reducing illiteracy within the state all towns and cities in which there are persons of normal mentality over eighteen years of age who are unable to read, to write, and to speak the English language to a reasonable degree of efficiency, or who are unable to read and to write in any language, are hereby authorized to organize and conduct evening schools or classes in which such persons of foreign birth or foreign extraction shall be given opportunity to learn to read, to write, and to speak the English language and to learn the duties of citizens in a democracy, and also in which illiterates shall be given opportunity to learn to read and to write and to pursue such other subjects as will increase their civic intelligence. Such schools and classes shall meet the approval of the state commissioner of education in regard to the qualifications of instructors, length of term, and subjects offered, and towns maintaining them shall be reimbursed to the same extent and in the same manner as for other schools and classes set forth in this section.

Sec. 164. State aid to towns maintaining general industrial schools; duty of school committee and superintendent of schools. R. S. c. 16, § 138. 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. 165. Deduction from school and mill fund; reports to the state commissioner of education. R. S. c. 16, § 139. 1917, c. 77. 1919, c. 87. 1921, c. 102. For the purposes of the seven preceding sections there shall be deducted by the treasurer of state from the school and mill fund the sum of four thousand dollars for the period from January first, nineteen hundred twenty-one to June thirtieth, nineteen hundred twenty-one, and ninety thousand dollars for the year from July first, nineteen hundred twenty-one to June thirtieth nineteen hundred twenty-two, and annually thereafter, and any unexpended balance of this amount shall be added to the permanent school fund. All reports required under said

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sections shall be filed annually with the state commissioner of education on or before the first day of July, and state aid shall be payable during the month of December next succeeding.

Vocational Education.

Sec. 166. State to cooperate with federal government in matter of vocational education. 1917, c. 186, § 1. The state of Maine, having accepted the benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February twenty-third, nineteen hundred and seventeen, will observe and comply with all the requirements of said act.

Sec. 167. State board for vocational education; commissioner of education, chairman. 1917, c. 186, § 2. The state board for vocational education shall have all necessary power to cooperate with the federal board of vocational education in the administration of the provisions of said act. Said board shall consist of three members of whom the state commissioner of education shall serve as chairman and the other two members shall be appointed by the governor with the advice and consent of the council for terms of three years. The said board shall serve without compensation.

Sec. 168. Treasurer of state custodian of appropriations. 1917, c. 186, § 3. The treasurer of state is hereby designated as custodian for all appropriations received by the state under the provisions of said act, and he shall receive and provide for the proper custody and distribution of all money paid to the state from said appropriations.

Sec. 169. Authorizing acceptance act of Congress relative to vocational rehabilitation. 1921, c. 97, § 1. The state of Maine hereby, having heretofore accepted the provisions and benefits of the act of Congress entitled "An Act to Provide for the Promotion of Vocational Rehabilitation of persons injured in Industry or Otherwise" approved June second, nineteen hundred and twenty, will observe and comply with the requirements of said act.

Sec. 170. State treasurer designated as custodian of funds. 1921, c. 97, § 2. The state treasurer is hereby designated and appointed custodian of all moneys received by the state from appropriations made by the Congress of the United States for the vocational rehabilitation of persons disabled in industry or otherwise, and is authorized to receive and provide for the proper custody of the same and to make disbursements therefrom upon the order of the state board for vocational education herein designated.

Sec. 171. State board for vocational education to administer provisions of these sections. 1921, c. 97, § 3. The state board for vocational education, as provided by section one hundred sixty-seven, is hereby authorized to co-operate with the federal board for vocational education in the administration of the provisions of sections one hundred sixty-nine to one hundred seventy-three; to prescribe and provide such courses of instruction and training as may be necessary for the vocational rehabilitation of persons injured in industry or otherwise, and to provide for the instruction and supervision of such training.

Sec. 172. State board for vocational education to cooperate with industrial accident commission. 1921, c. 97, § 4. The state board for vocational educa-

tion is hereby authorized to cooperate with the state industrial accident commission, charged with the administration of the state workmen's compensation laws, to formulate a plan of cooperation in accordance with the provisions of sections one hundred sixty-nine to one hundred seventy-three and the said act of Congress; said plan to become effective when approved by the governor of the state.

Sec. 173. Authorizing acceptance of gifts; money to be deposited with state treasurer; special fund created; appropriation for vocational education applicable. 1921, c. 97, § 5. The state board for vocational education is hereby authorized and empowered to receive such gifts and donations, either from public or private sources as may be offered unconditionally, or under such conditions related to the vocational rehabilitation of persons injured in industry or otherwise as in their judgment are proper and consistent with the provisions of sections one hundred sixty-nine to one hundred seventy-three. All moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of disabled persons, to be used by said board to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. The funds set apart in chapter one hundred and five of the resolves of nineteen hundred and nineteen for the purpose of co-operating with the federal board for vocational education are applicable to these sections also.

Sec. 174. Part-time or part-time continuation schools for persons over school age; term defined. 1919, c. 205, § 1. In order to improve the industrial and civic efficiency of persons between the ages of fourteen and eighteen now engaged in industrial occupations and who have not reached the proficiency in reading, writing, arithmetic, language, geography, history, and citizenship required for the completion of the elementary school course as recognized in the schools of the State of Maine, the superintending school committee and boards of education of the towns and cities of the state are hereby authorized to establish part-time or part-time continuation schools and classes for the benefit of such persons. For the purpose of this section a part-time continuation school or class shall be understood to mean such schools or classes as are conducted during the regular working hours of the persons employed. Such schools shall cover one hundred and forty-four hours per year and meet the standards set up by the state board for vocational education.

Sec. 175. Reimbursement from state and federal funds. 1919, c. 205, § 2. Whenever the superintendent of schools of any town or city, on or before the first day of July, shall report to the state commissioner of education that part-time or part-time continuation schools and classes have been maintained in accordance with the specified standards, and when such schools and classes shall be approved by the state board for vocational education, the state commissioner shall recommend to the governor and council annually in December the payment of reimbursement from federal funds designated for part-time schools and from state funds provided for industrial education to the extent of two-thirds the cost of instruction.

Sec. 176. Not to be construed as affecting provision of R. S. c. 53, relating to child labor. 1919, c. 205, § 3. The two preceding sections shall not be construed to interfere in any manner with the provisions of chapter fifty-three, relating to child labor.

Physical Education.

Sec. 177. Personal hygiene, community sanitation, physical education to be included in public school courses; state commissioner to prescribe rules and require reports from local superintendents. 1919, c. 73, § 1. In order to more thoroughly prepare the youth of the state for the duties and obligations of citizenship and to provide for their future well-being and comfort it shall be the duty of the superintending school committees of the several towns of the state to make provision for instruction to be given to pupils in all public schools in personal hygiene, community sanitation, and physical education, including recreational exercises in accordance with a course of study and plans of lessons and instruction prepared by the state commissioner of education, who shall prescribe such rules and regulations as may be necessary to carry out in successful manner said program of physical education, and he may require such reports from superintendents as he may deem necessary.

Sec. 178. Towns may employ directors of physical education; qualifications and duties. 1919, c. 73, § 2. Towns may employ supervisors or directors of physical education who shall meet such standards of preparation and certification as the state commissioner of education may determine. It shall be the duty of the superintendent of schools in which directors or supervisors of physical education are employed, to report to the state commissioner, on blank forms prepared by him, the number of pupils receiving instruction, the number of directors or supervisors employed, the amount paid such directors or supervisors, and such other information as may be required.

Sec. 179. Reimbursement to towns for expenses incurred in employment of directors. 1919, c. 73, § 3. Whenever the superintendent of schools of any town shall certify under oath to the state commissioner of education according to a form prescribed by him that a director or supervisor of physical education has been employed for the school year preceding, then upon approval of such certificate by the state commissioner of education, reimbursement from state or federal funds shall be paid to the amount of one-half the salary paid, not to exceed eight hundred dollars for each director or supervisor in any one year, and not to exceed sixteen hundred dollars to any one town; provided, 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. Two or more towns adjacent to each other, or the several towns of a superintendency union, may cooperate in the employment of directors or supervisors of physical education and may apportion the cost of the same among the several towns of the group according to the amount of time given to each.

Sec. 180. Annual state appropriation. 1919, c. 73, § 4. For the purpose of carrying out the provisions of the three preceding sections there shall be appropriated for the year nineteen hundred and twenty, and annually thereafter, the sum of fifteen thousand dollars. All reports required under said sections shall be filed annually with the state commissioner of education on or before the first day of July, and state aid shall be payable during the month of December next succeeding.

Normal Schools.

Sec. 181. Five normal schools. R. S. c. 16, § 140. 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 commissioner. Such register and blanks shall be returned to said commissioner 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. 182. Course of study. R. S. c. 16, § 141. 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. 183. Diplomas to be issued. R. S. c. 16, § 142. 1927, c. 152. 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, provided, further, that the state board of trustees for normal schools may confer appropriate educational degrees based upon four years of academic and professional instruction with such equipment and faculties as will safeguard the integrity of the degrees conferred.

Sec. 184. Applicants for admission, qualification; tuition. R. S. c. 16, § 143. 1917, c. 247. 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, the first two years of teaching after they have graduated; on these conditions they shall be received without charge for tuition, otherwise they shall pay tuition at the rate of fifty dollars per year.

Sec. 185. Trustees of normal schools, their appointment, powers, and duties. R. S. c. 16, § 144. 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 commissioner of education 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

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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.

Sec. 186. Madawaska training school. R. S. c. 16, § 145. 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. 187. Appropriation for normal and training schools. R. S. c. 16, § 146. 1917, c. 64. 1919, c. 149. 1921, c. 46. For the support of the five normal schools and the Madawaska Training School, the sum of one hundred eighty thousand dollars shall be 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.

Summer Schools.

Sec. 188. Summer school for training rural teachers; teachers so trained to act as rural critics in towns from which chosen. 1919, c. 51, § 1. As a means of increasing the efficiency of rural education it shall be the duty of the state commissioner of education to make provision for a special school of instruction during the summer months for not more than one hundred rural teachers. The course of study and plans of instruction shall be arranged with a special view to training for rural teaching and rural leadership. Teachers eligible to attend said school shall be selected by the state commissioner of education, upon recommendation of superintendents of rural towns, in accordance with such standards of fitness as the state commissioner shall determine. Teachers so trained shall agree to return to the service of the towns from which they are chosen for at least one year, during which time they shall act as rural critics and helping teachers.

Sec. 189. Appropriation; bonus. 1919, c. 51, § 2. 1921, c. 37. The state commissioner of education is hereby authorized to arrange for the payment of necessary expenses of travel and board incurred by teachers in attending said school of instruction, and at the close of the school year he shall recommend to the governor and council, upon satisfactory evidence of successful service, the payment to each teacher so trained of a bonus of twenty-five per cent of the annual salary paid to her by the town for her services. The governor and council shall direct the payment of such amounts as they shall approve out of the appropriation for the training of rural teachers and said amounts shall be deducted from state school funds.

Instruction for the Blind and Deaf.

Sec. 190. Blind children may be sent to Perkins Institute; no distinction made on account of wealth or poverty; expenses paid by state. R. S. c. 16, § 147. 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.

Sec. 191. Deaf or dumb children between ages of six and eighteen to be sent to Maine School for Deaf. 1919, c. 22. Every parent, guardian, or other person, having control of any mentally normal child between six and eighteen years of age, too deaf or too dumb to be materially benefited by the methods of instruction in vogue in the public schools, unless it can be shown that the child is receiving regular instruction during the same period in studies usually taught in the public schools, shall be required to send such child or youth to the Maine School for the Deaf in the city of Portland, during the scholastic year of that school. Such child or youth shall attend such school, year after year, until discharged by the superintendent upon approval of the board of trustees of said school.

Penal Provisions Affecting Schools.

Sec. 192. Forfeitures, how recovered and appropriated; penalty if town neglects to expend money. R. S. c. 16, § 148. 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 cost 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. 193. Penalty for disturbing schools. R. S. c. 16, § 149. 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.

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Sec. 194. Parents or guardians liable in double damages for injuries. R. S. c. 16, § 150. 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 an attendance officer thereof, may recover of his parent or guardian, in an action of debt, double the damage occasioned thereby.

Sec. 195. Penalty for defacing schoolhouses, outbuildings. R. S. c. 16, § 151.

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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. 135, § 28.

Sec. 196. Innholders, stable keepers, and certain others not to give credit to students; penalty. R. S. c. 16, § 152. 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 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. 197. Permanent school fund. R. S. c. 16, § 153. 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 §§ 155, 165, 201; c. 12, §§ 63, 74; 73 Me. 126; *109 Me. 172.

Sec. 198. State school fund, for maintenance and support of elementary and secondary schools, how created. 1921, c. 173, § 1. A tax of three and one-third mills on a dollar shall annually be assessed upon all the property in the state according to the value thereof and said tax shall be assessed and collected in the same manner as other state taxes and be paid into the state treasury. To the fund resulting from said tax the treasurer of state annually shall add a sum equal to six per cent of the permanent school fund, as provided by law, and a sum equal to one-half the amount received by the state from the tax on the franchises of savings banks and on the deposits of trust and banking companies, as provided by law. The sum total of the amount so assessed and collected shall be designated the state school fund and after the deduction therefrom of all funds and appropriations which the treasurer of state is authorized by law to deduct, the balance shall be distributed among the several cities, towns, and plantations of the state in the manner provided for by sections one hundred ninety-eight to two hundred twelve to be expended by said cities, towns, and plantations for the maintenance and support of elementary and secondary schools established and controlled by them.

Sec. 199. Terms defined. 1921, c. 173, § 2. For the purposes of sections one hundred ninety-eight to two hundred twelve the following terms are defined:

The term "elementary school" shall be understood to include that part of the school organization of a town in which is offered a program of studies preceding that offered by a Class A high school as defined by section eighty-two.

The term "secondary school" shall be understood to include that part of the school organization of a town offering a program of studies as included in Class A high schools or any part thereof as defined by section eighty-two and as arranged for by the establishment and maintenance of a free high school, a union high school, or by contract with the superintending school committee of an adjoining town or with the trustees of an academy within the town or in an adjoining town as provided for by section ninety-one.

The term "teaching positions" shall be understood to mean positions in elementary and secondary schools filled by classroom teachers, assistant classroom teachers, school principals, school nurses, supervisors, assistants to supervisors, and teachers of special subjects, except when any such position is used as a basis for payment of state aid under the provisions of the laws encouraging industrial, vocational, and physical education, or when any such position is filled by a person devoting less than half of the school day to the duties of such positions. Provided, however, that the number of teaching positions in a secondary school shall be reckoned in such ratio to the actual number of such positions as the aggregate attendance of pupils residents of the town is to the aggregate attendance of all pupils regularly enrolled in the school and provided, further, that a teaching position in an elementary or a secondary school maintained for any part of the school year shall be reckoned in such ratio to a complete position as the number of weeks which the position was maintained is to the number of weeks schools of the town were maintained.

The term "school census" shall be understood to mean the number of persons between the ages of five and twenty-one years as provided for by section fifty-five.

The term "aggregate attendance" shall be understood to include the total number of days of attendance for any one school year of each regularly enrolled pupil resident of the town in elementary and secondary schools; provided that the attendance of each pupil present on the day preceding shall be counted for each school holiday within any school term, for each day of the school year when there is no session of school because of absence of the teacher in attendance on teachers' meetings, as provided by law and for not more than one day in each term when there is no session of school because of the absence of the teacher in visiting other schools when so authorized by the superintending school committee.

Sec. 200. State auditor to report to state commissioner of education July 1st; state commissioner to make apportionment and report to governor and council amounts to be paid towns in December. 1921, c. 173, § 3. On the first day of July, nineteen hundred twenty-two, and annually thereafter, the state auditor shall report to the state commissioner of education the amount of the state school fund and all deductions therefrom provided for by law, and the state commissioner of education shall apportion said state school fund to the several cities, towns, and plantations in the manner provided for by law and shall transmit a report of said apportionment to the governor and council. Upon approval of said report by the governor and council there shall be paid to the treasurers of said towns in December annually the amounts so apportioned.

Sec. 201. Deductions from state school fund. R. S. c. 16, § 166. 1921, c. 173, § 4. 1923, c. 175. In addition to the other funds and appropriations provided for by law to be deducted from the state school fund, there shall annually be deducted the sum of one hundred thousand dollars, the same to be denominated the school equalization fund and to be apportioned and distributed in the manner and for the purposes provided for by section two hundred six. From the

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state school fund there shall also be apportioned such sums as may be required for payment to towns for reimbursement of tuition in secondary schools as provided for by section two hundred two, such amount as may be required for physical education as provided in section one hundred eighty; such amounts as may be required to cover the obligation of the state for industrial education under sections one hundred fifty-nine to one hundred sixty-four, both inclusive, and such sums as may be required for payment to towns on account of teaching positions maintained as provided for by section two hundred three, and such sums as may be required for apportionment to towns on the basis of school census as provided for by section two hundred four, and the balance of said state school fund shall be apportioned and distributed to towns on the basis of aggregate attendance as provided for by section two hundred five.

Sec. 202. Reimbursement to towns for tuition for pupils attending secondary schools. 1921, c. 173, § 5. 1927, c. 176. When any town shall have been required to pay and has paid tuition for pupils attending secondary schools, as provided by section eighty-five, the superintendent of schools of such town shall make a return under oath to the state commissioner of education before the first day of September, annually, for the preceding school year, stating the name of each pupil for whom tuition has been paid, the amount paid by the town for each and the name and location of the school which each has attended. Upon the approval of said return the state commissioner of education shall apportion to such town a sum equal to two-thirds the amount thus paid by such town. Provided, further, that tuition for such pupils may be paid by towns to an amount not exceeding the average cost per pupil for the year preceding that for which the tuition is paid in the school attended by such pupil, but such payment by any town shall not exceed one hundred dollars for any pupil for any one year, and reimbursement to any town for any one year shall not exceed seven hundred dollars. Provided, further, that any town not maintaining a high school may pay tuition for any student who with parents or guardian, resides in said town and who attends an approved school of secondary grade in a town adjacent to the state of Maine in another state, when distance and transportation facilities make attendance in a Maine high school or academy inexpedient.

Sec. 203. Apportionment to towns for teaching positions. 1921, c. 173, § 6. On the basis of information furnished to the state commissioner of education by the return of educational statistics for the year ending July first, annually, as provided for by section fifty-seven, said state commissioner shall apportion to each town the sum of one hundred dollars for each teaching position, or a corresponding fractional part of one hundred dollars for each fractional part of a teaching position maintained in the elementary and secondary schools of such town.

Sec. 204. Apportionment on basis of school census. 1921, c. 173, § 7. On the basis of the school census of the towns on April first, annually, as returned under the provisions of section fifty-six, the state commissioner of education shall apportion to each town the amount of three dollars for each person returned in the school census for said town.

Sec. 205. Apportionment on basis of aggregate attendance. 1921, c. 173, § 8. On the basis of information furnished to the state commissioner of education by the return of educational statistics for the year ending July first, annually, as provided for by section fifty-seven, the state commissioner of education shall apportion to the several towns the amount available for this purpose on the basis of the aggregate attendance of pupils in elementary and secondary schools maintained by those towns.

Sec. 206. School equalization fund, how apportioned. 1921, c. 173, § 9. The

school equalization fund shall be apportioned by the state commissioner of education to the towns qualified to receive aid from said fund as follows:

I. Whenever any school lawfully established and maintained by a town for the number of weeks of school provided for in said town fails to record at least fifteen hundred days aggregate attendance for the pupils enrolled in said school, there may be apportioned to the town maintaining said school such amount as, added to the amount already apportioned under section two hundred five on account of aggregate attendance in said school, will give to said town on account of said school an amount equal to that apportioned for fifteen hundred days aggregate attendance.

II. When any school has been closed by order of the proper authorities because of the prevalence of an epidemic or because of the unfitness of the school building from the effects of fire or other unpreventable causes and when the teacher employed in said school has received pay for the period for which the school has been closed, there may be apportioned to the town in which said school is located a sum equal to that which would have been apportioned under the provisions of section two hundred five for the aggregate attendance of pupils regularly enrolled in said school during the period in which it was closed, provided, however, that such attendance shall not be reckoned beyond fifteen days of such a period, and provided further that such attendance shall not be reckoned if the time so lost was made up within the school year with no additional expenditure for the wages of the teacher therefor.

III. Whenever any school is closed or suspended as provided for by section two and pupils attending such school have been conveyed to another school under such conditions of conveyance as may be approved by the state commissioner of education, there may be apportioned to the town in which such school was maintained such amount as, added to the amount apportioned under the provisions of section two hundred three on account of teaching positions, will give to said town, on account of said school, the same amount as though this position had been maintained for the entire year. Provided, further, that so long as said school remains closed and satisfactory conveyance is maintained there may be apportioned the same amount as for the maintenance of a teaching position, provided, however, that the amount so apportioned shall not exceed one-half the cost of such conveyance.

IV. Whenever any town through its superintendent or superintending school committee shall submit to the state commissioner of education a definite plan for consolidation of schools, conveyance of pupils, housing of teachers, standardization of schools, or other projects especially worthy of encouragement, said state commissioner shall investigate such plan and upon approval of the same may recommend to the governor and council the payment to such town of an amount, not exceeding five hundred dollars in any one year, as an encouragement to such plan or project, provided, however, that the total amount available for aid under this paragraph shall not exceed ten per cent of the equalization fund.

V. Such amount of the school equalization fund not apportioned as provided for by the four preceding paragraphs shall be apportioned to 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 shall be reckoned on the basis of the amount or amounts actually raised by taxation by the town for the support of elementary and secondary schools for the purposes named in section two hundred eight, exclusive of any amounts received from the state; provided, further, that no town shall receive an apportionment out of the

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school equalization fund unless its municipal tax rate for all purposes shall be in excess of a rate which is three mills less than the average of such rates for all the towns of the state. The state commissioner shall cause a special investigation to be made of the educational facilities of such towns and, whenever it appears to the state commissioner that any town should receive special aid or encouragement for the purpose of raising the standard of qualifications of teachers or of increasing the length of the school year or otherwise adding to the efficiency of the 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 commissioner. The state commissioner 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.

Sec. 207. Union schools; how apportionment shall be paid. 1921, c. 173, § 10. Amounts apportioned from the state school funds on account of union elementary schools shall be paid to the town in which said school is located and the amounts to be contributed by each town for the maintenance of such school shall be determined by the superintending school committees of the said towns. Amounts apportioned on account of union high schools shall be paid to the towns maintaining said school in proportion to the aggregate attendance of pupils resident of each of said towns.

Sec. 208. How state school funds may be expended by towns. R. S. c. 16, § 163. 1921, c. 173, § 11. Amounts received by the towns from the state school fund may be expended by said towns, in conjunction with such funds as the towns shall raise and appropriate, for the following purposes in both elementary and secondary schools: the payment of teachers' wages and board, fuel, janitors' services, conveyance, tuition and board of pupils, text-books, reference books, and school supplies for desk or laboratory use. The unexpended balance of all moneys raised by towns or received from the state for the above purposes shall be credited to the school resources for the year following that in which said unexpended balance accrued.

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Sec. 209. One half amount received by town to be considered as raised by the town in computing amount town must raise under section 16 of chapter 19, R. S. 1921, c. 173, § 12. One-half the amount received by any town from the apportionment provided by sections one hundred ninety-eight to two hundred ten, shall be deemed to be raised by such town within the meaning of section sixteen.

Sec. 210. Procedure in case returns are not filed by town. 1921, c. 173, § 13. Whenever the information required for the purposes of sections one hundred ninety-eight to two hundred ten is not available, because of the failure of the town, through its officers, to make the returns required by law, or because of the loss or destruction of the school records of a town, the state commissioner of education may use as a basis for apportionment numbers on which the apportionment for said town was made for the preceding year less ten per cent. But no apportionment as provided by this act shall be paid to any town by the treasurer of state until returns required by law have been filed with the state commissioner, nor so long as any state tax assessed upon such town remains unpaid.

Sec. 211. How term "state school fund" shall be construed as applied to R. S. c. 19. 1921, c. 173, § 14. Whenever authority is given to deduct appropriations or funds from state school funds or from the school mill fund, it shall be under-

stood that such deductions shall be made from the state school fund as described in section one hundred ninety-eight.

Sec. 212. Disposition of unexpended balances of school fund. 1921, c. 173, § 15. 1925, c. 135. All unexpended balances of the state school fund or of any funds or appropriations deducted therefrom shall, at the close of the year for which said fund or appropriation is available, be added to the permanent school fund of the state. Balances at the close of the fiscal year deducted from the state school fund and set apart for certain activities may be transferred from one division to another by consent of the governor and council.

Sec. 213. Expenses of school department to be deducted from school fund. 1923, c. 114, § 1. All expenditures of the department of education, including salaries and general office expenses, shall be taken from the state school fund.

Sec. 214. All specific appropriations to be deducted from school fund. 1923, c. 114, § 2. Before distribution to the cities and towns, there shall be deducted from the state school fund all sums appropriated by existing laws for specific purposes, together with all sums appropriated by the eighty-first legislature for specific purposes.

Teachers' Pensions.

Sec. 215. Teachers who may be entitled to an annual pension of \$400. R. S. c. 16, § 169. 1923, c. 200. 1927, c. 41, § 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 or teacher and supervisor 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 four hundred 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 commissioner of education.

Sec. 216. Teachers who may receive an annual pension of \$325. R. S. c. 16, § 170. 1925, c. 36, § 1. 1927, c. 41, § 2. Any person of either sex who, on the thirtieth day of September, nineteen hundred and 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 three hundred twenty-five dollars.

Sec. 217. Teachers who may receive an annual pension of \$250. R. S. c. 16, § 171. 1925, c. 36, § 2. 1927, c. 41, § 3. Any person of either sex who, on the thirtieth day of September, nineteen hundred and 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 two hundred fifteen shall, on his

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formal application, receive from the state for the remainder of his life an annual pension of two hundred fifty dollars.

Sec. 218. Teachers who retired prior to Sept. 1913. R. S. c. 16, § 172. 1921, c. 65. 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, and the amount of said pension shall be determined by the length of service as provided in the three preceding sections.

Sec. 219. State commissioner to certify persons entitled to pensions; suspension of payment when person resumes teaching. R. S. c. 16, § 173. On or before the thirty-first day of December, nineteen hundred and thirteen, and quarterly thereafter, the state commissioner of education 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. 220. Pensions are exempt from claims of creditors. R. S. c. 16, § 174. 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. 221. State commissioner to formulate rules. R. S. c. 16, § 175. The state commissioner of education shall formulate rules and regulations for carrying into effect the provisions of the six preceding sections.

Sec. 222. Appropriation. R. S. c. 16, § 176. 1917, c. 79. 1919, c. 91. For the purposes of the seven preceding sections the sum of thirty thousand dollars shall be 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. 223. Unexpended fund added to school fund. R. S. c. 16, § 177. 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.

Teachers' Retirement System.

Sec. 224. Definitions. 1923, c. 209, § 2. The following words and phrases as used in sections two hundred twenty-four to two hundred forty-four shall have the following meanings:

(1) "Teacher" shall mean any teacher, principal, supervisor, or superintendent employed in any day school within the state; also a teacher or principal of a normal school, the state commissioner or his assistants, and teachers who teach in any school which is supported at least three-fifths by state or town appropriations.

(2) "Public School" shall mean any public school conducted within the state under the authority and supervision of a duly elected board of education or superintending school committee.

(3) "Year" as used in this act referring to the term of school service of a teacher shall mean the same as "school year" defined in the general laws of the

state at the time when the school service in question was rendered, provided, however, that the retirement board may in special cases determine what school service shall constitute the equivalent of a specified period of service under sections two hundred twenty-four to two hundred forty-four.

(4) "Interest," unless herein otherwise provided, shall mean compound interest at four per cent.

(5) Wherever the word "he" appears it shall be taken to apply to females as well as males.

Sec. 225. Organization; membership, how acquired. 1923, c. 209, § 3. An association to be known as the Maine teachers' retirement association, hereinafter called the retirement association, may be organized by and among the teachers in the public schools of the state. Membership in said association may be acquired under the following conditions:

All teachers who shall serve in the public schools and any academy which has contract relations with a town under section ninety-one and which receives at least three-fifths of its support from the state or who teaches in a normal school which is under the control of the state or members of the state department of education on or after July first, nineteen hundred twenty-four, may become members of the association, upon application to and approval by a majority of the retirement board and under such rules and regulations as it may prescribe.

Sec. 226. When organization may be effected; form of organization. 1923, c. 209, § 4. The teachers who desire to become members of the retirement association shall, as soon as may be after July first, nineteen hundred twenty-four, adopt such form of organization for said association as shall be prescribed by the state commissioner of education, state treasurer and attorney-general; and thereafter such organization shall be maintained for the purpose herein contemplated, with such modifications thereof as may be adopted from time to time by the members of the association with the approval of the retirement board. No modifications of these sections that will affect the interests of existing members shall be made without their consent.

Sec. 227. Administration; personnel of retirement board; vacancies; retirement board to serve without pay. 1923, c. 209, § 5. The administration of the retirement system hereby established is hereby vested in a board to be known as the teachers' retirement board, herein called the retirement board, consisting of seven members, as follows: the state commissioner of education, the state treasurer, the attorney-general, the bank commissioner, and the insurance commissioner, and two members of the retirement association. Upon the organization of said association the members thereof shall elect from among their number, in a manner to be approved by the state commissioner, the state treasurer, the attorney-general, the bank commissioner, and the insurance commissioner, two persons to serve upon the retirement board, one member to serve for one year and one for two years; and thereafter the members of the retirement association shall elect annually from among their number, in a manner to be approved by the retirement board, one person to serve on said board for the term of two years.

Until the organization of the retirement association and the election of two representatives therefrom to membership on the retirement board, the state commissioner, the state treasurer, the attorney-general, the bank commissioner, and the insurance commissioner, shall be employed to perform all the duties of said board.

When a vacancy occurs in the retirement board by reason of the death, resignation, or inability to serve of one of the members chosen by the retirement asso-

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ciation, such vacancy shall be filled for the unexpired term by the election of a new member of said association, at a meeting duly called for that purpose.

The members of the retirement board shall serve without compensation, but they shall be reimbursed for all necessary expenses of travel which they may sustain through their service on the board. All claims for such reimbursement shall be subject to the approval of the state auditor.

Sec. 228. Duties of retirement board; expenses how paid. 1923, c. 209, § 6. The retirement board shall provide for the payment of retirement allowances and such other expenditures as are prescribed by these sections, and shall perform such other functions as are required for the execution of the provisions hereof; and to that end said board shall make by-laws and regulations not inconsistent with the provisions of said sections, shall employ a secretary, whose duty it shall be to keep a record of all its proceedings, and shall provide such other clerical assistance as may be necessary for the discharge of the duties prescribed hereunder. The reasonable and necessary expense of such clerical assistance shall be met out of the regular appropriation for the state commissioner of education.

Sec. 229. Board to adopt mortality tables, establish rates of interest, and maintain system of records and accounting. 1923, c. 209, § 7. The retirement board shall adopt mortality tables for the retirement system hereby created, and, except as herein otherwise provided, shall determine what rates of interest shall be established in connection with such tables or otherwise under the provision hereof. Said board may modify such mortality tables or adopt others, and may change rates of interest once established, unless otherwise provided herein, but not so as to impair the vested rights hereunder of any member of the retirement association, unless such modifications or changes shall be assented to by such member. Said board shall establish and maintain a complete system of records and accounting. All action taken by the retirement board under the provisions of this section shall be upon competent actuarial advice.

Sec. 230. Annuities, how paid; fund, how created. 1923, c. 209, § 8. The annuities hereinafter provided shall be paid out of a fund to be known as the annuity fund, which shall be constituted as follows:

(1) Each member of the retirement association shall pay into the annuity fund under regulations to be prescribed by the retirement board five per cent of such members' salary; provided, however, that no member shall in any one year pay into said fund less than twenty dollars nor more than one hundred dollars.

(2) Any member of the retirement association, who for thirty years shall have paid into said fund his regular assessments, as above provided, shall be exempt from further assessments, but such member may thereafter, if he so elects, continue to pay his assessments into said fund.

(3) During the months of July or August of each year the retirement board shall notify the state commissioner of education of the exact amount paid in between July first and June thirtieth preceding by the members of the teachers' retirement association and before the state commissioner of education shall distribute the state school fund in December, he shall deduct the amount necessary to equal the contributions of members as certified by the retirement board. Such amount together with the amounts paid in by members shall be invested as provided in section two hundred thirty-eight. The amount deducted from the state school fund shall not exceed the sum of thirty-five thousand dollars for any one year.

Sec. 231. Individual accounts with members to be kept. 1923, c. 209, § 9. The contributions made by the members of the retirement association to the

annuity fund hereinbefore created, shall be credited as made to such members severally in individual accounts up to the time of retirement, and at the same time each member so contributing shall be credited individually with a like amount as the contribution of the state. Contributing members shall also be credited with the interest earned by their several contributions and by the equal contributions made by the state as aforesaid.

Sec. 232. When members may retire from service in public schools. 1923, c. 209, § 10. Any member of the retirement association who shall have served as a public school teacher for a period of thirty years, of which twenty years, and the last seven preceding retirement, shall have been in this state, may retire from service in the public schools on or after attaining the age of sixty years without forfeiting any of the benefits of the retirement system; and at any time thereafter, if incapable of rendering satisfactory service, such member may be so retired, with the approval of the retirement board.

Sec. 233. Members who have withdrawn from service in public schools may be reinstated in the association. 1923, c. 209, § 11. Any member of the retirement association, who shall have withdrawn from service in the public schools of the state, shall, on being re-employed therein, be reinstated in the retirement association upon such terms and conditions as shall be prescribed by the retirement board.

Sec. 234. When members shall be entitled to annuity; amount of annuity; options. 1923, c. 209, § 12. Except as hereinafter provided, a member of the retirement association, who shall have retired from service in the public schools of the state, and who shall have complied with all the provisions of these sections and with the rules and regulations of the retirement board hereby authorized, shall be entitled to receive from the annuity fund hereinbefore established, (1) such annuity as his contributions to said fund, with interest thereon, together with the like contributions made thereto by the state, and the interest thereon, will purchase on the basis of McClintock's table of mortality among annuitants, and an interest rate of three and a half per cent per annum; or, (2) at his option, he shall be entitled to receive an annuity of less amount, as may be determined by the retirement board for annuitants electing such option, with the provision that if the annuitant dies before receiving payments equal to the sum of his assessments hereunder and the contributions equal thereto made by the state, as hereinbefore provided, with interest, the difference between the total amount of said payments and the total amount of such assessments and contributions, with interest, shall be paid as an annuity to a surviving husband, or wife, as the case may be, or to his or her legal representatives as such member may elect, subject to such reasonable rules and regulations as the retirement board may prescribe.

Sec. 235. Members becoming permanently disabled to teach, entitled to annuity; amount, how determined. 1923, c. 209, § 13. A member of the retirement association, who shall have been a teacher in the public schools of the state at least six years, and who shall become totally and permanently disabled to teach, as determined upon examination by physicians approved by the retirement board, shall receive an annuity based upon the accumulated sum of his contributions and the equal contributions of the state, with interest, calculated on the basis of McClintock's table of mortality among annuitants and three and a half per cent interest, with such additional annual allowance from the state as the retirement board, in the exercise of sound discretion, shall deem equitable, the same being limited by his earning capacity in other occupations, such additional allowance to be continued so long, and in such amount, as the retirement board may deter-

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nine; provided, however, that in no event shall the total sum received annually by such member, under this section, including his annuity and the additional allowance above provided for, exceed half of his average annual salary throughout his entire period of service as determined by the retirement board.

In the case of persons who receive assistance under this section annual re-examination and reports by physicians in receipt of disability shall be required and the allowance discontinued if the report shows ability to return to teaching.

If such retiring member should die before receiving in the form of an annuity all of the accumulations up to the time of his disability from his own and the state's annual contributions on his account, the balance shall be paid to his or her legal representatives, as he or she may elect, subject to such rules and regulations as may be prescribed by the retirement board.

Sec. 236. Members withdrawing entitled amounts contributed, with interest; in case of death, amount payable to heirs; in case of death or withdrawal prior to six years' service, payments of members to be placed in general reserve fund.

1923, c. 209, § 14. (1) Any member of the retirement association withdrawing from service in the public schools of the state, by resignation or dismissal, before becoming eligible to retirement under the provisions of these sections, shall be entitled to receive from the annuity fund all amounts contributed thereto as assessments together with such interest as has accrued thereon.

(2) In case of the death of such member under the circumstances above set forth, the several amounts to which he would be entitled, if living, shall be paid to a surviving husband or wife, or to the legal representatives of such deceased member, as may be elected, subject to the rules and regulations of the retirement board.

(3) In the case of the death or withdrawal from service of such member before the completion of six years of service in the public schools of the state the contributions made by the state on his account, as hereinbefore provided, shall be placed in the reserve fund hereinafter established for the general purposes of the retirement system.

(4) Contributions returned as above provided shall be paid in lump sums or in installments as the member may elect, subject, however, to such reasonable rules and regulations as may be prescribed by the retirement board.

Sec. 237. Annuity and rights therein exempt from taxation, bankruptcy and insolvency laws, and attachment; annuity fund not assignable. **1923, c. 209, § 15.** That portion of the salary or wages of a member deducted or to be deducted under these sections, the right of a member to an annuity or allowance hereunder, and all his rights in the funds of the retirement system, shall be exempt from taxation, and from the operation of any laws relating to bankruptcy or insolvency, shall not be attached or taken upon execution or other process of any court. No assignment by a member of any part of such funds to which he is or may be entitled, or of any right to or interest in such funds, shall be valid.

Sec. 238. Funds to be in custody of state treasurer; how invested; duties of state treasurer; report. **1923, c. 209, § 16.** (1) All funds of the retirement system shall be in the custody and charge of the state treasurer, who shall invest and reinvest such funds as are not required for current disbursements in accordance with the laws of the state governing the investment of the assets of savings institutions.

(2) The state treasurer shall make such payments to the members of the retirement association from the annuity fund as the retirement board shall order to be paid in accordance with the provisions hereof.

(3) On or before the first day of August in each year, the state treasurer

shall file with the insurance commissioner and with the secretary of the retirement board a sworn statement exhibiting the financial condition of the retirement system on the thirtieth day of June in each year, and its financial transactions for the year ending on such date. Such statements shall be in the form prescribed by the retirement board, and shall be published with the report of the state treasurer.

Sec. 239. Special reserve fund created; how expended. 1923, c. 209, § 17. A reserve fund is hereby created, to consist of gifts and receipts from sources other than those herein specified, returns to the state of its contributions to the annuity funds as hereinbefore provided, and balances that may accrue on account of interest, savings, or otherwise, which fund shall be maintained and used, in the discretion of the retirement board, for unforeseen contingencies, expenses of administration, or any other purpose within the scope of the retirement system.

Sec. 240. General reserve fund; how administered. 1923, c. 209, § 18. All moneys paid into the retirement board under paragraph one of section two hundred thirty hereof and all sums deducted from the state school fund under the provisions of paragraph three of said section hereof not otherwise expended shall be set aside and administered as a reserve fund wherewith to meet accrued liabilities for retiring and disability allowances as hereinbefore provided. Said fund shall be in all respects subject to the provisions of these sections and to the rules and regulations of the retirement board hereby authorized in respect to custody, investment, audit, and disbursement.

Sec. 241. Retirement board to cause system to be examined annually by state auditor, and triennially by competent actuary; board may change scale of rates. 1923, c. 209, § 19. The retirement board shall cause the system hereby established to be thoroughly examined annually by the state auditor and once in every three years, and oftener if deemed necessary, by a competent actuary or actuaries, and may call in actuary in consultation at any time; and such board is hereby empowered to change the scale of contributions required of teachers, if deemed advisable as the result of actuarial experience hereunder; but such change shall not be effective as to teachers becoming members of the retirement association before the same shall have been made, unless assented to by such members.

Sec. 242. Books and accounts to be examined and audited annually. 1923, c. 209, § 20. The accounts of the retirement board and the books and accounts of the state treasurer as custodian of the funds of the retirement system, and the cash and securities in his hands representing such funds, shall be examined and audited annually at the time and in the manner prescribed for the annual audit of the accounts of the trustees of the permanent school fund and the accounts of the state treasurer in connection therewith.

Sec. 243. Rules and regulations subject to change; benefits to be enjoyed so long as member meets requirements and complies with rules. 1923, c. 209, § 21. The rules and regulations hereby prescribed for the administration of the retirement system hereby created shall be subject to change by the retirement board whenever deemed to be for the best interests of the entire body of teachers in the service of the state. But no changes affecting existing members of the association shall be made without their approval. The benefits of the retirement system shall be enjoyed by each member of the retirement association so long as he meets all the requirements of these sections and complies with all the rules and regulations of the retirement board.

Sec. 244. Teachers may elect between this act and the provisions to teachers' pensions; not eligible to both; teachers entering service after July 1, 1924, elig-

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ible to this act only. 1923, c. 209, § 22. Any teacher in service may elect between the provisions of sections two hundred twenty-four to two hundred forty-four and the provisions of sections two hundred fifteen to two hundred twenty-three, but shall not in any case be eligible to benefits under both. No teacher entering into service after July first, nineteen hundred and twenty-four, shall be eligible to any benefits under said sections two hundred fifteen to two hundred twenty-three but shall be eligible to the benefits of sections two hundred twenty-four to two hundred forty-four only.

CHAPTER 20.

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. 17, § 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. 17, § 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. 17, § 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. 17, § 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.

Sec. 5. Powers of moderator. R. S. c. 17, § 5. The moderator of any meet-

ing 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. 17, § 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. 17, § 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. 17, § 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. 17, § 9. Every parish, at a legal meeting, may raise money for the support of the public ministry of religion, for building, repairing, or removing houses of public worship, and for other necessary parish charges.

6 Me. 173.

Sec. 10. Assessment on pews. R. S. c. 17, § 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. 17, § 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. 17, § 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. 17, § 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. 17, § 14. A person of either sex, of

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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. 17, § 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. 17, § 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. 17, § 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. 17, § 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. 17, § 19. The church wardens of Episcopal churches, the stewards or trustees of the Methodist Episcopal church, and the deacons of all other Protestant churches are so far corporations as to take, in succession, all grants and gifts of real and personal estate made to their churches, or to them and their successors; and if the ministers, elders, or vestrymen are joined with them in such grants or gifts, the two classes of officers shall be corporations for that purpose. For the purpose of organizing any such corporation, one or more members of said corporation may call a meeting thereof by a notice posted upon the outer door of the meeting-house or place of public worship of their parish or society at least seven days before the time of holding such meeting; or, if there is no such meeting-house or place of public worship, by a notice posted in two public and conspicuous places in the town wherein said parish or society is located. At such meeting the corporation may organize, adopt a corporate name, and elect 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 take 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, sub-

ject 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. 17, § 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. 201; 26 Me. 512; 66 Me. 108.

Sec. 21. Power to convey lands, limited. R. S. c. 17, § 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. 17, § 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. 17, § 23. 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. 17, § 24. 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. 17, § 25. 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. 17, § 26. The resident members of such church twenty-one years

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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. 17, § 27. 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. R. S. c. 17, § 28. 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 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. 55, § 50.

Sec. 29. Duties of officers may be prescribed by by-laws; notice of meetings. R. S. c. 17, § 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. 17, § 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. 17, § 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. 17, § 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. 17, § 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 or 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. R. S. c. 17, § 34. 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. 17, § 35. 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. 17, § 36. Any owner or occupant of a pew in such meeting-house who expresses his dissent

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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 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. 17, § 37. 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. 17, § 38. 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. 17, § 39. 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. 17, § 40. 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. 17, § 41. 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. 17, § 42. 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. 17, § 43. 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. 17, § 44. 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. 17, § 45. 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. 17, § 46. At such meeting, the owners, who are not applicants, or if they refuse or neglect, the justice who called the meeting, may designate another justice, and the two may appoint a third disinterested person, not an inhabitant of the town in which the house is located, or belonging to the denomination of either party interested; and the three shall be a board, before which the owners may exhibit the amount that they own in the house; the minority, owning at least five pews, shall have their part allotted to them, as nearly as may be, in proportion to the amount that they own in the house; and the board shall designate which weeks in each year the minority, if they please, may occupy the house; if they do not, the majority may occupy it.

59 Me. 252.

Sec. 47. Proportion of minority to be appraised. R. S. c. 17, § 47. The board shall appraise the value of the minority's proportion of the house, make a

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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. 17, § 48. 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. 17, § 49. 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. 86, § 38.

Ministerial and School Lands, and Funds Arising Therefrom.

Sec. 50. Fee in ministerial lands, how vested. R. S. c. 17, § 50. 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. 11, §§ 15-27; 15 Me. 420; *97 Me. 337; 108 Me. 30.

Sec. 51. Selectmen, town clerk and treasurer, to be trustees. R. S. c. 17, § 51. 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 to choose officers annually. R. S. c. 17, § 52. 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. 17, § 53. 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. 17, § 54. 1923, cc. 170, 221, § 1. As soon as may be they shall invest the proceeds of sale in the manner provided in R. S. c. 5, § 79.

^{108 Me. 30.}

Sec. 55. Trustees may hold estate for use of the ministry and schools. R. S. c. 17, § 55. 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. 17, § 56. 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. 17, § 57. 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. 17, § 58. 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. 17, § 59. 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. 17, § 60. 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. 17, § 61. When in the grant of any townships or parts of townships certain portions are reserved for public uses, and such portions have not been located in severalty prior to the incorporation of the same into a town, the supreme judicial court in the county where the land lies, on application of the assessors of the town, may appoint three disinterested persons of the county, and issue to them its warrant under seal of the court, requiring them, as soon as may be, to locate such reserved portion according to the terms of the grant, and if the use or purpose of the reservation is prescribed in the grant, they shall set off and locate the lots accordingly, designating the use or purpose for which each lot is so reserved and located. 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. 17, § 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. 17, § 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 21.

Practice of Medicine, Surgery, Dentistry, Optometry, Osteopathy, Chiropractic, and Veterinary Science.

Sections 1-8	Promotion of Medical Education.
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Promotion of Medical Education.

Sec. 1. A body may be delivered to physician, for scientific purposes. R. S. c. 18, § 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. 18, § 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 to be notified of deaths in almshouses, prisons, etc. Notice not given if body is claimed by family; superintendents and staff of insane hospitals authorized to hold autopsies. R. S. c. 18, § 3. All public officers, agents, and servants of any and every county, city, town, and other municipality, and of any and every almshouse, prison, morgue, hospital, or any other public institution having charge or control over dead human bodies required to be buried at the public expense are hereby required to notify immediately the said board of distribution, or such person or persons as may from time to time be designated by said board, or its duly authorized officer or agent, whenever any such body or bodies come into his or their possession, charge or control, and shall, without fee or reward, deliver such body or bodies to said board, or its duly authorized officer or agent, and permit and suffer the said board or its agents, or the physi-

cians 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. 18, § 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 to be enclosed from public view; carriers to obtain receipts. R. S. c. 18, § 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 bodies to give bond for proper disposal; duty of treasurer of state; penalty for trafficking in dead bodies outside of the state. R. S. c. 18, § 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,

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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. 18, § 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. 18, § 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. 18, § 9. The governor, with the advice and consent of the council, shall appoint a board of registration of medicine consisting of six persons, residents in the state, who shall be graduates of a legally chartered medical college or university having 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.

Sec. 10. Meetings for choice of officers; regular meetings; seal. R. S. c. 18, § 10. The members of said board shall meet on the second Tuesday of July of each alternate year after the year eighteen hundred and ninety-five, at such time and place as they may determine, and shall elect a chairman and secretary, who shall hold their respective offices for the term of two years. The 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. 18, § 11. 1923, c. 195. Any person shall, upon the payment of a fee of twenty-five 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 dis-

played 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 twenty-five 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. Applicants to be examined; qualifications; conduct of examinations; reciprocity of licensure with other states. R. S. c. 18, § 12. The board shall examine all applicants for registration as licensed physicians or surgeons. Each applicant shall, at least seven days before the date of his examination, present to the secretary of the board an application under oath or affirmation, 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 commissioner of education, 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. 18, § 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. 18, § 14. 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

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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 unregistered person to practice or to use title; penalty; prima facie evidence. R. S. c. 18, § 15. 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 provisions 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. 18, § 16. The seven preceding sections shall not apply to commissioned officers of the United States army, navy, or marine hospital service, or to a physician or surgeon who is called from another state to treat a particular case and who does not otherwise practice in this state, nor to prohibit gratuitous service or the rendering of assistance in emergency cases; nor to 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. 18, § 17. The compensation and 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.

Registration of Nurses.

Sec. 18. Board of registration of nurses; qualifications; tenure; vacancies; removals. R. S. c. 18, § 18. 1917, c. 148, § 1. The governor, with the advice and consent of the council, shall appoint a board of registration of nurses, consisting of five nurses, all of whom shall be residents of the state and engaged in professional work. They shall have been graduated each from a different training school; shall have had at least five years' experience from date of graduation in professional nursing of the sick, and at least two years' experience from date of graduation in teaching nurses. They shall be registered under the provisions of sections twenty and twenty-one of this chapter and with the exception of those who registered under said section twenty-one shall have the same qualifications as are required for registration under section twenty. They shall be appointed for terms of three years each as the terms of the present members expire. Said appointments shall be made from a list of six eligible candidates, selected at a meeting of the Maine State Nurses Association and submitted to the governor not less than thirty days before the time of appointment. Any vacancy occurring on said board shall be filled for the unexpired term by appointment to be made from like nominations to be furnished by the said association. If said nominations in either case are not submitted within thirty days after the vacancy occurs the governor may appoint to fill such vacancy such person, qualified as aforesaid, as to him seems best. Any member of said board may be removed from office for cause by the governor with the advice and consent of the council. On request of said board the superintendent of public buildings shall provide a suitable room in the state house for its meetings.

Sec. 19. Organization; inspector of training schools; records; certificates; renewals; reports. R. S. c. 18, § 19. 1917, c. 148, § 2. 1923, c. 102, § 1. The board shall, at each annual meeting, elect from its number a president, and a secretary who shall also be treasurer. It shall elect one of its members as inspector of training schools for nurses. 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 by the secretary 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 shall be valid for a period of five years from the date of its issue, and renewable by the nurse at any time after the expiration of each such period, 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 applications received during the year, the number approved and the number rejected.

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Sec. 20. Examinations; time; notice; eligibility; subjects. R. S. c. 18, § 20. 1917, c. 148, § 3. 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 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 has had at least two years' high school education or its equivalent and has taken a full course of not less than two years in, and graduated and received a diploma from a training school for nurses connected with a public or private hospital in the state, presided over by a graduate nurse registered in accordance with sections twenty and twenty-one and in which is given a general course of instruction of not less than two years in theory and practice of medical, surgical, and obstetrical nursing in the wards, or in the case of male nurses, of genito-urinary work instead of obstetrics, or has obtained such experience by not less than six months' affiliation or post graduate work, or is a resident of Maine who has been graduated and holds a diploma from a training school for nurses in another state, having the same qualifications as herein described, shall be eligible for such examination upon the payment of a fee of five dollars, to be deposited upon the filing of the application for examination. The examination to be given such applicant shall be oral and written and of such a character as to determine the fitness of the applicant to practice professional nursing, and shall include the subjects of practical nursing, anatomy, physiology, bacteriology, materia medica, medical, surgical, and obstetrical nursing, or in the case of said [male] nurses, genito-urinary, instead of obstetrical nursing, dietetics, pediatrics, hygiene and any other subjects deemed by the board necessary to maintain proper standards for the profession. Any applicant passing said examination to the satisfaction of the board, shall receive a certificate of registration within three months of said examination. The member acting as inspector of training schools shall inspect all schools for nurses in the state and shall report to the board such schools as shall provide courses of instruction both practical and theoretical in the subjects mentioned in this section, and such schools shall fulfil the qualifications herein described.

Sec. 21. Registration without examination. R. S. c. 18, § 21. 1917, c. 148, § 4. 1923, c. 102, § 2. The board may register without examination, upon payment of a fee of five dollars, any person who has been registered by examination 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.

Sec. 22. Cancellation or suspension of registration. R. S. c. 18, § 22. 1917, c. 148, § 5. Said board, by a majority vote of all of its members, may cancel or suspend the registration of any person as a nurse who may be found guilty of neglect of duty or inefficiency, or of any act derogatory to the standing and morals of professional nursing, but before any certificate of registration shall be so revoked, the holder thereof shall be entitled to thirty days' notice of the charges against him or her, and to a full and fair hearing thereon.

Sec. 23. Unlawful practice; penalty. R. S. c. 18, § 23. 1917, c. 148, § 6. No person shall practice professional nursing in this state as a registered nurse with-

out 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, and shall have his or her certificate revoked; 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.

Sec. 24. Public health nurse to be registered; penalty. 1923, c. 102, § 3. Every nurse employed in any form of public health nursing, not already registered, as provided in section nineteen hereof, shall become registered in accordance with the provisions of sections eighteen to twenty-four, and her failure so to do shall terminate her said employment. No nurse shall be employed in any form of public health nursing until her qualifications for such work shall have been approved and certified by a committee composed of three registered nurses, one representing the state board of examiners for the board of nurses, one representing the public health nursing section of the Maine State Nurses Association, and one the division of public health nursing of the state department of health, the members of said committee to be duly chosen by their several organizations. Public health nursing within the meaning of this section shall be deemed to include nursing done by any graduate nurse in any form of social work in which the health of the public is concerned, and in which her training as a nurse comes into play and is recognized as a valuable part of her equipment.

Registration of Dentists.

Sec. 25. Practitioners of dentistry. R. S. c. 18, § 24. 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. 26. Board of dental examiners; appointment; vacancies; removal; nominations. R. S. c. 18, § 25. 1919, c. 175. 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. 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. All said appointments shall be made in the following manner: The Maine Dental Society may at its annual meeting each year nominate six members of said society who fulfill all the foregoing requirements, whose names shall be forthwith certified to the governor by

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the president and the secretary of said society, and if said list is so submitted in any year, the governor shall, until the date of the next annual meeting of said society, appoint as dental examiner one of those men whose names appear on said list. 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. 27. Election of officers; quorum; annual report; records to be public.

R. S. c. 18, § 26. 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.

Sec. 28. Qualifications of applicant. R. S. c. 18, § 27. 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, 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. 29. Applications for examination; subjects included in examination; re-examination. R. S. c. 18, § 28. 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 he shall 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. 30. Certificate; fee; registration cards. R. S. c. 18, § 29. 1919, c. 46. Said board shall issue under its seal, to all persons who shall successfully pass said examination, its certificate of ability 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. Said certificate shall be considered a license to practice dentistry in this state, except that it shall be unlawful for any person to practice dentistry in this state in any year after the year in which said certificate is issued to him unless he shall pay to the treasurer of the state board

of dental examiners on or before January first of said year a fee of one dollar, for which he shall receive a registration card, which card shall be placed beside or attached to the certificate above mentioned.

Sec. 31. Certificate may be issued to practitioners from other states. R. S. c. 18, § 30. 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. 32. Fee for a duplicate certificate. R. S. c. 18, § 31. An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of five dollars.

Sec. 33. Dentist may prescribe drugs or medicines, etc. R. S. c. 18, § 32. 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-five to forty-one, both inclusive, as is enjoyed by registered physicians in this state.

Sec. 34. Board may revoke certificate obtained by fraud. R. S. c. 18, § 33. 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. 35. No certificate to be revoked without hearing. R. S. c. 18, § 34. No action to revoke a certificate shall be taken until the accused shall be furnished with 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.

^{122 Me. 453.}

Sec. 36. Appeal from decree of revocation. R. S. c. 18, § 35. 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 overruling the action of the board shall be final.

Sec. 37. Term "practicing dentist" defined; persons excepted. R. S. c. 18, §

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36. 1919, c. 32. 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, or who holds himself out as being able to diagnose, treat, operate, or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaws and who shall either offer or undertake by any means or method to diagnose, treat, operate, or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, 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-five to forty-one, 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. 38. Penalty for practicing dentistry without certificate or registration card, or under a false name or under corporate or other trade name, or making false representations; subsequent convictions, penalties. R. S. c. 18, § 37. 1919, c. 75. Whoever practices dentistry without obtaining the certificate and subsequently the registration card required by law or whoever shall practice dentistry under a false or assumed name or under the license or registration of another person of the same name or under the name of a corporation, company, association, parlor, or trade name 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 of this state, to do dental operations as defined in section thirty-seven 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. Each act constituting a violation of any of the provisions of the above sections, twenty-five to thirty-eight, both inclusive, shall be held to be a separate offense and on each day on which any such violations shall continue, a separate offense within the meaning of this law shall be held to be committed. 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. 39. Members of board to investigate complaints. R. S. c. 18, § 38. 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. 40. Diplomas not to be transferred, or fraudulently altered; penalty. R. S. c. 18, § 39. 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. 41. Penalty for other violation; duty of prosecuting officers. R. S. c. 18, § 40. 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.

Dental Hygienists.

Sec. 42. Dental hygienists; powers; duties; license of registered dentist to be revoked for violation. 1917, c. 268, § 1. Any registered or licensed dentist may employ women assistants who shall be known as dental hygienists. Such dental hygienists may remove lime deposits, accretions and stains from the exposed surfaces of the teeth and directly beneath the free margin of the gum, but shall not perform any other operation on the teeth or mouth or on any diseased tissues of the mouth. They may operate in the office of any registered or licensed dentist or in any public or private institution under the general supervision of a registered or licensed dentist. The state board of dental examiners may revoke the license of any registered or licensed dentist who shall permit any dental hygienists operating under his supervision to perform any operation other than that permitted under the provisions of this section.

Sec. 43. Examination; qualifications; fees. 1917, c. 268, § 2. 1919, c. 25. No person shall enter practice as a dental hygienist in this state until she has passed an examination given her by the board of dental examiners of this state, or a sub-committee of said board which it may appoint, under such rules and regulations as it may deem fit and proper to formulate. The fee for said examination shall be ten dollars and any applicant failing to pass said examination shall be entitled to one additional examination without further cost. The fee for each re-examination after the first shall be five dollars. The said board of dental examiners shall issue certificates of ability to practice as dental hygienists in this state to those who have passed said examination, which certificate shall be displayed in a conspicuous place in the room or rooms in which she practices, provided, however, that no person shall be entitled to such certificate unless she shall be eighteen years of age, of good moral character and shall have had an education equivalent to that attained by one year's attendance upon the class A high schools of this state as defined by section eighty-two of chapter nineteen of the revised statutes and unless she is a graduate of a reputable training school for dental hygienists or shall present a sworn statement by a dentist licensed to practice dentistry in this state that she has completed a course of at least six months training as a dental hygienist under him. Said certificate shall be considered a license to practice as a dental hygienist in this state, except that it shall be unlawful for any person to practice as a dental hygienist in this state in any year after the year in which said certificate is issued to her unless she shall pay

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to the treasurer of the state board of dental examiners on or before January first of said year a fee of one dollar; for which she shall receive a registration card, which card shall be placed beside or attached to the certificate above mentioned.

Sec. 44. **Dental hygienists licensed in another state may receive certificate without examination; proof required; fee.** 1917, c. 268, § 3. The board of dental examiners of this state may at its discretion without the examination as herein above provided, issue its certificate to any applicant therefor who shall furnish proof satisfactory to said board that she has been duly licensed to practice as a dental hygienist in another state after full compliance with the requirements of its dental laws; provided however, that her professional education shall not be less than that required in this state. Every certificate so given shall state upon its face the grounds upon which it is granted and the applicant may be required to furnish her proof upon affidavit. The fee for such certificate shall be ten dollars.

Registration in Optometry.

Sec. 45. Board of registration in optometry; appointment; tenure; vacancies; removals. R. S. c. 18, § 41. 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. 46. Officers; meetings. R. S. c. 18, § 42. 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.

Sec. 47. Practitioners of optometry; examination; fees; registration. R. S. c. 18, § 43. 1923, c. 24, § 1. 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 fifteen 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 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. 48. Practice of optometry defined. R. S. c. 18, § 44. 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. 49. Unlawful to practice unless registered; exceptions. R. S. c. 18, § 45. 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-seven to fifty-nine, 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. 50. Certificate may be issued to certain persons without examination; fee. R. S. c. 18, § 46. 1923, c. 24, § 2. Upon application and the payment of the sum of twenty-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. 51. Certificate recorded by clerk of courts. R. S. c. 18, § 47. Every person receiving a certificate under the provisions of section forty-seven 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. 52. Clerk to issue license. R. S. c. 18, § 48. 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

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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. 53. New license. R. S. c. 18, § 49. 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. 54. Certificate displayed in office. R. S. c. 18, § 50. 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. 55. Duplicate lists of certificates and licenses to be furnished. R. S. c. 18, § 51. 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. 56. Annual report. R. S. c. 18, § 52. 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. 57. Annual license fee. R. S. c. 18, § 53. 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. 58. Refusal to grant certificate. R. S. c. 18, § 54. 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. 59. Penalty; prima facie evidence of engaging in practice. R. S. c. 18, § 55. Whoever engages in the practice of optometry in this state without first having obtained a license as provided in section fifty-two or as provided in section fifty-three in case of a change of residence, 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 Osteopaths.

Sec. 60. Board of osteopathic examination and registration; qualification; tenure; vacancies. 1919, c. 188, § 1. The governor, by and with the advice and consent of the council, shall appoint five persons who shall constitute a board of osteopathic examination and registration. Said persons shall be residents of this state, shall be graduates of a legally chartered osteopathic college or university having the power to confer degrees in osteopathy, shall have been at the time of their appointment actively engaged in the practice of their profession for a period of at least three years. Each appointment shall be for the period of five years as the terms of the present members expire. Any vacancy in said board caused by death, resignation or for any other cause except completion of a full term of service shall be filled by the like 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.

Sec. 61. Meetings; organization; bond; duties and powers. 1919, c. 188, § 2. Said board shall meet on the second Tuesday of June of each year at such time and place as the chairman may designate for the purpose of organization. They shall elect one of their members as chairman for a term of one year, and one of their members as secretary and treasurer, to hold such office at the pleasure of the board. The person elected as secretary and treasurer shall give a bond to the treasurer of state in the penal sum of one thousand dollars with sureties to be approved by the governor and council for the faithful discharge of the duties of his office. Said board shall hold regular meetings at least twice in each year for the purpose of considering applications, examining applicants, and such other business as may properly come before the board, the time and place of such meeting to be determined by the board. Special meetings may be called at the pleasure of the chairman, and in case of the death or inability of the chairman the secretary may call special meetings. Said board shall cause a seal of suitable inscription to be procured and to be affixed to such papers as may require such seal, shall keep a correct record of all its proceedings, and shall have power to make such rules and regulations, not inconsistent with law, as it may deem necessary for the successful enforcement of its authority and the performance of its duties. The chairman and secretary shall be empowered to administer oaths in matters connected with the duties of said board. The records of the said board shall include, among other things, a record of all moneys received and disbursed by said board, also a list of all applicants for certificates, giving the name and location of the institution granting a degree of doctor of osteopathy to the applicant, and the fact shall be recorded whether the applicant was granted or denied a certificate. Said records, or duplicates thereof, shall always be open to inspection in the office of the secretary of state during regular office hours, and shall be prima facie evidence of all matters recorded therein. Three members of the board shall constitute a quorum for the transaction of business but no certificate to practice osteopathy shall be granted except on an affirmative vote of at least three members of the board.

Sec. 62. Osteopaths to be registered; exceptions. 1919, c. 188, § 3. Any person, before engaging in the practice of osteopathy in this state, shall make application for a certificate to practice osteopathy to the board of osteopathic examination and registration, on a form prescribed by said board. Said application shall be filed with the secretary of the board, at least seven days before the date of examination, together with a deposit of twenty-five dollars, which said deposit

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shall be returned to applicant in case the application is rejected. Each applicant must be at least twenty-one years of age and shall present a diploma from a high school, academy, state normal school, college or university, or otherwise satisfy the members of the board of sufficient prior academic education. The applicant shall also present a diploma granted by a legally chartered osteopathic college or university in good standing and have the power to confer degrees in osteopathy which good diploma shall show that it was granted on personal attendance of the applicant and completion of a course or not less than eight months in a year for four separate years. All applicants must also present a certificate of good moral character, signed by some reputable resident of the State of Maine, and such other reasonable and proper facts as the board in its blank application may require.

Sec. 63. Examination; board may refuse to grant license. 1919, c. 188, § 4. The board shall then require the applicant to submit to an examination as to his or her other qualifications for the practice of osteopathy, which examination shall include the subjects of anatomy, physiology, chemistry, bacteriology, toxicology, pathology, dietetics, diagnosis, hygiene, obstetrics, gynecology, and principles and practice of osteopathy. If such examination is passed in a manner satisfactory to the board, then the board shall issue to the said applicant a certificate granting him or her the right to practice osteopathy in the State of Maine. Every graduate of a reputable school of osteopathy who has been strictly examined and thereafter licensed to practice osteopathy in another state, may be licensed to practice osteopathy in this state upon the payment of twenty-five dollars and the production to the board of his or her diploma, the license obtained in such other state, and satisfactory evidence of good moral character; but the board may, at its discretion, require an examination of any such applicant. The board may refuse to grant a certificate to any person convicted of a felony or who has been guilty of grossly unprofessional conduct, or who is addicted to any vice to such a degree as to render such person unfit to practice osteopathy, and may, after due notice and hearing, revoke a certificate already issued for like cause.

Sec. 64. Certificate to be publicly displayed; rights under certificate. 1919, c. 188, § 5. When the board shall have granted to a person the certificate mentioned in section sixty-three, hereof, such certificate shall designate the holder as an osteopathic physician, and shall be publicly displayed at the person's principal place of business as such person shall continue to practice osteopathy for gain or hire. Such certificate shall entitle the person to whom it is granted to practice osteopathy in any county in this state, in all its branches as taught and practiced by the recognized schools and colleges of osteopathy, but it shall not authorize its holder to practice obstetrics, nor to administer drugs or perform surgical operations with the use of instruments except as now allowed by statute. Any person to whom a certificate has been granted under section sixty-three may prefix the title "Doctor", or the letters "Dr." to his name, when accompanied by the word "osteopath."

Sec. 65. Additional exceptions. 1919, c. 188, § 6. Nothing in sections sixty to seventy shall be construed to restrain or restrict any legally licensed physician, surgeon, dentist, or nurse in the practice of his or her profession, nor shall said sections apply to masseurs in their particular sphere of labor who publicly represent themselves as such, nor to any commissioned medical officer in the United States Army, Navy or Public Health Service, in the performance of his duties as such; nor to prohibit gratuitous service or the rendering of assistance in emergency cases.

Sec. 66. Penalties for practicing without certificate; exceptions. 1919, c. 188, § 7. Any person who shall practice or attempt to practice, or use the science or system of osteopathy in treating diseases of the human body, or any person who shall buy, sell, or fraudulently obtain any diploma, license, record, or registration to practice osteopathy or who shall aid or abet in such selling, or fraudulent obtaining; or who shall practice osteopathy under cover of any diploma, license, record, or registration to practice osteopathy, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or who after conviction of felony shall practice osteopathy, or who shall use any of the forms of letters, "Osteopath," "Osteopathist," "Osteopathy," "Osteopathic Practitioner," "Doctor of Osteopathy," "Diplomate in Osteopathy," "D. O.," "D. Sc. O.," or any other title or letters, either alone or with qualifying words or phrases, under such circumstances as to induce the belief that the person who uses such terms is engaged in the practice of osteopathy, without having complied with the provisions of sections sixty to seventy, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than fifty dollars, nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days, nor more than one year, or both; provided, that nothing in said sections shall be construed to prohibit any lawfully qualified osteopathic physician in any other state meeting a registered osteopathic practitioner in this state for consultation.

Sec. 67. Fees to be remitted to state treasurer monthly; compensation and expense of board. 1919, c. 188, § 8. All fees received by the secretary and not returned to the applicant shall be paid monthly to the state treasurer. The compensation of members of the board shall be five dollars per day for each day actually spent in the discharge of their duties, and, in addition thereto, they shall receive necessary traveling expenses. The secretary shall be allowed extra compensation for books, stationery, postage and other necessary expenses authorized by the board and actually incurred. The compensation and expenses of said board and its secretary and all other expenses proper and necessary in the opinion of said board to discharge its duties hereunder and to enforce the provisions of sections sixty to seventy shall be paid out of the state treasury after the approval of the state auditor upon a requisition signed by the president and secretary of said board, provided that the amounts so paid shall in no case exceed the total amount received for the current year by the treasurer of state from the board as fees; and so much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of the board as aforesaid.

Sec. 68. Board to revoke or suspend license after investigation and hearing. 1919, c. 188, § 9. The board, its members or agents, shall investigate all complaints and all cases of non-compliance with, or violations of the provisions of this chapter relating to the registration of osteopathic physicians and shall bring all such cases to the notice of the proper prosecuting officer. Said board, after a conviction before the 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 a vote of four-fifths 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 four-fifths vote of the entire board, in any case where such certificate has been wrongly obtained or for any fraud connected with the said registration.

Sec. 69. Board to make annual report to governor. 1919, c. 188, § 10. Said board shall annually 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.

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Sec. 70. Certain laws applicable to osteopaths. 1919, c. 188, § 11. All laws, rules, or regulations now in force in this state, or which shall hereafter be enacted, for the purpose of regulating the reporting of contagious diseases, deaths, or births, to the proper authorities, and to which the registered practitioner of medicine is subject, shall apply equally to the practitioner of osteopathy.

Registration of Chiropractors.

Sec. 71. Board of chiropractic examination and registration; qualifications; tenure; vacancies; removal. 1923, c. 86, § 1. The governor, by and with the advice and consent of the council, shall appoint five persons who shall constitute a board of chiropractic examination and registration. Said persons shall be residents of this state, shall be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic; shall have been at the time of their appointment actively engaged in the practice of their profession for a period of at least three years in the State of Maine. Each appointment shall be for the period of five years as the terms of the present members expire. Any vacancy in said board caused by death, resignation or for any other cause except completion of a full term of service shall be filled by the like 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.

Sec. 72. Meetings; organization; bond of secretary and treasurer; seal; powers and duties. 1923, c. 86, § 2. Said board shall meet on the second Tuesday of June of each year at such time and place as its chairman may designate for the purpose of organization. They shall elect one of their members as chairman for a term of one year, and one of their members as secretary and treasurer, to hold such office at the pleasure of the board. The person elected as secretary and treasurer shall give a bond to the treasurer of state in the penal sum of one thousand dollars with sureties to be approved by the governor and council for the faithful discharge of the duties of his office. Said board shall hold regular meetings at least twice in each year for the purpose of considering applications, examining applicants and such other business as may properly come before the board, the time and place of such meeting to be determined by the board. Special meetings may be called at the pleasure of the chairman, and in case of the death or inability of the chairman the secretary may call special meetings. Said board shall cause a seal of suitable inscription to be procured and to be affixed to such papers as may require such seal, shall keep a correct record of all its proceedings and shall have power to make such rules and regulations, not inconsistent with law, as it may deem necessary for the successful enforcement of its authority and the performance of its duties. The chairman and secretary shall be empowered to administer oaths in matters connected with the duties of said board. The records of the said board shall include, among other things, a record of all moneys received and disbursed by said board, also a list of all applicants for certificates, giving the name and location of the institution granting a degree of doctor of chiropractic to the applicant, and the fact shall be recorded whether the applicant was granted or denied a certificate. Said records, or duplicates thereof, shall always be open to inspection in the office of the secretary of state during regular office hours, and shall be prima facie evidence of all matters recorded therein. Three members of the board shall constitute a quorum for the transaction of business but no certificate to practice chiropractic shall be granted except on an affirmative vote of at least three members of the board.

Sec. 73. Chiropractors to be examined and registered. 1923, c. 86, § 3. Any person, before engaging in the practice of chiropractic in this state, shall make application for a certificate to practice chiropractic to the board of chiropractic examiners and registration, on a form prescribed by said board. Said application shall be filed with the secretary of the board, at least seven days before the date of examination, together with a deposit of twenty-five dollars, which said deposit shall be returned to applicant in case the application is rejected. Each applicant must be at least twenty-one years of age, and shall present a diploma from a high school, academy, state normal school, college, or university, or otherwise satisfy the members of the board of sufficient prior academic education. The applicant shall also present a diploma granted by a legally chartered chiropractic college, school, or university in good standing and having the power to confer degrees in chiropractic, which diploma shall show that it was granted on personal attendance of the applicant and completion of a course of three school years of not less than six months each, and of a total of two thousand sixty-minute school hours. All applicants must also present a certificate of good moral character signed by some reputable resident of the State of Maine, and such other reasonable and proper facts as the board in its blank application may require.

Sec. 74. Examination of applicants; subjects included; board to issue certificate; certificate without examination, in certain cases; board may refuse certificate. 1923, c. 86, § 4. The board shall then require the applicant to submit to an examination as to his or her qualifications for the practice of chiropractic, which examination shall include the subjects of anatomy, physiology, symptomatology, hygiene, sanitation, chemistry, histology, pathology, chiropractic analysis, and the principles and practice of chiropractic as taught in reputable chiropractic schools and colleges. If such examination is passed in a manner satisfactory to the board, then the board shall issue to the said applicant a certificate granting him or her the right to practice chiropractic in the State of Maine. Any person of good moral character, licensed by a chiropractic board of any other state or territory having a standard equal to the State of Maine, shall be licensed without examination, upon the payment of twenty-five dollars and the production to the board of his or her diploma, the license obtained in such other state, and satisfactory evidence of good moral character; but the board may, in its discretion, require an examination of any such applicant. The board may refuse to grant a certificate to any person convicted of a felony, or who has been guilty of grossly unprofessional conduct, or who is addicted to any vice to such a degree as to render such person unfit to practice chiropractic, and may, after due notice and hearing, revoke a certificate already issued, for like cause.

Sec. 75. Certificate to be publicly displayed; rights under certificate. 1923, c. 86, § 5. When the board shall have granted to a person the certificate mentioned in section seventy-four hereof, such certificate shall designate the holder as a doctor of chiropractic, and shall be publicly displayed at the person's principal place of business so long as such person shall continue to practice chiropractic for gain or hire. Such certificate shall entitle the person to whom it is granted to practice chiropractic in any county in this state, in all its branches as taught and practiced by the recognized schools and colleges of chiropractic, but it shall not authorize its holder to practice obstetrics so far as the same relates to parturition, nor to administer drugs or perform surgical operations with the use of instruments except as now allowed by statute, provided, however, that nothing in this section shall be construed to prohibit any legally registered doctor of chiropractic in this state from practicing surgery after having passed a satisfactory examination therein before the state board of medical examiners.

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Sec. 76. Legally licensed practitioners of other schools or professions not affected. 1923, c. 86, § 6. Nothing in sections seventy-one to eighty-two shall be construed to restrain or restrict any legally licensed physician, surgeon, dentist, osteopath, or nurse in the practice of his or her profession; nor shall this act apply to masseurs in their particular sphere of labor, who publicly represent themselves as such; nor to any commissioned medical officer in the United States army, or public health service, in the performance of his duties as such; nor to prohibit gratuitous service or the rendering of assistance to emergency cases.

Sec. 77. Penalty for practicing without certificate; fraudulent licenses and certificates. 1923, c. 86, § 7. Any person, who shall practice or attempt to practice, or use the science or system of chiropractic in treating diseases of the human body, or any person who shall buy, sell or fraudulently obtain any diploma, license, record, or registration to practice chiropractic, or who shall aid or abet in such selling or fraudulent obtaining; or who shall practice chiropractic under cover of any diploma, license, record, or registration to practice chiropractic, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or who after conviction of felony shall practice chiropractic, or who shall use any of the forms of letters, "Chiropractic," "Chiropractor," "Chiropractic Practitioner," "Doctor of Chiropractic," "D. C.," or any other titles or letters, either alone or with qualifying words or phrases, under such circumstances as to induce the belief that the person who uses such terms is engaged in the practice of chiropractic without having complied with the provisions of the six preceding sections, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars, nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, or both; provided, that nothing in this section shall be construed to prohibit any lawfully qualified chiropractor in any other state meeting a registered chiropractic practitioner in this state for consultation.

Note. The maximum imprisonment of one year makes this a felony, and as in other similar instances should probably be reduced.

Sec. 78. Disposition of fees; compensation of members of board; compensation and expenses, how paid. 1923, c. 86, § 8. All fees received by the secretary and not returned to the applicant shall be paid monthly to the state treasurer. The compensation of members of the board shall be ten dollars per day for each day actually spent in the discharge of their duty, and, in addition thereto, they shall receive necessary traveling expenses. The secretary shall be allowed extra compensation for books, stationery, postage, and other necessary expenses authorized by the board and actually incurred. The compensation and expense of said board and its secretary and all other expenses proper and necessary in the opinion of said board to discharge its duties hereunder and to enforce the provisions of sections seventy-one to eighty-two shall be paid out of the state treasury, after the approval of the state auditor, upon the requisition signed by the president and secretary of said board, provided that the amounts so paid shall in no case exceed the total amount received for the current year by the treasurer of state from the board as fees; and so much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of the board as aforesaid.

Sec. 79. Board to investigate complaints; may revoke or suspend certificates. 1923, c. 86, § 9. 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 doctors of chiropractic, and shall bring all such cases to the notice of the proper prosecuting officer. 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 four-fifths 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 four-fifths vote of the entire board, in any cases where such certificate has been wrongfully obtained or for any fraud connected with the said registration.

Sec. 80. Annual report. 1923, c. 86, § 10. 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 or suggestions as it may deem essential.

Sec. 81. Laws regarding reporting contagious diseases and deaths applicable. 1923, c. 86, § 11. All laws, rules, and regulations now in force in this state, or which shall hereafter be enacted, for the purpose of regulating the reporting of contagious diseases and deaths to the proper authorities, and to which the registered practitioner of medicine is subject, shall apply equally to the practitioner of chiropractic.

Sec. 82. Definition of chiropractic; other methods excluded. 1923, c. 86, § 12. The system, method, or science commonly known as chiropractic, or the practice of chiropractic, is defined to be the science of palpating and adjusting the segments and articulations of the human spinal column by hand only. This definition is inclusive, and any and all other methods are hereby declared not to be chiropractic, and chiropractic is hereby declared not to be the practice of medicine, surgery, dentistry, and osteopathy within the meaning of sections nine, ten, eleven, twelve, thirteen, fourteen, fifteen, twenty-four, twenty-five, thirty-two, thirty-six and thirty-seven of chapter eighteen of the revised statutes of Maine, passed September twenty-ninth, nineteen hundred and sixteen, and sections one, two, three, seven and eleven of chapter one hundred and eighty-eight of the public laws of nineteen hundred and nineteen, and all acts additional thereto and amendatory thereof.

Registration of Veterinary Surgeons.

Sec. 83. Board of veterinary examiners; appointment; vacancies; removals. R. S. c. 18, § 56. 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. 84. Organization and officers; president may administer oaths and take testimony; annual report. R. S. c. 18, § 57. 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

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certificates issued by them in accordance with section eighty-seven. 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.

Sec. 85. Practitioners to obtain certificate. R. S. c. 18, § 58. 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 eighty-seven. 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. 86. Meetings of board; examination of applicants. R. S. c. 18, § 59. 1923, c. 38, § 1. 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 not previously registered who commence the practice of veterinary surgery, medicine, or any branch thereof, within the state, 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. 87. Board of examiners to issue certificates; certificates to be recorded. R. S. c. 18, § 60. 1923, c. 38, § 2. 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 considered a license to practice veterinary surgery, medicine, or dentistry in this state, except that it shall be unlawful for any person to practice veterinary surgery, medicine, or dentistry in this state in any year after the year in which said certificate is issued to him unless he shall pay to the treasurer of the state board of veterinary examiners on or before January first of said year a fee of one dollar for which he shall receive a registration card, which card shall be placed beside or attached to the certificate above mentioned. 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 service for the State of Maine, in any of its departments, shall at the request of the commissioner of agriculture, submit himself to an examination before said board as to his fitness to perform the service.

Sec. 88. Board of examiners to keep record. R. S. c. 18, § 61. 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. 89. Penalty. R. S. c. 18, § 62. 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 22.

The Public Health and the Prevention of Contagious Diseases.

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The State Department of Health.

Sec. 1. State department of health; composition; duties. R. S. c. 19, §§ 1, 2. 1917, c. 197, § 1. The state department of health as heretofore established shall consist of a commissioner of health and a public health council. There shall also be directors of divisions, district health officers, and other employees as hereinafter provided. Said department shall have the general supervision of the interests of health and life of the citizens of the state. It 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; it 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

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of localities, employments, conditions, ingesta, habits, and circumstances on the health of the people; it shall investigate the causes of disease occurring among the stock and domestic animals in the state, and the methods of remedying the same; it shall gather such information in respect to all these matters as it may deem proper for diffusion among the people; it shall, when required or when it 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; it shall from time to time examine and report upon works on the subject of hygiene for the use of the schools of the state; it shall have general oversight and direction of the enforcement of the statutes respecting the preservation of health; it shall co-operate with the federal children's bureau in accordance with section sixteen; and it shall as soon as practicable after the close of each year which is indicated by an odd number, report to the governor and council its doings, investigations, and discoveries during the biennial period just ended, with such suggestions as to legislative action as it may deem necessary.

Sec. 2. Headquarters; department to furnish own supplies. 1917, c. 197, § 2. The headquarters of the department shall be at Augusta and suitable rooms for offices and laboratories shall be provided by the state for the use of the department. The department shall furnish its own supplies and equipment out of the fund hereinafter provided for its use.

Sec. 3. Commissioner of health; appointment; qualifications; tenure of office; duties; etc. 1917, c. 197, § 3. The commissioner of health shall be appointed by the governor with the advice and consent of the council and he shall be a physician skilled in sanitary science and experienced in public health administration. The term of office of the commissioner of health shall be six years and he shall devote his entire time to his official duties. The commissioner of health shall be the administrative head of the state department of health and his powers and duties shall be to administer the laws relative to health and sanitation and the regulations of the department; to prepare rules and regulations for the consideration of the public health council; and with the advice of the public health council to appoint and remove directors of divisions, district health officers, inspectors and other necessary employees and to fix their compensation within the limitations of the appropriation therefor. The commissioner of health shall submit annually to the public health council a report containing recommendations in regard to health legislation; and he shall perform all executive duties of the department. He may direct any executive officer or employee of the state department of health to assist in the study, suppression, or prevention of disease in any part of the state. The commissioner of health may be removed by the governor with the advice and consent of the council for cause shown at a hearing.

Sec. 4. Public health council; membership and qualifications; tenure of office; vacancies, etc.; meetings and duties. 1917, c. 197, § 4. 1923, c. 221. The public health council shall consist of a commissioner of health and five other members, hereinafter called the appointive members, two of whom shall be physicians, and one a dentist, all of whom shall be appointed by the governor with the advice and consent of the council. All appointments to said board, except to fill vacancies, shall be for the term of five years from the first day of May of the year of such appointment. Vacancies shall be filled by appointment of the governor, with the advice and consent of the council, for the unexpired term. The public health council shall meet at least once in each month and at such other times as they shall determine by their rules, or upon the request of any three members, or upon request of the commissioner of health. It shall be the

duty of the public health council to make and promulgate rules and regulations in furtherance of the public health law; to consider plans and appointments required by law; to submit annually to the legislature, through the governor, a report, including recommendations as to needed health legislation; and to discharge other duties required by law, but it shall have no administrative or executive functions.

Sec. 5. Divisions; number, how regulated; directors, how appointed; duties. 1917, c. 197, § 5. There shall be in the state department of health such divisions as the commissioner of health may, with the approval of the public health council, from time to time determine. The commissioner of health shall appoint and may remove, with the advice of the public health council, a director to take charge of each division and shall prescribe the duties of such directors of divisions.

Sec. 6. Health districts; district health officers appointed by commissioner; qualifications and duties. 1917, c. 197, § 6. The commissioner of health, with the advice of the public health council, shall from time to time, divide the state into three or more health districts and shall appoint and may remove district health officers for each district. The district health officers shall not be engaged in any other occupation and shall give their entire time to the performance of their duties. The commissioner of health may order two or more of said district health officers to work in one district in order to study, suppress, or prevent disease. Each district health officer shall, under the direction of the commissioner of health, perform such duties as may be prescribed by the commissioner of health and shall act as the representative of the commissioner of health and under his direction shall secure the enforcement within his district of the public health laws and regulations. Said district health officers shall be graduates of an incorporated medical school and admitted to practice medicine in this state, or shall have been certified in public health by a reputable institution of collegiate grade.

Sec. 7. Annual appropriation. 1917, c. 197, § 8. 1919, c. 172. 1921, c. 162. 1923, c. 217. 1927, c. 206. The sum of fifty-eight thousand dollars shall be annually appropriated for the purposes set forth in the preceding sections.

Sec. 8. Individual to select own physician. 1917, c. 197, § 9. Nothing in this chapter shall be construed to empower or authorize the state department of health or its representative to interfere in any manner with the individual's right to select the physician or mode of treatment of his choice, providing that sanitary laws, rules, and regulations are complied with.

Sec. 9. Duties of municipalities in regard to local health officers; state aid under certain circumstances. 1919, c. 172, § 10. 1923, c. 116. Every city, town, and organized plantation shall employ an official who shall be known as the local health officer and who shall be appointed by the officers of the municipality subject to the approval of the state commissioner of health. Upon the failure to fill said office as hereinbefore stated within thirty days after a vacancy occurs therein, the state commissioner of health may appoint said official. The local health officer shall be ex-officio a member and the executive officer of the local board of health, and shall be one of the three members of which the board consists, or at the option of the municipal officers, may take the place of the local board of health. The municipal officers shall fix and the town pay the salary or other compensation of the local health officer who shall be appointed under the provisions of this section, and shall fix and audit all salaries, fees, and charges of persons employed by the local board of health in the execution of the health laws, of the local ordinances, and of the rules and regulations of the state department

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of health. He may be employed to devote a part or all of his time to the performance of the duties of his office. If employed to give his entire time and if he possesses the qualifications of a district health officer as stated in section six hereof, or is approved by the state health commissioner on the basis of experience in public health administration, the state department of health is authorized and directed to pay from money appropriated to said department of health for said purpose one-third of the total salary of said official, not to exceed eight hundred dollars a year, payment to be made directly by the state to the city, town, or organized plantation by which said local health officer is employed.

Sec. 10. Municipalities may combine into districts; state aid. 1919, c. 172, § 11. Subject to the approval of the state health commissioner, several adjoining towns, cities, or organized plantations may unite in employing the same local health officer who shall possess the qualifications of a district health officer as stated in section six hereof, or is approved by the state health commissioner on the basis of experience in public health administration, shall devote his entire time to the performance of his duties, and shall receive one-third of his salary, not to exceed eight hundred dollars a year, from the state.

Sec. 11. Duties of local health officers. 1919, c. 172, § 12. Said local health officers shall assist in the reporting, prevention, and suppression of diseases and all conditions dangerous to health, and shall be subject to the supervision and direction of the state department of health.

Sec. 12. Local boards under control of state department. 1919, c. 172, § 13. The powers vested in local boards of health by authority of section fifty-three shall be exercised under the control and direction of the state department of health.

Sec. 13. State Department to promulgate rules and regulations; in case of epidemics. 1919, c. 172, § 14. The state department of health shall from time to time make and publish such orders and regulations as it shall think necessary and proper for the protection of life and health and the successful operation of the health laws of this state, which said orders and regulations shall be published in such manner as said department of health directs. In case of emergency or threatened epidemic of disease which may affect more than one city, town, or plantation, the state department of health, if it shall appear to it necessary and proper for the protection of life and health, may make such further orders and regulations as in its opinion the public exigency may require.

Sec. 14. Penalties and jurisdiction. 1919, c. 172, § 15. Whoever violates any provision of the preceding sections, or any order or regulation made thereunder, shall be punished by a fine of not less than ten nor more than one hundred dollars for each offense. Municipal and police courts and trial justices shall have jurisdiction of all offenses under this section.

Sec. 15. Annual appropriation for provisions of sections 6, 9, 10, 11, 12, 13. 1919, c. 172, § 16. 1921, c. 167. 1923, c. 217. The sum of thirty-eight thousand dollars shall be appropriated annually to the state department of health for the purpose of carrying out the provisions of sections six, nine, ten, eleven, twelve, and thirteen.

Sec. 16. Department of health to co-operate with federal children's bureau. 1927, c. 154. The state department of health is hereby authorized and directed to co-operate, through its division of public health nursing and child welfare, with the federal children's bureau in the administration of the provisions of the act of the congress of the United States approved November twenty-third, nineteen hundred and twenty-one as amended and approved January twenty-second, nineteen hundred and twenty-seven, entitled "An Act for the Promotion of the

Welfare and Hygiene of Maternity and Infancy," and to do all things necessary to entitle the state to receive all the benefits thereof. All moneys accruing to this state under the provisions of the act of congress aforesaid shall be deposited with the state treasurer. Nothing in this section shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

Sec. 17. Information to department of health. R. S. c. 19, § 7. In order to afford to this department 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 department of health any information bearing upon public health which may be requested by said department for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.

Tuberculosis.

Sec. 18. Register of tuberculous persons. R. S. c. 19, § 8. The state department of health shall keep a register of all persons in the state who are known to be affected with tuberculosis. The department 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. 19. Duty of physicians and others. R. S. c. 19, § 9. 1917, c. 27. 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 local board of health within forty-eight hours after the fact comes to the knowledge of said physicians, 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 department 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 department of health in like manner 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 commissioner 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 of secretary of local board of health, c. 72, § 20.

Sec. 20. Vacation of infected apartments. R. S. c. 19, § 10. 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

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again be occupied until duly disinfected, cleansed, or renovated as hereinafter provided.

See c. 19, § 50.

Sec. 21. Infected articles to be disinfected. R. S. c. 19, § 11. 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 department of health for work of that kind in connection with tuberculosis.

Sec. 22. When orders of local board are not obeyed. R. S. c. 19, § 12. 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 renovation 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. 23. Tuberculous persons to exercise care. R. S. c. 19, § 13. 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. 24. Duty of physician. R. S. c. 19, § 14. 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 eighteen to twenty-eight, 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. 25. Precautionary measures; needy patients. R. S. c. 19, § 15. 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 department of health in its printed circulars, and reports to the state department 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. 26. Penalty for false statement. R. S. c. 19, § 16. 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 department 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. 27. Recoveries to be reported. R. S. c. 19, § 17. Upon the recovery of any person having tuberculosis, the attending physician shall make a report of this fact to the commissioner 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. 28. Penalty. R. S. c. 19, § 18. 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.

Occupational Diseases.

Sec. 29. Reports from physicians. R. S. c. 19, § 19. 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 department 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 department.

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Sec. 30. Lead poisoning. R. S. c. 19, § 20. 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 department of health; and when such reports are received, the said department 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. 31. Penalty; prosecutions. R. S. c. 19, § 21. 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 department 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.

Regulations Against Infectious Diseases.

Sec. 32. System of inspection. R. S. c. 19, § 22. The more effectually to protect the public health, the state department 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 department 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 department 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 department 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. 33. Rules must be approved by governor and council; publication;

supersede all local rules. R. S. c. 19, § 23. Any rules and regulations adopted by the state department 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 commissioner 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 department 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. 34. Penalty for refusing to obey rules. R. S. c. 19, § 24. All health officers, local boards of health, municipal officers, sheriffs, constables, police officers, and marshals shall enforce the rules and regulations of the state department 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 thirty-two shall cooperate with the state department 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 department may execute its orders and directions by agents of its own appointment; and all expenses incurred by members of the state department of health or by duly appointed agents of said department 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 department of health as to construction of mausoleums and burial vaults, c. 24. §§ 21-25; as to prevention of diseases arising from impure milk, c. 41, §§ 6-12.

Registration of Undertakers.

Sec. 35. Business of undertaker and practice of embalming regulated; qualifications. R. S. c. 19, § 25. 1927, c. 141. Any person wishing to become an undertaker, or an embalmer of dead human bodies for burial, or to engage in the business of preparing dead human bodies for transportation or cremation, as a regular or permanent business or profession, shall be at least twenty-one years of age, with not less than a high school education, or its equivalent, shall have practiced embalming, caring for, and preparing for burial dead human bodies, for at least two years, under the direction and supervision of a licensed or registered undertaker, or embalmer, and shall have taken and completed the prescribed course of study of some school or college of embalming, the standing and requirements of which shall be approved by the board of embalming exam-

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iners. Such person shall also present to said board a certificate, or diploma, certifying that he, or she, has taken and successfully passed the required examination of said school or college of embalming, and 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 department 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, or she, is permitted to practice said business or profession within the state, providing, however, that the provisions of this section shall apply only to persons who advertise or hold themselves out to embalm dead human bodies for burial, or to prepare the same for transportation or cremation. Undertakers' assistants, partners, or members of firms, who have not received a license as provided in the following sections, shall not engage in the practice of embalming dead human bodies for burial, transportation, or cremation, except under the personal supervision of a licensed or registered undertaker or embalmer.

Sec. 36. State board of examiners. R. S. c. 19, § 26. 1927, c. 141. The board of examiners shall consist of four members, one of whom shall be the state commissioner of health, who shall be secretary of said board, and the other members shall be licensed undertakers and embalmers, who 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 they shall hold office for the term of 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.

Sec. 37. Examinations for licenses; board may revoke licenses. R. S. c. 19, § 27. 1927, c. 141. Examinations for licenses shall be given by the board at least twice a year, at such times and places as it may determine. Applicants shall pass an examination upon their knowledge of embalming, sanitation, preservation of the dead, disinfection of a deceased person, and the apartments, bedding, clothing, or anything likely to be affected in the case of death from infectious, or contagious diseases in accordance with the rules and regulations of the state department of health. They shall also be conversant with the law and rules governing the transportation of dead human bodies, and such other subjects as the board may, from time to time, see fit to name, and if found qualified, a certificate of a licensed embalmer shall be issued to the applicant, under which he shall have legal authority to perform all acts relating to preparing, embalming, shipping, or burying dead human bodies and to do any work coming within the province of said vocation. The board may revoke for cause, any license issued by it, and failure to comply with the law and the regulations of the state department of health shall be deemed sufficient cause for the revocation of a license.

Sec. 38. Blanks and forms of procedure; lists of licenses and examinations to be kept. R. S. c. 19, § 28. 1927, c. 141. The state department of health may adopt such blanks and forms of procedure as it may deem necessary to carry out the provisions of sections thirty-five to forty-six, both inclusive, and shall keep on file a list of all registered and licensed embalmers and undertakers and a record of examinations, together with the examination papers, all of which shall be open to public inspection.

Sec. 39. Record of licensed embalmers to be kept; report of board of examiners. R. S. c. 19, § 29. 1927, c. 141. 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 state commissioner of health during regular office hours. The board of examiners shall report to the state department of health, on or before the first day of May in each year, a full and complete account of all of its official acts during the year, together with a statement of its receipts and disbursements and such comment as may be deemed proper.

Sec. 40. Fees; application of moneys collected. R. S. c. 19, § 30. 1927, c. 141. The fee for examination under section thirty-seven shall be five dollars; for the issuing or renewal of any license under section forty-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 thirty-five to forty-six, both inclusive, and the compensation of the members of the board of examiners shall be paid therefrom.

Sec. 41. Expiration and renewal of licenses. R. S. c. 19, § 31. 1927, c. 141. 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 thirty-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 the 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 the payment of two dollars revival and renewal fees.

Sec. 42. List of licensed undertakers and embalmers to be supplied to transportation companies. R. S. c. 19, § 32. 1927, c. 141. In the month of January of each year, the secretary of the board of examiners shall supply each licensed embalmer, and the various transportation companies within the state, with a list of all registered undertakers and all undertakers and embalmers holding licenses, then in force, giving the names of such persons, their business addresses, and the numbers of their licenses.

Sec. 43. Holders of expiring licenses, how notified. R. S. c. 19, § 33. 1927, c. 141. The secretary of the board of examiners shall, at least forty days prior to the expiration of any license, mail to the holder of any license about to expire a notice, advising him or her 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 or her of the expiration of his or her license, and of the penalty for embalming, caring for or preparing for burial, transportation, or cremation of dead human bodies without holding a license, and the conditions and terms upon which his or her 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 address of the person to whom the notice is addressed.

Sec. 44. In cases of accidental death, embalming fluids not to be injected until cause of death be legally determined. R. S. c. 19, § 34. 1927, c. 141. 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

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physician or a medical examiner 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.

Sec. 45. Penalties; jurisdiction of offenses. R. S. c. 19, § 35. 1927, c. 141. Whoever violates any provision of the ten preceding sections, or any rule or regulation prescribed by the state department 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 by 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. Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of any and all prosecutions for violations hereof.

State Laboratory of Hygiene.

Sec. 46. State laboratory of hygiene. R. S. c. 19, § 36. The state department 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. 47. Director; his appointment, duties, report; services to be free. R. S. c. 19, § 37. 1927, c. 206, § 2. The state department of health shall appoint a director of such laboratory, who shall hold that position at the pleasure of the department. 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 department may from time to time direct. He shall annually in the month of January make a full report to the department of all matters pertaining to the laboratory, and shall make such other and special reports as the department may require. The kind and amount of the work he shall do and the compensation therefor shall be fixed by said department. The services of the laboratory and all investigations therein made shall be free to the people of the state, except that the public health council subject to the approval of the governor and council may fix charges when deemed advisable or necessary.

Local Boards of Health.

Sec. 48. Local boards of health; appointment, etc. R. S. c. 19, § 39. 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. 49. State department of health may appoint local boards, if towns fail to appoint. R. S. c. 19, § 40. 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 commissioner 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 department of health may appoint such local board of health, or fill any vacancy therein.

Sec. 50. Annual meetings. R. S. c. 19, § 41. 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. 51. Duties of officers. R. S. c. 19, § 42. 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. 52. Reports to state department. R. S. c. 19, § 44. 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 department of health their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said department. He shall also make special reports whenever required to do so by the state department of health. He shall, within one week following their meeting and election of officers, report to the commissioner 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. 53. Powers and duties. R. S. c. 19, § 45. Each local board of health constituted under section forty-eight shall:

I. Hold regular quarterly meetings, and special meetings whenever considered necessary by its executive officer, also whenever requested by the state department of health.

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.

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 department of health, promptly, facts which relate to infectious and epidemic diseases occurring within the limits of its jurisdiction, and shall report to said department every case of such infectious or contagious diseases as the rules and regulations of said department shall require. Those diseases which the rules and regulations of the state department of health may require to be reported shall be known, under the terms of this chapter, as notifiable diseases. Diseases which the state department 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.

See §§ 9-12.

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

Sec. 54. Notice to owner of any infected house, etc., requiring same to be disinfected. R. S. c. 19, § 46. 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. 55. Penalty for failure to comply with notice. R. S. c. 19, § 47. 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. 56. Notice of existence of any infectious disease. R. S. c. 19, § 48. 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 department 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. 57. Infected person shall not be removed without permission of board. R. S. c. 19, § 49. 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. 58. Children, affected, shall not attend school, etc. R. S. c. 19, § 50. 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. 59. Physician shall give notice of existence of contagious disease. R. S. c. 19, § 51. 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. 60. Proceedings in cases of violation of § 59. R. S. c. 19, § 52. The secretary or health officer of each local board of health in the state, who shall have knowledge of any violation of the provisions of the preceding section occurring within the jurisdiction of such local board of health, shall forthwith give notice thereof in writing and of all facts within his knowledge in relation thereto, to the county attorney of the county in which such violation has occurred, and said county attorney shall thereupon examine into the case and take such action in the matter as the circumstances of the case require.

Sec. 61. Persons affected with smallpox, etc., shall not mingle with the public. R. S. c. 19, § 53. 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. 62. Convalescents and nurses not to leave premises without certificate from health officer. R. S. c. 19, § 54. Persons recovering from smallpox, scarlet fever, diphtheria, or other diseases for which disinfection may be required by the state department 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. 63. Disinfection, excreta, bedding, etc. R. S. c. 19, § 55. 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. 64. Use of bedding and clothing until disinfected, prohibited. R. S. c. 19, § 56. 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

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be required by the state department 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. 65. Bedding and clothing may be destroyed. R. S. c. 19, § 57. Any local board of health may direct the destruction of any bedding, clothing, or other articles, which have been exposed to infection.

Sec. 66. Children who have been exposed to contagion, shall be excluded from public schools. R. S. c. 19, § 58. 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 school-house all children and other persons living in such infected houses or who have called or visited at such houses, until such time as the local board of health shall certify that such children or other persons may safely be readmitted.

Sec. 67. Schoolhouses, when infected, shall be closed. R. S. c. 19, § 59. When persons from houses or places which are infected with any of the diseases for which disinfection may be required by the state department 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. 68. When any cellar, etc., becomes unfit for occupancy, notice to be served on the owner, to cleanse the same; if owner fails, board may cleanse, at owner's expense. R. S. c. 19, § 60. 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 one 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. 69. Persons infected, not to be allowed to enter any conveyance without notice to owner. R. S. c. 19, § 61. 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. 70. When such conveyance has been so used, it shall be disinfected. R. S. c. 19, § 62. 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. 71. Houses to be disinfected, where contagion has existed. R. S. c. 19, § 63. No person shall let or hire any house or room in a house in which any of the diseases have existed for which disinfection may be required by the state department 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. 72. Officers not to be obstructed in performance of duty. R. S. c. 19, § 64. 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. 73. Penalty for violations. R. S. c. 19, § 65. 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. 74. Antitoxin, in certain cases, to be furnished free. R. S. c. 19, § 66. 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 department of health may direct.

Sec. 75. Contracts for supply of antitoxin. R. S. c. 19, § 67. The state department 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 best, most convenient, and most economical for them.

Sec. 76. Antitoxin to be furnished physicians. R. S. c. 19, § 68. 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 department. The local board shall provide a repository for antitoxin which may be furnished to physicians at the same rates as furnish by the state department 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.

*19 Me. 223; *108 Me. 495.

Sec. 77. Precautions against infected persons. R. S. c. 19, § 69. 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. 78. Board of health to assist persons placed in quarantine. R. S. c. 19, § 70. Whenever any person or family is placed in quarantine by a board of

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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. 79. Expenses incurred to be deemed legitimate, and charged to town. R. S. c. 19, § 71. 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 thirty-two.

108 Me. 494; *113 Me. 319; see §§ 14, 74.

Sec. 80. Precautions against persons arriving from infected places; penalty. R. S. c. 19, § 72. 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. 81. Restrictions on such persons; may be removed if refractory; penalty if they return. R. S. c. 19, § 73. The local board of health may prohibit any such person from going to any part of their town where they think that his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road which they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of one of said local board of health, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the state; and if during the prevalence of such distemper in the place where he resides, he returns to any town in the state, without the license of its local board of health, he forfeits not exceeding four hundred dollars.

Sec. 82. Precautions authorized in border towns; penalty. R. S. c. 19, § 74. 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. 83. Process for removal or separate accommodation of infected persons. **R. S. c. 19, § 75.** 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. 84. Process for securing infected articles. **R. S. c. 19, § 76.** 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. 85. Justice may by warrant require officers to remove them to suitable places. **R. S. c. 19, § 77.** 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. 86. Powers of officers in executing such process. **R. S. c. 19, § 78.** 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. 87. Expenses, how paid. **R. S. c. 19, § 79.** 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. 88. Compensation for men or property impressed. **R. S. c. 19, § 80.** 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. 89. Adjournment of courts because of danger from infection. **R. S. c. 19, § 81.** 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. 90. Removal of infected prisoners from places of confinement. **R. S. c. 19, § 82.** When any person in a jail, house of correction, or workhouse 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.

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Sec. 91. Order for removal, how returned; such removal, not an escape. R. S. c. 19, § 83. 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. 92. May order removal of private nuisances; proceedings; penalty. R. S. c. 19, § 84. 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. 26, § 26; 57 Me. 438, 440; 65 Me. 436; 87 Me. 475.

Sec. 93. Depositing carcass of dead animal where it may cause nuisance forbidden; penalty. R. S. c. 19, § 85. 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. 94. Masters, seamen, or passengers of vessels may be examined on oath in reference to infectious distempers; penalty. R. S. c. 19, § 86. 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. 95. Vessels with infected persons to anchor at a distance from towns. R. S. c. 19, § 87. 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. 96. Penalty for violation of § 95. R. S. c. 19, § 88. 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. 97. Board of health may establish quarantine regulations; penalty. R. S. c. 19, § 89. 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. 98. Duty of pilots to give notice thereof; penalty. R. S. c. 19, § 90. 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. 99. Penalty for violation or evasion of quarantine, after notice. R. S. c. 19, § 91. 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 ninety-seven.

Sec. 100. Board of health to furnish signals; restrictions on persons visiting vessels at quarantine. R. S. c. 19, § 92. 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. 101.—Authority of health officer, as to quarantine. R. S. c. 19, § 93. 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. 102. Expenses, how paid. R. S. c. 19, § 94. 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. 72, § 22. Penalty for polluting water supply, c. 140, § 1; for selling milk from cows diseased or fed upon injurious substances, c. 140, §§ 2, 3; for selling unwholesome provisions or drinks, c. 140, §§ 2-9.

Town Hospitals.

Sec. 103. Hospitals may be established. R. S. c. 19, § 95. 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. 104. Physicians and others subject to hospital regulations. R. S. c. 19, § 96. 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. 105. Hospital to be provided, on breaking out of infectious diseases;

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regulations. R. S. c. 19, § 97. 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. 106. Precautions to prevent the spread of such diseases. R. S. c. 19, § 98. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and shall give public notice of infected places to travelers, by displaying red flags at proper distances, and by all other means most effectual in their judgment, for the common safety.

28 Me. 257; *64 Me. 121.

Sec. 107. Penalty for violation of hospital regulations by persons subject thereto. R. S. c. 19, § 99. 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. 108. Forfeitures, how appropriated. R. S. c. 19, § 100. 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. 109. Free vaccination provided, annually. R. S. c. 19, § 101. 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. 110. Paper mills not to employ persons not vaccinated. R. S. c. 19, § 102. 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. 111. Persons not vaccinated not to work in paper mill. R. S. c. 19, § 103. 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. 112. List of employees to be furnished semi-annually. R. S. c. 19, § 104. 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. 113. Employees to be examined semi-annually. R. S. c. 19, § 105.

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. 114. Penalty. R. S. c. 19, § 106. Whoever violates any provision of the four preceding sections shall be punished by a fine of not more than fifty dollars.

Sec. 115. Enforcement of §§ 110-114. R. S. c. 19, § 107. The local boards of health within their respective jurisdictions and the state department of health shall enforce sections one hundred and ten to one hundred and fourteen each inclusive as far as comes within their power, and when said state department 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. 116. Suspected cases of tuberculosis or glanders to be investigated. R. S. c. 19, § 108. 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 of 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. 117. Inspectors of plumbing; appointment and tenure. R. S. c. 19, § 109. 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 twenty-two.

Sec. 118. Compensation of inspectors; their duties. R. S. c. 19, § 110. 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. 119. No inspector shall approve his own work; inspection of work done by regular inspector. R. S. c. 19, § 111. 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

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

Sec. 120. Every city or town having water supply or sewerage system to prescribe regulations. R. S. c. 19, § 112. 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. 121. Annual reports. R. S. c. 19, § 113. 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. 122. Definitions. R. S. c. 19, § 114. 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. 123. Penalty. R. S. c. 19, § 115. 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. 124. Plumbers in municipalities which own water-works, to be licensed. R. S., c. 19, § 116. 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, commissioners, and municipal officers are hereby authorized to grant and revoke licenses.

Sec. 125. Reports of fixtures set up, etc., to superintendent of water district

or works. **R. S. c. 19, § 117.** 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 or old for the use of water on the premises.

Sec. 126. Suspension of license and penalty for misrepresentation. R. S. c. 19, § 118. 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. 127. Acting without license; penalty. R. S. c. 19, § 119. 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 twenty-five, 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. 128. Provisions in city charters not affected. R. S. c. 19, § 120. The four preceding sections shall not affect any provisions in city charters and ordinances, inconsistent therewith.

Prevention of Blindness.

Sec. 129. Duty of physician, midwife, or nurse to prevent blindness; penalty. R. S. c. 19, § 121. 1919, c. 164. 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. Every physician, midwife, or nurse in charge shall instill or cause to be instilled into the eyes of the infant immediately upon its birth, one or two drops of a prophylactic solution prescribed by the state department of health, unless either parent or the guardian of the infant shall offer conscientious objections thereto. 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. 130. Persons suffering from use of opiates may be committed to general hospital. R. S. c. 19, § 122. A person, alleged to be suffering from 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

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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. 131. Agreement for personal restraint. R. S. c. 19, § 123. 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. 132. Investigation as to progress of cases may be required. R. S. c. 19, § 124. 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 commissioner 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.

Treatment of Venereal Diseases.

Sec. 133. Venereal diseases; cases found in charitable or correctional institutions to be reported. 1917, c. 301, § 125. It shall be the duty of every superintendent, manager, or physician in charge of any state, county, or municipal, charitable or correctional institution immediately to report to the state department of health every case of venereal disease among the inmates of said institution of which he has knowledge. It shall be the duty of every superintendent, manager, or physician in charge of any state-aided, county-aided, or municipally-aided charitable institution to make a similar report to the state department of health in relation to inmates of such institution, the cost of whose care and treatment is being paid in whole or in part by the state or by any county or municipality in the state. Said report shall be made in the form which may be required by the rules and regulations of the said state department, provided that such rules and regulations shall not require said reports to be made in a form which will disclose to the state department of health or to any other person, except the said superintendent, manager, or physician, the identity of the inmate. Said superintendents, managers, and physicians shall comply with such rules and regulations as are made by the said state department to prevent the spread of venereal disease.

Sec. 134. Reports to be treated as confidential. 1917, c. 301, § 126. The reports to the state department of health prescribed by the preceding section shall be confidential, and shall not be accessible to the public, nor shall such records and reports be deemed public records.

Sec. 135. Examination and treatment of gonorrhea and syphilis. 1917, c. 301, § 127. The state department of health shall provide, at the state laboratory of hygiene or elsewhere, facilities for the free bacteriological examination of discharges for the diagnosis of gonorrheal infections, and shall also provide at cost vaccine or anti-toxin for the treatment of such infections. And said department shall make at the expense of the state the Wassermann test for the diagnosis of syphilis; and shall furnish the treatment known as Salvarsan or other accredited specific treatment at cost.

Sec. 136. State department of health to include information, concerning venereal diseases, in bulletins. 1917, c. 301, § 128. The state department of health shall include in bulletins and circulars distributed by it, information concerning the diseases covered by the preceding sections, provided that nothing shall be contained in such bulletins or circulars which will disclose the identity of the persons suffering from such venereal disease nor the identity of any state-aided, county-aided, or municipally-aided charitable institution in which such persons are treated or cared for.

Sec. 137. Persons discovered affected in institutions to be treated; may be isolated; state department of health to be notified of release. 1917, c. 301, § 129. 1923, c. 61. 1925, c. 184. Any inmate of any state, county, or municipal charitable or correctional institution, or any dependent child supported or partially supported by public funds, afflicted or suspected of being afflicted with venereal disease, shall forthwith be placed under medical treatment, and, if in the opinion of the attending physician, it is necessary, shall be isolated until danger of contagion is passed. Such case shall be immediately reported to the state department of health in accordance with the latter's rules and regulations, provided that such rules and regulations shall not require information disclosing the identity of any dependent or delinquent child, and the rules and regulations of the state department of health for the examination, testing, and treatment of cases of venereal disease shall be faithfully observed.

Not more than thirty days and not less than fourteen days before the estimated date of release from custody of any inmate of a state, county, or municipal charitable or correctional institution who is afflicted with venereal disease in an infectious form, the superintendent or other person in charge of such institution shall notify the state department of health in writing of the proposed release of such individual and the state department of health shall thereupon take necessary measures to protect others from such infection.

Sec. 138. Penalty for neglect of duty. 1917, c. 301, § 130. Any official or person who shall wilfully fail, neglect, or refuse to perform any of the duties imposed upon him by the provisions of the preceding sections shall be fined not more than five hundred dollars or be imprisoned for not more than six months.

Sec. 139. Appropriation. 1917, c. 301, § 131. 1919, c. 172, § 131. 1921, c. 162, § 131. 1923, c. 217, § 131. For the purpose of enabling the state department of health to carry out the provisions of sections one hundred thirty-three to one hundred thirty-eight of this chapter there shall be appropriated annually the sum of fourteen thousand dollars.

Marriage of Persons Having Syphilis.

Sec. 140. Syphilitic persons not to marry. 1919, c. 41, § 1. No person having syphilis shall marry until he has a certificate from the attending physician or physicians that he is cured of syphilis. The state department of health is hereby empowered to make regulations prescribing the methods to be employed in diagnosing said disease.

Sec. 141. Physicians to keep record of syphilitic cases; to notify health officer of intention of persons so affected to marry. 1919, c. 41, § 2. Every physician shall keep a record of all cases of syphilis that come under his observation and care, and shall use reasonable means to ascertain the intention of syphilitic patients as to marriage. The physician shall warn said patients of the legal, moral, and physical evils of marriage contracted by them. If the physician learns that a patient as aforesaid has filed intentions of marriage as

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required by law, or if the physician believes that the patient as aforesaid intends to marry, the physician shall notify the local board of health or the health officer in the town or city in which the patient resides, who are hereby empowered to notify the other party to the intended marriage.

Sec. 142. Penalty for violations; court jurisdiction. 1919, c. 41, § 3. Any person failing to comply with the provisions of the two preceding sections and any physician making a certificate as aforesaid falsely shall be punished by imprisonment for not less than three months nor more than one year or by fine of not more than five hundred dollars or less than two hundred dollars or both. Municipal and police courts and trial justices shall have jurisdiction of the above concurrently with superior and supreme judicial courts.

Analysis of Water Sold for Domestic Purposes.

Sec. 143. Persons selling water for domestic purposes may be required to submit samples for examination; sale may be prohibited if polluted. 1925, c. 138, § 125. The state department of health may require any person selling water for domestic purposes to furnish samples thereof for chemical and bacteriological examination, and if said water is found to be contaminated, polluted, and unfit for domestic use, the state department of health may issue an order prohibiting the transporting, sale, distribution, or supplying of such water as long as such contamination, pollution, and unfitness remains.

Sec. 144. Penalty. 1925, c. 138, § 126. Whoever neglects or refuses to furnish such samples of water, or violates or disobeys any order of said state department of health shall be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment for not less than ten nor more than thirty days.

CHAPTER 23.

Apothecaries and the Sale of Poisons.

Sec. 1. Business of apothecaries regulated. R. S. c. 20, § 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. 20, § 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. 20, § 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.

Sec. 4. Record of persons examined and money received; annual report. R. S. c. 20, § 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. R. S. c. 20, § 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

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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. 133, § 1.

Sec. 6. Penalty if person complained of is guilty. R. S. c. 20, § 6. If the full board sitting at such hearing shall find that the person so complained against is guilty of the act 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 to be displayed. R. S. c. 20, § 7. 1925, c. 78, § 1. 1927, c. 209, § 1. Every person not already registered, entering on the business of an apothecary, upon the payment of a 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 had 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 the fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two members of the commission. No such certificate shall be issued unless the applicant is at least twenty-one years of age, of good moral character, a citizen of the United States, and a graduate of a high school or its equivalent. Provided, that exemption from the high school graduate requirement to registration as apothecary shall be allowed to persons who, before the fifteenth day of July, nineteen hundred twenty-seven, have been employed for at least four years in a drug store under the supervision of a qualified apothecary and who present to the board satisfactory evidence of such service and successfully pass the examination of said board within three years after the fifteenth day of April, nineteen hundred twenty-seven. 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 in some other state, provided that such other state shall require a degree of competency equal to that required of applicants of 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.

Sec. 8. Certificates of two grades may be issued. R. S. c. 20, § 8. Certificates of two grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than eighteen years of age and who have 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 to permit use of his name. R. S. c. 20, § 9. 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. 20, § 10. 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. 20, § 11. 1927, c. 209, § 2. Whoever engages in or is found in charge of or carrying on a business of apothecary, 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 five dollars a day for the first offense and ten dollars a day for each and every subsequent offense. All fines and forfeitures collected under the provisions of this section shall be paid to the treasurer of state and shall be considered funds of the board of commissioners of pharmacy, to be by them expended for expenses incurred in their official work.

Sec. 12. Application of chapter. R. S. c. 20, § 12. 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. 20, § 13. Any person may enter upon the business of an apothecary without the certificate required by this chapter; provided, he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up, and dispensing medicines and drugs under the provisions hereof.

Sec. 14. Penalty for using drugs not named in physicians' prescription. R. S. c. 20, § 14. 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. 20, § 15. 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 medicines shall be forfeited, and destroyed under the direction of the court.

Sec. 16. Sale of poisonous drugs without prescription, regulated. R. S. c. 20, § 16. 1921, c. 6. 1925, c. 78, § 2. 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, Parsons' 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 any inland fish and game warden, 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 or white paper and red printing, 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 preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars, or worms. Upon each and every package so sold shall be printed in large letters the word "poison," and the name of an antidote or antidotes if any. 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. Certain poisonous drugs to be dispensed by registered apothecary only; exceptions. R. S. c. 20, § 17. 1927, c. 209, § 3. The drugs and medicinal preparations of a poisonous character of the United States Pharmacopoeia, Dispensatory, or National Formulary may be sold or dispensed only by registered apothecaries in cities, towns, or villages where registered apothecaries are located: provided that in cities, towns or villages where registered apothecaries are not located, and where necessity exists for some means of obtaining drugs and medicines, the commission shall designate such drugs and medicines, other

than those permitted to be sold under the provisions of section twelve, as might with safety to public health be sold in original packages as and when put up and labelled by qualified pharmacists; provided that nothing herein contained authorizes the sale of intoxicating liquors.

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Sec. 18. Poisons not to be deposited for killing animals; penalty. R. S. c. 20, § 18. 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, nux vomica, 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. 139, § 1.

Sec. 19. Sale of opium restricted; penalty. R. S. c. 20, § 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. R. S. c. 20, § 20. 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., to be sold only upon written prescription; original prescription to be open to inspection. R. S. c. 20, § 21. 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 department 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 veterinary medicine shall prescribe any of the above mentioned substances for the use of a human being.

Sec. 22. Opium, morphine, etc., to be sold only upon a written prescription; prescription to be open to inspection; exceptions. R. S. c. 20, § 22. 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 department of health, the board of commissioners of pharmacy, state officials and their duly authorized

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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 not to prescribe opium, etc., to habitual users. R. S. c. 20, § 23. 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 to be kept on file. R. S. c. 20, § 24. 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 department 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 not to have opium, etc., in possession; application of section. R. S. c. 20, § 25. 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 to dispense or give away opium, etc., except as a medicine. R. S. c. 20, § 26. No practitioner of medicine, surgery, dentistry, or veterinary medicine shall dispense, furnish or give away opium, morphine, heroin, codeine, cannabis indica, cannabis sativa, 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. R. S. c. 20, § 27. 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 department 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. R. S. c. 20, § 28. 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 to be labeled; penalty. R. S. c. 20, § 29. 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

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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; penalty. R. S. c. 20, § 30. 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.

Sec. 31. Buildings resorted to by drug users declared common nuisance; narcotic drugs, contraband; search warrants may be issued; procedure; penalties. 1925, c. 189. Each building, place, or tenement, which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance.

Narcotic drugs unlawfully in the possession or under the control of any person, and which are kept and deposited in the state, intended for unlawful sale in the state, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized under this chapter. And in all cases where an officer may seize narcotic drugs or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

If any person competent to be a witness in civil suits makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that narcotic drugs are unlawfully kept or deposited in any place in the state by any person, or that the same are intended for sale within the state in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said narcotic drugs are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said drugs as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said drugs, to arrest said person and hold him to answer as having in possession said drugs as aforesaid. Any person who may be suspected of unlawfully having in his possession, or selling from, or keeping for illegal sale in his pockets, narcotic drugs, may be searched in the same manner and by the same process as is provided for the search of places, and if drugs are found upon his person, may be held to answer as though such drugs were kept and deposited by him in any place. If narcotic drugs are in any manner destroyed by the tenant, assistant, or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such drugs may be held to have been unlawfully in possession, and the penalties shall be the same as if said drugs had been seized. If the name of the person keeping such drugs is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this paragraph. If upon trial, the court is of the opinion that the drug was possessed as aforesaid, or intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty

thereof, and sentenced to a fine of not less than one hundred nor more than five hundred dollars and costs and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional.

Sec. 32. Dwelling house not to be searched unless part of it used as an inn or shop unless evidence is presented to satisfy magistrate that drugs are kept therein. 1925, c. 189. No warrant shall be issued to search a dwelling house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made, is satisfied by evidence presented to him, and so alleges in said warrant, that narcotic drugs are kept in such house or its appurtenances in the manner, or for the purposes aforesaid, in violation of law.

Sec. 33. Forms provided in intoxicating liquor cases made applicable. 1925, c. 189. The forms set forth in section forty-four of chapter one hundred thirty-seven of the revised statutes, when changed by substituting the words "narcotic drugs" for the words "intoxicating liquors," wherever found in the same, together with such other changes therein as further adapt them for use under the provisions of this chapter, and with such additional changes as adapt them for use in cities, towns, and plantations, are sufficient in law, for all cases arising under sections thirty-one to thirty-four, to which they purport to be adapted.

Sec. 34. Term "Narcotic Drugs" defined. 1925, c. 189. Under sections thirty-one, thirty-two and thirty-three of this chapter, the term "narcotic drugs" shall mean opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or the salts, compounds or preparations of said substances, cocaine, alpha or beta eucaine of any synthetic substitute for them, or any preparation containing the same or any salts or compounds thereof.

Sec. 35. Definitions of terms used in this chapter. 1927, c. 209, § 4. "Commission" means Maine commission of pharmacy.

"Board" means Maine board of pharmacy.

"Medicine" means a drug or preparation of drugs for use as a curative or remedial substance.

"Pharmacy" means the place registered by the board in which drugs, chemicals, medicines, prescriptions, or poisons are compounded, dispensed, or retailed.

"Physician" means a practitioner of medicine duly registered under the laws of Maine or some other state.

"Dentist" means a practitioner of dentistry duly registered under the laws of Maine or some other state.

"Veterinarian" means a practitioner of veterinary duly registered under the laws of Maine or some other state.

"Poison" means any drug, chemical, or preparation liable to be destructive to human life in quantities of sixty grains or less.

"Supervision" means under the direct charge or direction and does not contemplate any continued absence of such supervision.

"Proprietary Medicine" means remedies that certain individuals, firms, associations, or corporations have the exclusive right to manufacture or sell.

"Apothecary" or "Pharmacist" means a person who prepares, dispenses, or sells drugs or medicines and authorized by the commission to conduct the business of apothecary.

"Apothecary store" means a place where drugs or chemicals or medicines are compounded, dispensed or sold, and registered by the commission.

"Secretary" means the secretary of the Maine board of pharmacy.

CHAPTER 24.

Burying-Grounds.

Sec. 1. Incorporation. R. S. c. 21, § 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 seventy, and may proceed in the manner and with the powers provided in section three of said chapter.

Sec. 2. Ground to be fenced. R. S. c. 21, § 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. Ancient or public burying-grounds to be cared for; penalty for neglect. R. S. c. 21, § 3. 1917, c. 166. Each town, parish, religious society, and any individual, association or corporation, to which any ancient or public burying ground belongs shall keep a substantial fence around it in good repair; and in any such burying ground in which any Revolutionary soldier or sailor is buried, the town in which said burying ground is located shall keep in good condition and repair, all graves, headstones, monuments, or markers designating the burial place of said Revolutionary soldiers or sailors, and shall keep the grass suitably cut and trimmed on such graves during the summer season. Towns may raise and appropriate money for such purposes. Each said town, parish, religious society, individual, association, or corporation shall be liable to a penalty of not exceeding twenty-five dollars for neglect to maintain such fence in good repair, and each said town shall be liable to a penalty of not exceeding ten dollars for neglect to keep in good condition and repair all such graves, headstones, monuments, and markers, or failing to keep the grass suitably cut and trimmed as aforesaid, on said graves. The penalties above provided for shall be recovered in an action of debt brought in the name and for the use of any chapter of the Daughters of the American Revolution against such negligent town, parish, religious society, individual, association, or corporation.

Sec. 4. Penalty for neglect of town or parish officers. R. S. c. 21, § 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. 21, § 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. 21, § 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. 126, §§ 21, 23; 108 Me. 447.

Sec. 7. Lots in cemeteries exempt from attachment, levy, and sale for debts. R. S. c. 21, § 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. 21, § 8. 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. 21, § 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. 21, § 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, specify 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. 21, § 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. 27, § 20.

Sec. 12. Private cemetery may become public; proceedings. R. S. c. 21, § 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 agreement 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; penalty for neglect. R. S. c. 21, § 13. 1921, c. 103. 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. And any such city, town, or cemetery corporation, failing to furnish proper care and attention to any burial lot, the perpetual care whereof has been provided for as above, shall be subject to a fine of not less than fifty, nor more than one hundred dollars, to be recovered by complaint or indictment. The 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 trustee or the town committing the offense is situated, but nothing herein contained shall be construed to compel any such city, town, or cemetery corporation to expend in any one year upon any such lot more than the income from any such fund.

77 Me. 192; 111 Me. 252.

Sec. 14. Investment of funds. R. S. c. 21, § 14. 1923, c. 222. As soon as may be they shall invest the proceeds in the manner provided in section ninety-four of chapter five.

See c. 5, § 94.

Sec. 15. Town's acceptance recorded. R. S. c. 21, § 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. 21, § 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 [invested and] held in accordance with the provisions of the ordinances or by-laws of such city or town, in relation to burials. [section ninety-four of chapter five]

See c. 5, § 93.

Sec. 17. May pass by-laws. R. S. c. 21, § 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 for said purposes,

and may allow interest thereon, at a rate not exceeding six per cent a year, invest and hold the same as provided in the preceding section.

See c. 5, §§ 94, 134, ¶ 1.

Sec. 18. Cities and towns may accept trusts, relating to burial lots. R. S. c. 21, § 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. 5, § 92.

Public Cemeteries.

Sec. 19. Incorporation of public cemeteries; exemption from attachment and taxation. R. S. c. 21, § 19. Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter seventy, 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. 21, § 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 department of health for approval. R. S. c. 21, § 21. 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 department of health, and shall obtain the written approval of such plans, by said department, 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. R. S. c. 21, § 22. 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 department 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. R. S. c. 21, § 23. 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 department 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 department 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. R. S. c. 21, § 24. 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. R. S. c. 21, § 25. 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. 135, §§ 47-49.

CHAPTER 25.

Drains and Common Sewers.

Sec. 1. Highways not to be opened without consent. R. S. c. 22, § 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. 22, § 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. 22, § 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. 27, §§ 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 rail-

road. R. S. c. 22, § 4. 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 commissions, 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. 22, § 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 benefitted 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.

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Sec. 6. After hearing, assessment may be determined by arbitration, if any person is dissatisfied. R. S. c. 22, § 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 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. 22, § 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. 22, § 8. 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 aid assessments are made, as real estate is advertised and sold for taxes under chapter fourteen, 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. 14, §§ 72-79.

Sec. 9. Redemption. R. S. c. 22, § 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. 22, § 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 assess-

ment, 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 to have lien on lot and buildings; enforcement. R. S. c. 22, § 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 one hundred four, which lien shall continue one year after said assessment is paid.

Sec. 12. Application of sections 5-11. R. S. c. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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.

Sec. 17. Penalty for violation of permit, and for nuisances. R. S. c. 22, § 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

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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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 27, § 80; c. 28, § 6; c. 139, § 30; *112 Me. 321.

Sec. 27. Procedure. R. S. c. 22, § 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. 27, §§ 16, 20.

Drainage of Swamps and Meadows.

Sec. 28. Drains across adjacent lands or highways, how authorized. R. S. c. 22, § 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. 22, § 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 approved 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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. 22, § 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-seven.

Sec. 35. Drains, how protected. R. S. c. 22, § 35. Whoever damages such works shall be punished as provided in chapter one hundred thirty-nine, for offenses of like nature.

See c. 139, § 10.

CHAPTER 26.

Nuisances.

Sec. 1. Common Nuisances; jurisdiction of supreme judicial court to abate. R. S. c. 23, § 1. 1917, c. 155, § 1. All places used as houses of ill-fame, or for the illegal sale or keeping of intoxicating liquors, or resorted to for lewdness or gambling; all houses, shops, or places where intoxicating liquors are sold for tippling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drunk, 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 seven legal voters of his county, 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. Such injunction shall be recorded within thirty days in the registry of deeds in the county where said nuisance is located and shall forever run against the building or other place or structure in which said nuisance is committed. No dismissal of such information or complaint shall prevent action upon any information or complaint subsequently filed covering the same subject matter.

See c. 8, § 80; c. 137, § 26; 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; *118 Me. 31; 119 Me. 472; *120 Me. 121; 124 Me. 76; 125 Me. 457; 126 Me. 153, 330, 340.

Sec. 2. Penalty. R. S. c. 23, § 2. 1917, c. 155, § 2. Whoever keeps or maintains such nuisance shall be fined not less than two hundred nor more than one thousand dollars and in addition thereto be imprisoned not less than sixty days nor more than one year, and in default of payment of said fine shall be imprisoned for an additional term of not less than sixty days and 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; 126 Me. 330, 340.

Sec. 3. Lease void; remedy of owner. R. S. c. 23, § 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 one hundred seven.

See c. 135, § 27; 56 Me. 323; 68 Me. 545; *97 Me. 307, 311, 317; 108 Me. 531.

Sec. 4. Liability of owner. R. S. c. 23, § 4. 1917, c. 155, § 3. 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, or who, after being notified in writing of such illegal use, by an officer or citizen of the county in which the building or tenement is located, omits to take all proper measures either to abate said nuisance or, failing therein, to eject therefrom the person or persons maintaining such nuisance is guilty of aiding in the maintenance of a nuisance and shall be fined not less than two hundred nor more than one thousand dollars and in addition thereto be imprisoned not less than sixty days nor more than one year, and in default of payment of said fine shall be imprisoned for an additional term of not less than sixty days nor more than one year.

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

Sec. 5. Certain Nuisances Described. R. S. c. 23, § 5. The erection, continuance, or use of any building or place for the exercise of a trade, employment, or manufacture, which, by noxious exhalations, offensive smells, or other annoyances becomes injurious and dangerous to the health, comfort, or property of individuals, or of the public; causing or suffering any offal, filth, or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water; corrupting or rendering unwholesome or impure, the water of a river, stream, or pond; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings, or otherwise, of highways, private ways, streets, alleys, commons, common landing places, or burying-grounds are nuisances within the limitations and exceptions hereafter mentioned.

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; 126 Me. 128.

Sec. 6. Sanatorium or hospital for infectious diseases, not approved, deemed nuisance. 1921, c. 112, § 1. No person, firm, or corporation shall establish or maintain within the populous districts of any city or town in this state, any sanatorium or hospital designed for the treatment of persons suffering from tuberculosis or other infectious or contagious disease unless approval has been obtained from the municipal officers of the city or town in question and from the state department of health.

Sec. 7. Penalty. 1921, c. 112, § 2. Any person, firm, or corporation found

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guilty of violating the provisions of section six of this chapter shall be punished by a fine of not more than one thousand dollars or imprisonment not exceeding one year; and jurisdiction in equity to enjoin threatened violations of said section six is hereby conferred upon the supreme judicial court.

Sec. 8. Fence maliciously kept, when deemed a nuisance. R. S. c. 23, § 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. 9. Town officers may assign places for unwholesome employments. R. S. c. 23, § 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. 34, § 12; 34 Me. 40; *65 Me. 435; 85 Me. 281.

Sec. 10. Proceedings, when places so assigned become offensive. R. S. c. 23, § 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. 11. When buildings for manufacture of powder are nuisances. R. S. c. 23, § 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. 34, § 20; 85 Me. 281.

Sec. 12. Burning of bricks may be prohibited; violation of such prohibition, a nuisance. R. S. c. 23, § 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. 13. Mills and dams on streams, and fences and buildings fronting on public ways, sometimes not nuisances. R. S. c. 23, § 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 one hundred five, 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-seven, 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. 14. Penalty, and abatement of nuisance. R. S. c. 23, § 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. 15. Motor boats equipped with suitable mufflers. R. S. c. 23, § 13. 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. 16. Muffling devices approved by U. S. inspectors. R. S. c. 23, § 14. 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. 17. Penalty. R. S. c. 23, § 15. Whoever violates any provision of sections fifteen and sixteen 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 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 fourteen of this chapter.

Sec. 18. Action for damages caused by nuisance. R. S. c. 23, § 16. 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; 126 Me. 128.

Sec. 19. Process for Abatement of Nuisance. R. S. c. 23, § 17. 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

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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. 20. Warrant to be stayed, if defendant gives security to discontinue nuisance. R. S. c. 23, § 18. 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. 21. Expenses of Abatement to be defrayed as in case of execution; defendant entitled to poor debtor's oath. R. S. c. 23, § 19. 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. 22. Equity jurisdiction of supreme judicial court, by injunction. R. S. c. 23, § 20. 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. 23. Stationary, gasoline, or steam engine not to be used without license from town officers. R. S. c. 23, § 21. 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; *117 Me. 187.

Sec. 24. Notice and hearing on application; appeal; proceedings. R. S. c. 23, § 22. 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 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. 27, § 60.

Sec. 25. Unlicensed engine. R. S. c. 23, § 23. Any such engine erected without a license shall be deemed a common nuisance without other proof than its use.

Sec. 26. Abatement. R. S. c. 23, § 24. Said officers shall 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 twenty-two.

See c. 22, § 92; 65 Me. 435; *75 Me. 378; 80 Me. 490.

Sec. 27. Steam boilers to be provided with fusible safety plugs; exceptions. R. S. c. 23, § 25. 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. 28. Penalty. R. S. c. 23, § 26. 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. 29. Care of steam heating plants. R. S. c. 23, § 27. Whenever any

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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. 30. Applicant to be examined by municipal officers; certificate; filing; not issued without evidence of qualification. R. S. c. 23, § 28. 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 thirty of chapter twenty-six 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. 31. Duty of municipal officers when notice is received that person in charge of steam heating plant is incompetent. R. S. c. 23, § 29. 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 in-

competent, or unsuitable to longer remain in charge of said steam plant, they shall immediately cause the certificate granted under the provisions 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 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. 32. Penalty. R. S. c. 23, § 30. 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. 129, § 6.

Sec. 33. Blasting rocks, notice to be given. R. S. c. 23, § 31. 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. 34. Penalty. R. S. c. 23, § 32. 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. 35. Dangerous buildings may be adjudged nuisances; proceedings; notice to owner; return. R. S. c. 23, § 33. 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. 5, § 134, ¶ 8; c. 33, § 34.

Sec. 36. Town officers may order nuisance abated. R. S. c. 23, § 34. 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.

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Sec. 37. Owner may apply to supreme court. R. S. c. 23, § 35. 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. 38. Costs. R. S. c. 23, § 36. 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. 39. Sections 35-38 require vote of town. R. S. c. 23, § 37. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.

CHAPTER 27.

Ways.

Sections	1- 11	Location, Alteration, and Discontinuance of Ways.
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	Action for Damages. Costs.
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Sections	63-115	Liability for Repair of Ways and for Injuries.
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Sections	126-129	Repair of Private Ways owned in Common.
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Sections	131-132	Prevention of Abuse of Ways.

Location, Alteration, and Discontinuance of Highways.

Sec. 1. County commissioners may lay out, alter, or discontinue all county roads. R. S. c. 24, § 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.

Sec. 2. Notice, how given, proved, and recorded. R. S. c. 24, § 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. 24, § 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. 24, § 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. 24, § 5. 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

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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. 24, § 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. 24, § 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; *116 Me. 483.

Sec. 8. Appeal from commissioners. R. S. c. 24, § 8. Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time before the third day of the regular term succeeding that at which the commissioners' return is made, to the term of the supreme judicial court, first held in the county where the land is situated, more than thirty days after the expiration of the time within which such appeal may be taken, excluding the first day of its session, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of the court shall file a 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. 24, § 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. 24, § 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 to fix boundaries of highways or town ways; proceedings. R. S. c. 24, § 11. 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 highways 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. Call of meetings, notices. R. S. c. 24, § 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

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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. 24, § 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; *117 Me. 131.

Sec. 14. Appeals. R. S. c. 24, § 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.

117 Me. 131.

Sec. 15. Proceedings in cases of appeals. R. S. c. 24, § 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; 117 Me. 131.

Town and Private Ways. Public Landings.

Sec. 16. Power of municipal officers respecting town and private ways; notice, how given; duty of officers laying out way. R. S. c. 24, § 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. 24, § 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. 24, § 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. 24, § 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. R. S. c. 24, § 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. R. S. c. 24, § 21. 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. 26, § 5.

Sec. 22. Town or private way, neglect or refusal of municipal officers to lay out or alter; proceedings. R. S. c. 24, § 22. When the municipal officers un-

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reasonably neglect or refuse to lay out or alter a town way, or a private way on petition of an inhabitant, or of an owner of land therein for a way leading from such land under improvement to a town or highway, the petitioner may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who shall give notice thereof to all interested and act thereon as is provided respecting highways. When the decision of the municipal officers is in favor of such laying out or alteration, any owner or tenant of the land over or across which such way has been located shall have the same right of petition. When the decision of the commissioners is returned and placed on file such owner or tenant or other party interested has the same right to appeal to the supreme judicial court as is provided in sections fifty-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. 24, § 23. 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. 24, § 24. 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; 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. 24, § 25. 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. 24, § 26. 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 ways discontinued by county commissioners; damages. R. S. c. 24, § 27. 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. 24, § 28. 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. Land not to be taken from a railroad for any way without notice and hearing. R. S. c. 24, § 29. 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; by public utilities commission on petition of municipal officers or state highway commission; power to refuse or prescribe terms; to apportion expense; appeal; proceedings on appeal. R. S. c. 24, § 30. 1917, c. 37. 1925, c. 112. Town ways and highways may be laid out across, over, or under any railroad track, except that no such location shall be legal or effective, nor shall any such way be constructed, unless 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 that such way shall be permitted to cross such track. 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 said petition, and be given opportunity to appear and be heard thereon. Said public utilities commission shall have the right to refuse its said permission or to grant the same upon such terms and conditions as it may prescribe including the manner and conditions in accordance with which the way may cross such track and may determine whether the expense of building and maintaining so much of said way 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 by the state of Maine, or said public utilities commission may apportion such expense equitably between such railroad company, and the city, town, or state. Said public utilities commission shall make a report in writing of its decision thereupon, file the same in its 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, and the state highway

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commission when interested, 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; and said public utilities commission shall be made a party defendant in such appeal and entitled to be heard in all subsequent proceedings had upon such appeal. The appellant shall within fourteen days from the date of the filing of such report, file in the office of the public utilities commission its reason 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 or state highway commission 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 and a copy of such final decision sent to the public utilities commission by the clerk of the court where such final adjudication is made. Costs may be taxed and allowed to either party at the discretion of the court.

See c. 62, §§ 63, 64; c. 64, § 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. 24, § 31. 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. 64, § 26.

Sec. 32. Ways over land used for stations. R. S. c. 24, § 32. 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. 64, § 26; 97 Me. 162; *100 Me. 430.

Sec. 33. Adjudications to be recorded. R. S. c. 24, § 33. 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 municipal officers; proceedings thereon; power to abolish or alter; land may be taken and damages awarded; expenses and damages to be apportioned or shared by agreement; temporary ways; investigation of financial condition of railroad companies; state highway commission may petition. R. S. c. 24, § 34. 1917, c. 38. 1925, c. 91. 1927, c. 175. Any railroad company, or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, 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; 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 how much land may be taken and shall 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; appeal from any decision, order, or award of the commission may be had as provided in section thirty-six. 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; but the commission may approve agreements made by the railroad or other persons interested, varying the above percentages, provided the amount to be paid by the state shall not exceed the twenty-five per cent herein specified, and the amount to be paid by the town shall not exceed the ten per cent herein specified, unless the town shall otherwise vote. 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. R. S. c. 24, § 35. 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

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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 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 to be in writing; appeal. R. S. c. 24, § 36. 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 utilities 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 sixty-two.

Sec. 37. Amount to be paid by state limited; appropriations limited. R. S. c. 24, § 37. 1921, c. 52. The amount to be paid under the provisions of the three preceding sections by the state in any one year, except as herein provided, shall not exceed ten thousand dollars, and said sum shall be annually appropriated. The amounts to be appropriated under the provisions of this section shall be cumulative and any part of said sum of ten thousand dollars not expended during the year for which it is appropriated shall, at the close of said year, be added to the sums subsequently appropriated, and may be expended in any subsequent year or years.

Sec. 38. Sections 34-37 do not apply to railroads of less than standard gauge; exceptions. R. S. c. 24, § 38. 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. 24, § 39. 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 opinions 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. 24, § 40.** 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. 24, § 41.** 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 to create a lien on land assessed, also on buildings thereon. **R. S. c. 24, § 42.** 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 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

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same within one year from the time said assessments are made, as real estate is advertised and sold for taxes under chapter fourteen, 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. 25, § 8; III Me. 392.

Sec. 43. Action may be maintained by city; amount recovered. R. S. c. 24, § 43. 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; III Me. 392.

Sec. 44. Assessment of abutters for improvement of streets; two-thirds of cost may be assessed. R. S. c. 24, § 44. 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 time limited. R. S. c. 24, § 45. 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. 24, § 46. 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. 24, § 47. 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. Organized plantations liable as towns and have same powers. R. S. c. 24, § 48. 1925, c. 34. Organized plantations 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. 5, § 200; 20 Me. 298.

Actions for Damages and Costs.

Sec. 49. Damages. R. S. c. 24, § 49. 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. 24, § 50. 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 thirteen, section fifty-eight.

See c. 70, § 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. 24, § 51. 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.

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Sec. 52. Procedure. R. S. c. 24, § 52. 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 its report. R. S. c. 24, § 53. 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. 24, § 54. 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. 24, § 55. 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. 24, § 56. 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.

*126 Me. 121.

Sec. 57. Damages, how ascertained in case of disagreement; bond; proceedings to fix amount of bond. R. S. c. 24, § 57. Should the person or persons carrying on said lumbering operation, and the owners of said land, be unable to agree upon said damages, such person or persons before crossing, or entering upon said land for the purposes aforesaid, as provided by the preceding section, shall give bond to the owners of said land with sufficient sureties, and in such sum as the county commissioners in the county in which said land lies shall determine and approve, conditioned to pay such sum as said owners of said land may recover as damages and costs as provided by section fifty-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.

*126 Me. 121.

Sec. 58. Damages may be fixed by county commissioners; tender and its effect. R. S. c. 24, § 58. 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. 62, § 31; *126 Me. 121.

Ways in Incorporated Places.

Sec. 59. Proceedings before commissioners, on petition for laying out highway; appeal; stay of proceedings. R. S. c. 24, § 59. 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.

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.

Sec. 60. Proceedings on Appeal. R. S. c. 24, § 60. 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. 24, § 61. 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. 24, § 62. 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. 24, § 63. 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. 117; *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; 121 Me. 1.

Sec. 64. Proceedings before county commissioners against town neglecting to repair ways. R. S. c. 24, § 64. 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. 24, § 65. 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. 24, § 66. 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

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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 such 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. 24, § 67. 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. 24, § 68. 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. R. S. c. 24, § 69. 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 removed or trodden down; sudden injuries to be repaired; damage may be recovered of town. R. S. c. 24, § 70. 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. 24, § 71. 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. 24, § 72. 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. 5, § 134; ¶ VI.

Sec. 73. Materials may be taken from lands not enclosed or planted. R. S. c. 24, § 73. 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. R. S. c. 24, § 74. 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; penalty. R. S. c. 24, § 75. 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. R. S. c. 24, § 76. 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-eight. This section shall not apply to such highways as are improved under the direction of the state highway commission.

Sec. 77. Towns to make annual appropriations for clearing away and beautifying roadsides. R. S. c. 24, § 77. Each city, town, or plantation shall each

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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. R. S. c. 24, § 78. 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 not to place materials on land beside of the roads without clearing away of same; owner may remove at expense of town. R. S. c. 24, § 79. 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. 24, § 80. 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. 25, § 26; 32 Me. 327; 63 Me. 477; 86 Me. 380; 89 Me. 427; 113 Me. 67.

Sec. 81. Drainage of public way not to be obstructed. R. S. c. 24, § 81. 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, 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 proceedings. R. S. c. 24, § 82. 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 to enter complaint. **R. S. c. 24, § 83.** 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. 24, § 84.** 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; 114 Me. 454; 126 Me. 205.

Sec. 85. When appropriation insufficient, procedure. **R. S. c. 24, § 85.** 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. 24, § 86.** 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 to be expended. **R. S. c. 24, § 87.** 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. 24, § 88.** 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

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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. 5, §§ 16, 17; 95 Me. 482; 102 Me. 25.

Sec. 89. Commissioner to keep account of expenditures. R. S. c. 24, § 89. 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. 24, § 90. 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 felloes 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. 5, § 134, ¶ VI, VII; *57 Me. 539; 67 Me. 138.

Sec. 91. Ways may be opened or repaired by contract. R. S. c. 24, § 91. Towns may authorize their road commissioners or other persons to make contracts for opening or repairing their ways.

102 Me. 437; 105 Me. 576.

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. 24, § 92. Whoever receives any bodily injury, or suffers damage in his property, through any defect or want or 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 or 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 adminis-

trators 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. 205; 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; 122 Me. 1.

Right of action to those only who use highway legitimately. *42 Me. 254; 62 Me. 470; 65 Me. 37; *67 Me. 167; 82 Me. 432; *115 Me. 134; *116 Me. 275; 120 Me. 142.

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, 408; 105 Me. 148; 108 Me. 543; 109 Me. 370; *120 Me. 174; 121 Me. 1.

Notice of claim. 64 Me. 134; *66 Me. 333, 454, 549; 68 Me. 513; 69 Me. 106; 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; *117 Me. 541.

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. 28, § 38.

Sec. 93. Repair within six years, proof of way. R. S. c. 24, § 93. 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. 24, § 94. 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. 29, § 19.

Sec. 95. Slippery sidewalk no cause of action. R. S. c. 24, § 95. 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. 24, § 96. 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

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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. 24, § 97. 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. 28, § 38.

Sec. 98. Notice to company. R. S. c. 24, § 98. 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. 24, § 99. 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. 24, § 100. All fines imposed shall be appropriated to the repair of such ways. The court imposing them shall appoint one or more agents to superintend their collection and application. Within three months after collection, they shall make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject, on their motion, to be audited and corrected by the court. If an agent is guilty of gross neglect of duty, or fraudulently misapplies or retains the fine, he forfeits to the town double its amount, to be recovered by indictment.

65 Me. 212.

Sec. 101. Clerk of court to certify fines to assessors; how collected and paid. R. S. c. 24, § 101. 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. 102. If way is not repaired in four months, fine to be collected. R. S. c. 24, § 102. 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. 13, § 89.

Sec. 103. When gates, bars, and fences on ways may be removed. R. S. c. 24, § 103. 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 or municipal officer may remove logs, lumber, or other obstructions; proceedings for sale; prosecutions for nuisance. R. S. c.

24, § 104. 1921, c. 215, § 2. When logs, lumber, or other obstructions, without necessity, are left on such ways, any road commissioner or municipal officer 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. 24, § 105. 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. 24, § 106. 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. 26, § 13, 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; 118 Me. 356; 121 Me. 44.

Sec. 107. Towns required to maintain guide-posts at crossings of ways. R. S. c. 24, § 107. 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. 28, § 6; c. 139, § 26; 72 Me. 287; 100 Me. 402.

Sec. 108. Penalty for neglect by town or plantation officers. R. S. c. 24, § 108. 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. 24, § 109. Persons desiring to make an excavation near a street or public way may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; such officers shall in writing direct whether it may or not be made, and if permitted, the manner of making it; and when so made, no liability is incurred thereby. If not so made, the person making it is liable to the town, in an action on the case, for all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

54 Me. 47; *57 Me. 377.

Sec. 110. Ice bridges may be made; penalty for injuring. R. S. c. 24, § 110. 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. R. S. c. 24, § 111. 1917, c. 145, § 7. 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. 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.

See c. 63, §§ 88-91.

Sec. 112. Placing of turf in streets, etc., regulated. R. S. c. 24, § 112. 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. R. S. c. 24, § 113. 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. R. S. c. 24, § 114. 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. R. S. c. 24, § 115. 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.

Excavations in City Streets.

Sec. 116. Opening of streets in cities, regulated. R. S. c. 24, § 116. 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. 28, § 15.

Sec. 117. Permits for digging or making excavations in case of emergency. R. S. c. 24, § 117. 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 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. R. S. c. 24, § 118. 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.

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Sec. 119. A record of all permits to be kept; fees for excavation permits. R. S. c. 24, § 119. 1927, c. 13. 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, concrete, bitulithic, granite block, brick, wood block, sheet asphalt, or other pavements, the following fees: for sheet asphalt, wood block, brick, and granite block, all on concrete base, six dollars per square yard; for granite block on gravel base, bitulithic and concrete, three dollars and fifty cents per square yard; and for broken stone and 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; penalty. R. S. c. 24, § 120. 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 to be protected on either side of opening. R. S. c. 24, § 121. 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 to be skilfully done; penalty. R. S. c. 24, § 122. 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. R. S. c. 24, § 123. 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. R. S. c. 24, § 124. 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. R. S. c. 24, § 125. 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. 28, § 15.

Repair of Private Ways Owned in Common.

Sec. 126. Owners of private ways and bridges may call meetings; procedure. R. S. c. 24, § 126. 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 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. 24, § 127. 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. 24, § 128. 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

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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. 14, § 8.

Sec. 129. Penalties and process. R. S. c. 24, § 129. 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. 25, § 26.

Jurisdiction of county commissioners to free toll-bridges, c. 30, §§ 24-27.

Municipal officers to grant permits for opening streets, c. 67, § 13, for erection of poles and wires therein, c. 67, § 27; as to damages occasioned thereby, c. 67, §§ 14, 16.

Owners of unincorporated tracts of land may raise money for roads, c. 70, § 28.

Protection of ways from overflow, c. 105, §§ 39-44.

Penalty for advertising upon rocks, or other natural objects in highway, c. 137, § 18.

Penalty for injuring guide-boards, c. 139, § 26.

Closing of Ways in Winter.

Sec. 130. Roads may be closed by county commissioners for part of winter months; procedure; notices; effect of order. 1923, c. 158. 1927, c. 113. The municipal officers of any city, town, or plantation or any seven legal voters in any such city, town, or plantation may, at any time between the first day of July and the first day of December of any year, petition the county commissioners of the county in which such city, town, or plantation is located, setting forth that any road or roads in such city, town, or plantation are so located with reference to population, use, and travel thereon, that it is unnecessary to keep said road or roads broken out and open for travel during the winter months of January, February, and March, or any part of such months, and praying said commissioners, after notice and hearing on such petition, to decide whether such road or roads shall be kept open or closed during such period or part thereof, and for how many years not to exceed ten, such closing order, if made as prayed for, shall be operative.

The county commissioners, upon receipt of such petition, shall fix a time and place in said city, town, or plantation for a public hearing thereon and shall give notice thereof by causing attested copies of such petition and order of notice thereon to be posted in two public places in such city, town, or plantation and published in some newspaper printed in the county at least seven days before the time of such hearing. The commissioners at the time and place fixed by such notice shall hear and consider such evidence as may be offered as to the necessity of closing such road or roads to travel or directing that such road or roads be not broken out during such period, or any part thereof, and if satisfied of the necessity thereof, they may make such orders relating thereto as in their judgment the facts warrant.

Any road or roads closed or in regard to which the county commissioners have made an order as to their use shall be marked by notices posted at both ends thereof, showing in substance such order or regulation, which notices shall be signed by the county commissioners.

The order of the county commissioners, after proceedings under this section, shall relieve such city, town, or plantation of any obligation to keep said road or roads open or broken out during the period fixed by such order; but the order of said commissioners shall not prevent any town, city, or plantation from keeping said roads open if said town, city, or plantation shall at any time desire to do so.

Said county commissioners shall retain jurisdiction of said cause and upon a

petition, by the municipal officers of said city, town, or plantation or of any seven legal voters thereof, praying for a modification or annulment of any orders promulgated by the county commissioners, filed with said county commissioners, at any time, subsequent to one year from the date of any such order, the commissioners shall give a similar notice to that provided in paragraph two of said section and fix a time for hearing thereon, within twenty days following such filing. After hearing, the commissioners may annul, alter, or modify their original orders.

Prevention of Abuse of Ways.

Sec. 131. Prevention of abuse of highways by motor driven and horsedrawn vehicles during certain seasons of the year. 1921, c. 187, § 1. The state highway commission on state highways and the municipal officers of the several towns, cities, and plantations on all other highways within their respective municipalities are hereby authorized to promulgate such reasonable rules and regulations as in their judgment may be necessary to insure the proper use and prevent abuse of all highways by motor driven and animal drawn vehicles during such season of the year as said highways require such special protection. All rules and regulations so promulgated shall be kept on file by said municipal officers, and they shall cause attested copies of the same to be posted in two or more public places in their respective municipalities. Such rules and regulations shall also be published one or more times in such newspaper or newspapers as they may determine.

Sec. 132. Penalty for violation and disposition of money collected as damages. 1921, c. 187, § 2. Any person violating any rule or regulation laid down by said commission or municipal officers under the provisions of the foregoing sections shall be fined not exceeding one hundred dollars for each offense and in addition thereto shall be liable for all damages to the highway occasioned thereby, to be recovered by an action on the case prosecuted in the cases of state highways, by the state highway commission in the name of the state, and in case of any other highways by the municipal officers of the town, city, or plantation in which said highway is located. All such sums so recovered as damages to said state highways shall be credited to the fund for maintenance of state highways, and sums recovered as damages for injuries for any other highways shall be transmitted by the municipal officers to the treasurer of the town, city, or plantation and credited to the fund for maintenance to highways.

CHAPTER 28.

State Highways and Bridges.

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Sections 3- 6	State Highway Commission.
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Section 39	State Highway and Bridge Bonds.
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Sections 51-54	Construction from Special Appropriation.
Sections 55-62	Removal of Snow.
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Sections 74-83	Miscellaneous Powers and Duties.

Introductory.

Sec. 1. Objects of chapter. R. S. c. 25, § 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 to important county and town highways and bridges; to provide for the continuous maintenance of all highways and bridges to the improvement of which the state has contributed or shall hereafter contribute; to provide for the equitable distribution of the proceeds of state bonds issued under several acts of legislature for the purposes herein specified.

115 Me. 375.

Sec. 2. Rules of construction. R. S. c. 25, § 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.

State Highway Commission.

Sec. 3. Appointment of commission; tenure; choice of chairman; attorney-general to be attorney for commission; annual reports. R. S. c. 25, § 3. 1921, c. 69, § 2. 1923, c. 63. The state highway commission 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 office of the members, for terms of three years. Vacancies occurring during a term shall be filled for the unexpired term. 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 annual reports to the governor and council of their doings and the expenditures of their office, with such statements 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 of their fiscal affairs shall be submitted on the first day of January in each year. The report of their highway, bridge, and other construction and maintenance work shall be for and cover the calendar year next prior to the date of such report, and 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. R. S. c. 25, § 4. The commission shall select and, with the approval of the 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 to be classified. R. S. c. 25, § 5. 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 highway; third, third-class highways, which shall mean all other highways not included in the two classes above mentioned.

124 Me. 251, 256; 126 Me. 205, 210.

Sec. 6. General powers and duties of commission. R. S. c. 25, § 6. 1917, c. 258, § 1. 1921, c. 215, § 1. 1923, c. 159. 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, with the approval of the governor and council, 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 examina-

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tion, 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, bridges, and other structures. On all state and state aid highways, all guide posts shall be of such reasonable form, height, and design as the commission shall designate. Whenever it becomes necessary to close a state highway to travel on account of construction, before such state highway is closed the commission shall establish the most practical detour road around the state highway to be constructed, have the same properly signed at all intersecting roads or streets indicating the principal town or city in either direction and cause the detour road to be put in proper condition to withstand the travel and maintained in such condition until the state highway being constructed is open to travel. If the commission neglects to so sign, establish, or maintain such detour road the same shall be done by order of the governor and council. Whenever practicable, the travel shall be permitted to pass over a state highway under construction, and the commission shall then cause to be erected the following sign at either end of the construction work: "State road under construction. Pass at your risk. Maine State Highway Commission." Upon completion of the state highway the commission shall cause the immediate removal of all such signs as also all detour signs. 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-five relating to construction and maintenance of ditches and drains, and the powers conferred upon municipal officers and road commissioners by section one hundred and four of chapter twenty-seven. The commission shall whenever practicable give preference in employment to the inhabitants of the town in which such highways are located.

See c. 27, §§ 107, 113. 126 Me. 287.

Note. May petition for abolishment of grade crossings, c. 27, § 34; may cause removal of trees, bushes and other encroachments obstructing view of railroad crossings, c. 27, § 111; may cause turf placed in ways to be removed, c. 27, § 112; also, advertising signs, c. 27, § 113; duties as to award of bridge contracts, c. 27, § 114; may grant permits for moving heavy vehicles and loads over highways and bridges, c. 29, § 19.

State and State Aid Highways.

Sec. 7. State and state aid highways; expense of construction of state highways; how borne. R. S. c. 25, § 7. 1917, c. 258, § 2. 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 the 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 several state bond issues provided for that purpose and the proceeds of each of such bond issues shall be expended as specified in the several acts providing therefor.

114 Me. 454; 123 Me. 505; 126 Me. 287.

Sec. 8. Maintenance of state highways. R. S. c. 25, § 8. 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 exceed-

ing 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.

^{126 Me. 287.}

Sec. 9. Failure of town to pay its portion of maintenance. R. S. c. 25, § 9.

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.

^{126 Me. 287.}

Sec. 10. Commission may let contracts for construction; procedure. R. S. c. 25, § 10. 1917, c. 258, § 3. 1921, c. 50, § 1. 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 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 or surety bond, 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 or surety bonds shall be returned to the respective unsuccessful bidders. The check or bond 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 and 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 may, however, with the approval of the governor and council, let contracts for state highway construction, or do the same, for and in behalf of the state without advertising for bids, if the same shall be for the best interests of the state. 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 commis-

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sion 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.

123 Me. 505; 126 Me. 287.

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. R. S. c. 25, § 11. 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. R. S. c. 25, § 12. 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. R. S. c. 25, § 13. 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 damages 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-seven. 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. R. S. c. 25, § 14. 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. R. S. c. 25, § 15. The provisions of section fourteen of chapter sixty-seven and of sections one hundred and sixteen to one hundred and twenty-five, both inclusive, of chapter twenty-seven, 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 to be designated as state aid highways. R. S. c. 25, § 16. 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. R. S. c. 25, § 17. State aid

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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 provisions 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.

126 Me. 287.

Sec. 18. Appropriations by towns desiring state aid. R. S. c. 25, § 18. 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.

123 Me. 505.

Sec. 19. Municipal officers to annually file suggestions for improvement of highways; report of recommendations by commission submitted to voters of the towns. R. S. c. 25, § 19. 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 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; unexpended money added to next appropriation. R. S. c. 25, § 20. 1917, c. 258, § 4. 1925, c. 182. 1927, c. 105. 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, three dollars and fifty cents for each dollar appropriated by said town; to each town having a valuation of over two hundred thousand dollars and not over eight hundred thousand dollars, two dollars for each dollar appropriated by said town; to each town having a valuation of over eight hundred thousand dollars, and not over one million dollars, one dollar and seventy-five cents 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, one dollar and twenty-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, one dollar and thirteen 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, one dollar and seven cents for each dollar appropriated by said town; and to each town having a valuation of over one million six hundred thousand dollars, one dollar 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. All moneys which subsequent to April 11, 1927 have been or shall be apportioned by the state to the cities and towns for the improvement of highways, which shall remain in the state treasury unexpended for a period of three years, may at the option of the state highway commission, be added to the regular biennial appropriation for state aid to be by said commission apportioned to said cities and towns.

123 Me. 505; 126 Me. 287.

Sec. 21. Increase of state aid upon increase of appropriation by towns. R. S. c. 25, § 21. 1917, c. 258, § 5. If any town shall in any single year 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. Provided, however, that in the distribution of the state funds, as hereinunder provided, additional to the regular annual state aid, preference shall be given to cities and towns which shall not have previously received the said additional appropriation from the state as provided under this

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section; further provided, however, that after payment of the additional state aid called for by this section the commission may set aside from the fund for state aid highways a special road fund not to exceed fifty thousand dollars in any one year. This fund shall be apportioned by the commission, for assisting towns having an excessive highway burden, to eliminate especially bad sections on their principal roads. Nevertheless, if there should not be a sufficient surplus from the state aid highway fund to provide for the said special road fund, there may be taken by the commission, from the maintenance and administration fund a sufficient amount to make up said special road fund.

Sec. 22. Commission to decide where joint fund is to be applied. R. S. c. 25, § 22. 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. R. S. c. 25, § 23. 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 to pay their shares of joint funds to treasurer of state. R. S. c. 25, § 24. Payments by towns of their shares of the joint funds 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. 13, § 89; c. 14, § 4. 123 Me. 505; 126 Me. 287.

Continuous Highways.

Sec. 25. Continuous highway extending through three or more towns; appropriations for as state aid highway. 1917, c. 154, § 1. Three or more towns through which extends a continuous highway not less than fifteen miles in length may, not later than April first in any one year, vote to appropriate for the construction of such highway as a state aid highway, sums determined according to the provisions of section eighteen, or any multiples thereof, up to five times such sums.

*126 Me. 287.

Sec. 26. State aid for such highway, how determined. 1917, c. 154, § 2. When three or more such towns through which extends continuously at least fifteen miles of such highway shall have so appropriated, the state highway commission shall, from the fund for the construction of state aid highways, set apart for the construction of such highway, an aggregate sum the component parts whereof shall be determined as follows:

In the case of a town having appropriated an amount determined according to the provisions of said section eighteen, there shall be set apart from the fund for the construction of state aid highways the same amount as, under the provisions of section twenty, would be apportioned to such town; in the case of a town having increased its appropriation over the amount determined according to the provisions of said section eighteen to any multiple thereof, there shall be set apart a sum representing a like increase, together with an additional sum, equal to twenty-five per cent of such increase in the case of a town appropriating twice the amount determined by said section eighteen; fifty per cent of such increase in the case of a town appropriating three times the amount determined by said section eighteen; seventy-five per cent of such increase in the case of a town appropriating four times the amount determined by said section eighteen; and one hundred per cent of such increase in the case of a town appropriating five times the amount determined by said section eighteen.

Sec. 27. Aggregate of sums appropriated; joint fund to be expended under supervision of commission; when expended. 1917, c. 154, § 3. The aggregate sum so set apart, together with the sums appropriated by such towns, shall constitute a joint fund for the construction of such state aid highway and shall be expended under the direction and supervision of the state highway commission; provided that all money appropriated by any such town shall be expended upon that portion of such highway lying within the limits thereof, and that, of the money set apart by the state highway commission, as hereinbefore provided, so much thereof as is set apart in consequence of the appropriation made by any such town and is required for the completion of that portion of the highway lying within such town shall be expended therein.

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Sec. 28. Form of article in town warrant. 1917, c. 154, § 4. Towns making appropriations under the provisions of this chapter shall do so by acting upon an article, in the warrant for the meeting at which such appropriation is made, of substantially the following tenor:

Article——, To see what sum, if any, the town will vote to raise in accordance with the provisions of sections twenty-five to thirty-one inclusive of chapter twenty-eight of the Revised Statutes, for the construction of a state highway extending from (here insert description of highway sufficient to make certain its location) and the description set out in such article shall be the same in substance for all such towns; cities making such appropriations shall incorporate into the act or order therefor a similar description of the contemplated highway.

Sec. 29. Towns to receive no additional state highway aid during same year. 1917, c. 154, § 5. Towns availing themselves of the provisions of sections twenty-five to thirty-one inclusive shall in the same year receive no other money under the provisions of sections twenty or twenty-one.

Sec. 30. Towns which have received maximum in one year may receive aid in succeeding years until work completed. 1919, c. 157. Any or all towns in a group of towns described in section twenty-five or towns described in section thirty-one which have availed themselves of the maximum amount of assistance provided in section twenty-six, may receive the benefits of sections twenty-five to thirty-one inclusive in succeeding years until the section of road described, located in that town, shall have been completed.

Sec. 31. Special provisions for towns peculiarly located. 1927, c. 139. Any town or towns which are so located with reference to the state boundary or to adjoining towns that it is impossible to form an association of towns as contemplated in the six preceding sections for the building of state aid highways

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may apply for and receive the benefits of said sections for the building of a state aid highway on any location extending across said town or towns.

Manner of Apportionment.

Sec. 32. Procedure when state funds not sufficient to meet town appropriations. 1923, c. 203, § 1. The apportionment of all funds appropriated by the state under the provisions of general law for the construction of state aid highways shall be made by the state highway commission to the several towns applying for such state aid funds in the manner provided by statute, in the following order of precedence: First, to provide for apportionments made under section twenty; second, to provide for apportionments made under the provisions of section twenty-one; third, to provide the apportionment necessary to comply with the provisions of sections twenty-five to thirty-one, both inclusive, for the construction of state aid highways extending through three or more towns. Provided, that in case there are not sufficient funds available from the state to meet the apportionments for the several towns appropriating money under the provisions of sections twenty-five to thirty-one, to the extent of at least one year's state aid, the municipal officers of any or all such towns may set aside from the amount appropriated under the provisions of sections twenty-five to thirty-one, the amount which such towns would be entitled to appropriate under the provisions of section eighteen, and to apply for state aid as though the towns had made said appropriation at the annual town meeting. The state highway commission shall apportion to such towns state aid according to the provisions of section twenty. Joint funds created under this provision shall be expended upon a state aid road mutually agreed upon by the municipal officers of the town and the state highway commission.

Sec. 33. Surplus funds to be carried over to succeeding year. 1923, c. 203, § 2. Any such funds remaining after the apportionment as above provided shall be carried over to the state aid highway fund for a succeeding year and shall be used for the construction of state aid highways.

Maintenance of State and State Aid Highways.

Sec. 34. Commission to provide system of patrol. R. S. c. 25, § 25. 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. 35. Regular patrolman to be employed to perform maintenance work. R. S. c. 25, § 26. 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. 36. Towns to pay annually a sum equal to the average amount appropriated for mile of road; expenditure to be directed by the highway commission. R. S. c. 25, § 27. 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. 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. 37. Highway commission to make yearly returns. R. S. c. 25, § 28. 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. 38. State liable for certain judgments recovered against towns and counties on account of defects in state and state aid highways and for attorney fees, costs, and expenses in defending. R. S. c. 25, § 29. 1927, c. 121. The state shall be liable to towns and counties for any judgment recovered in any action against such town or county and for reasonable attorney fees, costs, and expense incurred in defending such action under the provisions of sections ninety-two to ninety-six, both inclusive, of chapter twenty-seven, 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-seven 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.

State Highway and Bridge Bonds.

Note. The following bond issues for state highways and state highways and bridges have been authorized by the legislature:

State highway loan, P. L. 1913, c. 130, §§ 28-30. R. S. 1916, §§ 30-32.
State highway and bridge loan, same. P. L. 1919, c. 251. P. L. 1921, c. 131. P. L. 1923, c. 92. P. L. 1925, c. 215; P. L. 1925, c. 203, am. P. L. 1927, c. 187.

Sec. 39. State highway bonds and state highway and bridge bonds; proceeds; how expended; appropriation. R. S. c. 25, § 32. The treasurer of state by direction of the governor and council may negotiate the sale of state highway bonds and state highway and bridge bonds heretofore authorized; 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 sale of state highway and state highway and bridge bonds in such manner as will carry into effect the provisions of the several acts authorizing such bond issues and conform to the constitution of the state.

Appropriations.

Sec. 40. Payment of interest; retirement; expenses of administration. R. S. c. 25, §§ 33, 35. 1919, c. 251, § 4. 1927, c. 122. All fees received by the treasurer of state under section twenty-eight of chapter twenty-nine shall be appropriated and used in the following order, namely:

First, to pay interest due on all highway and bridge bonds.

Second, to create such funds as shall be necessary to redeem and retire such bonds.

Third, to provide funds for the administration of the office and duties of the commission and for all expenditures, salaries, and expense incident thereto including the expenses of administering the motor vehicle department and the licensing of operators and registration of vehicles, and for all maintenance requirements under sections eight, seventeen, and twenty-five to thirty-one inclusive, to which shall be added from time to time the amounts provided under sections, nine, twelve, and forty-one; and any balance left unexpended in any year shall be carried over to the same account for the following year.

See c. 29, § 103.

Sec. 41. Appropriation for state aid highways. R. S. c. 25, § 34. 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. 42. Money received by treasurer of state from white mountain forest reserve to be paid to treasurer of Oxford county. 1921, c. 3, § 1. All sums of money heretofore received and hereafter to be received into the treasury of this state from the White Mountain Forest Reserve, so-called, under the provisions of an act of congress, approved May twenty-third, nineteen hundred and eight, providing that twenty-five per centum of the money received from each national forest reserve during each fiscal year shall be paid by the secretary of the treasury to the state in which said reserve is situated, to be expended as the legislature of each state may prescribe for the benefit of the public roads of the

county or counties in which the forest reserve is situated, shall be transferred to the county treasurer of Oxford county.

Sec. 43. County commissioners to expend money on public roads of Oxford county. 1921, c. 3, § 2. The county commissioners of Oxford county are hereby authorized to expend said sums so transferred to them under the provisions of the preceding section on the public roads of the county of Oxford in such manner as they shall judge to be for the best interests of said county.

Mill Tax Highway Fund.

Sec. 44. Mill tax highway fund; assessment; how expended. 1917, c. 258, § 8 (§ 36). 1919, cc. 88, 220, 263, § 1. 1923, c. 216, § "1." 1927, c. 196. A tax of one mill on a dollar shall annually be assessed on all property of the state according to the value thereof, and shall be known as the mill tax highway fund. This fund shall be used for the construction of third class highways as defined in section five, except that not more than one hundred fifty thousand dollars of the fund shall annually be used for the construction of highways and bridges and other purposes contemplated by this chapter and in accordance with the terms of any appropriate resolves of the legislature, and further, except that two hundred thousand dollars of said fund shall be transferred and used in the fund for second class or state aid highways.

Sec. 45. One-third of fund, to be known as "third class highways fund," to be expended for maintenance and construction of second and third-class highways. 1919, c. 263, § 2. One-third of the mill tax highway fund shall annually be applied under the provisions of sections forty-four to fifty, both inclusive, in the construction and maintenance of second and third-class highways as defined in section five in addition to other funds provided for the construction of state aid highways, and shall be known as the third-class highways fund.

Sec. 46. To be apportioned among towns according to miles of third-class roads therein, provided towns appropriate four mills; conditional upon removal of trees and bushes. 1919, c. 263, § 3. 1923, c. 216, § "2." 1927, c. 145. The administration and expenditure of the third class highways fund shall be under the general supervision of the state highway commission and shall be apportioned among the various towns according to the number of miles of third class roads contained therein, as determined by the highway commission, provided that such towns shall have appropriated for the current year in addition to the appropriation for state aid work and appropriation under the so-called bridge act, an amount not less than four mills on the valuation of such town for roads and bridges, summer and winter. It is further provided that such towns shall have, in the year next preceding, cut and removed 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 improved section of state highway, state aid highway, and third class road locations.

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Sec. 47. Work to be completed before October 30; details of procedure. 1919, c. 263, § 4. 1923, c. 216, § "3." 1925, c. 169. Municipal officers of any town may, prior to October one in any year, file with the state highway commission the description or location of the road whose construction and improvement they recommend under the provisions of sections forty-four to fifty. Upon approval of said location by the state highway commission, the municipal officers shall proceed with the construction of a section upon said location in conformity with the provisions of the following section. After acceptance by the state

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highway commission of a location as above, construction shall be continued on that location until the entire length of the road has been constructed, or until the location is changed. Upon the completion of any road located as above, municipal officers shall file with the state highway commission recommendation for location upon another road. In case a majority of the municipal officers are unable to agree upon the designation of a third class road, it shall then be the right of the state highway commission to make such designation and to proceed with the construction of the road as herein provided. The work performed under sections forty-four to fifty shall be completed before the thirtieth day of October annually, and in no case shall any of the third class highways fund be expended upon a section of a road where the buildings are nearer than two hundred feet apart for a distance of one-fourth of a mile or more.

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Sec. 48. Highways to conform to standard of construction approved by highway commission. 1919, c. 263, § 5. Highways improved by the expenditure of funds received under the provisions of sections forty-four to fifty shall be made to conform to the standard of construction as shall be agreed upon by the selectmen, or officials acting in the same capacity, in the respective towns where the provisions of said sections apply, and such standard of construction must meet the approval of the state highway commission.

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Sec. 49. Highway commission to cooperate with municipal officers; no money to be paid until work inspected and accepted. 1919, c. 263, § 6. The state highway commission shall cooperate with the municipal officers in the execution of improvement work under the provisions of sections forty-four to fifty. No money shall be paid by the state on account of work performed under the provisions of said sections until the work has been inspected and accepted by the state highway commission.

Sec. 50. Third-class highways not under patrol maintenance to be maintained by town; those under patrol maintenance and second-class highways to be maintained as heretofore provided. 1919, c. 263, § 7. 1921, c. 220. Roads constructed on third class highways not under patrol maintenance under the provisions of sections forty-four to fifty must be suitably maintained by the several towns under penalty of forfeiture of right of the town to receive the benefit of future apportionments under the provisions of said sections. A sum not to exceed twenty-five per cent of any year's apportionment to a town under the provisions of said sections may be used for maintenance of road constructed under the provisions hereof. Roads constructed on third class highways under patrol maintenance and roads constructed on second class highways under the provisions of said sections shall be maintained in accordance with the provisions of sections eight, seventeen, thirty-five and thirty-six.

Construction from Special Appropriation.

Sec. 51. Construction of state and state aid roads from special appropriations. 1927, c. 124, § 1. In all cases where towns receive special legislative appropriations to be expended on state or state aid highways, said highways shall be constructed in accordance with specifications for state aid roads and shall be maintained in accordance with the provisions of sections eight, seventeen, thirty-five, and thirty-six.

Sec. 52. Construction of third class highways from special appropriations. 1927, c. 124, § 2. In all cases where towns receive special legislative appropriations to be expended on designated third class highways, said highways shall

be constructed in accordance with specifications for third class roads and shall be maintained by the several towns by an annual expenditure of a sum equal to not less than eight per cent of the amount of said appropriation, under penalty of forfeiture of right of the town to receive the benefit of future apportionments from third class funds.

Sec. 53. Maintenance of town ways constructed from special appropriations. 1927, c. 124, § 3. In all cases where towns receive special legislative appropriations to be expended on town ways not designated as state, state aid, or third class highways, said ways must be suitably maintained by the several towns under penalty of forfeiture of right of the town to receive future legislative appropriations. Towns shall annually raise for the purpose of maintaining the improvements made from said resolve expenditures on third class roads, a sum of not less than eight per cent of the total legislative appropriations.

Sec. 54. Town maintenance appropriations supervised by highway commission. 1927, c. 124, § 4. Expenditure of the town maintenance appropriations to be under the direction and supervision of the state highway commission.

Removal of Snow.

Sec. 55. State highway commission may on petition lay out winter routes to be cleared of snow. 1927, c. 227, § 1. The state highway commission, on petition of the municipal officers of two or more towns through which extends a continuous state or state aid highway, may from year to year lay out winter routes upon such state or state aid highways as in their judgment seem advisable for the clearance of snow therefrom for the reasonable use of motor vehicles, sleighs, and sleds during such season. The state highway commission may take similar action upon petition of the municipal officers of any town with respect to any other highways or town ways.

Sec. 56. Towns to keep such routes clear of snow. 1927, c. 227, § 2. Towns through which extend such routes or in which are located such other highways or town ways described in section fifty-five shall keep said highways and town ways cleared of snow during the winter season so that they may be reasonably usable by motor vehicles, sleighs, and sleds. Such clearance of snow shall be done to the satisfaction of the state highway commission, whose judgment thereon shall be final.

Sec. 57. Towns authorized to raise money. 1927, c. 227, § 3. To carry into effect the foregoing requirements, towns are authorized to raise and appropriate money therefor.

Sec. 58. Towns to be reimbursed to extent of fifty per cent. 1927, c. 227, § 4. Towns which clear said highways and town ways to the satisfaction of said commission shall be reimbursed for the cost thereof, including the cost of supervision, to the extent of fifty per cent of said cost, including the cost of supervision, but not exceeding twenty-five dollars per mile of the highways designated as provided in section fifty-five.

Sec. 59. Highway commission may discontinue snow removal. 1927, c. 227, § 5. The state highway commission may at any time for cause discontinue the clearance of snow in whole or in part from any highway or town way laid out as provided in section fifty-five.

Sec. 60. Roads in towns failing to appropriate money therefor may be kept open by state, and expense of same be deducted from any moneys due town from state. 1927, c. 227, § 6. When any town upon any of the winter routes so designated and so supervised by the state highway commission shall, in the judgment of the commission, unreasonably fail to either raise, appropriate, or pay

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its proportional part of the cost of snow removal through or in said town, or shall without cause fail to assist in keeping open any highway or town way as designated in section fifty-five in said town, the state highway commission shall cause said highway or town way through or in said town to be kept open at the expense of the state; and the governor, by and with the advice and consent of the council, may order the treasurer of state to withhold a sufficient amount from any funds due or to become due said town, to cover the payment in whole or in part of said proportional expense of said snow removal through or in said town and to apply the sums so withheld to the cost of such snow removal; but no such order shall issue to the treasurer that will in the opinion of the governor and council impose an undue financial burden on any town.

Sec. 61. Funds taken from excise tax on gasoline. 1927, c. 227, § 7. To provide for such reimbursement, the excise tax levied upon internal combustion engine fuels under the provision of chapter twelve for the months of December, January, February, and March shall be taken; any unexpended balance from the excise tax so taken for said months shall revert and be used as now provided by law.

Sec. 62. Towns not to be reimbursed for snow removal in built-up sections. 1927, c. 227, § 8. The state shall grant no reimbursement to towns for the removal of snow as provided in the preceding sections upon highways or town ways where the houses are nearer than two hundred feet apart for a distance of a quarter of a mile or more, except on state aid road locations.

Bridge Act.

Sec. 63. Cost of construction and rebuilding of certain bridges in towns; apportionment. P. L. 1915, c. 319, § 1. 1917, c. 304, § 1. 1919, c. 140. 1923, c. 193, § 1. 1927, c. 153, § 1. When the municipal officers of any town or city deem that any bridge on any main thoroughfare must be built or rebuilt, they may petition the commissioners of the county in which said bridge is or may be built or rebuilt, and the state highway commission to meet with them for the purpose of examining into and determining whether public convenience and necessity require the building or rebuilding of said bridge. The petition shall be sent to the state highway commission and upon its receipt said commission shall transmit a copy thereof to the county commissioners referred to above. The state highway commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans, and estimates of cost of construction.

The municipal officers of the town or city together with the county commissioners and the state highway commission shall constitute a joint board to determine whether or not the bridge is or may be built on a main thoroughfare, whether or not public convenience and necessity require the building or rebuilding of said bridge, and to determine the type of construction and general dimensions; furthermore, this board shall determine the estimated cost of construction. Said board shall keep or cause to be kept a written record of its doings, including its findings as to preliminary facts necessary to its organization and jurisdiction. The decision of said board, or a majority thereof, upon any matter within its jurisdiction shall be final and conclusive, and the record of its findings upon all preliminary matters shall be prima facie evidence of the truth thereof. The state highway commission shall appoint the time and place for the meeting of said board and give such notice thereof as it shall deem reasonable and proper.

When the county commissioners of any county deem that any bridge on any main thoroughfare in any unorganized township in said county must be built

or rebuilt or deem that any bridge owned and maintained wholly by said county on any main thoroughfare in any town or organized plantation must be rebuilt, they may petition the state highway commission for the purpose of forming a joint board composed of said county commissioners and the state highway commission. This joint board shall possess all the powers and prerogatives of joint boards constituted as described in the second paragraph of this section. The state highway commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans and estimates of cost of construction, and shall appoint the time and place for the meeting of said board and give such notice thereof as it shall deem reasonable and proper.

When the state highway commission shall deem that any bridge on any state or state aid highway must be built or rebuilt, it may notify the municipal officers of the town or city, or the county commissioners having jurisdiction of the roads in any unorganized township in which said bridge is located or may be built, and the county commissioners of the county in which said bridge is located or may be built or rebuilt, to meet with it for the purpose of forming a joint board possessing the same powers and prerogatives as a joint board formed in response to a petition emanating from the municipal officers of a town or city. The state highway commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans and estimates of cost. On each question arising in all meetings of joint boards, each component body shall have one vote, and its vote shall be recorded in the records of the meetings.

122 Me. 20; *124 Me. 251; 126 Me. 205.

Sec. 64. Apportionment, how made after January 15, 1927. P. L. 1915, c. 319, § 2. 1917, c. 304, § 2. 1919, c. 243, § 1. 1923, c. 193, § 2. 1927, c. 153, § 2. The cost of construction of a bridge built or rebuilt under the provisions of sections sixty-three to seventy-three shall be divided as follows: When the cost of said construction makes a tax rate of five mills or less on the valuation of the town last made by the board of state assessors, forty-five per cent by the town, thirty per cent by the county in which said town is located, and twenty-five per cent by the state; when the tax rate determined as above is ten mills, the cost shall be borne as follows: forty per cent by the town, thirty per cent by the county, and thirty per cent by the state; when the tax rate determined as above is fifteen mills, the cost shall be borne as follows: thirty-five per cent by the town, thirty per cent by the county, and thirty-five per cent by the state; when the tax rate determined as above is twenty mills, the cost shall be borne as follows: thirty per cent by the town, thirty per cent by the county, and forty per cent by the state; when the tax rate determined as above is thirty mills, the cost shall be borne as follows: twenty-five per cent by the town, thirty per cent by the county, and forty-five per cent by the state; when the tax rate determined as above is forty mills, the cost shall be borne as follows: twenty per cent by the town, thirty per cent by the county, and fifty per cent by the state; when the tax rate determined as above is sixty mills, the cost shall be borne as follows: fifteen per cent by the town, thirty per cent by the county, and fifty-five per cent by the state; when the tax rate determined as above is eighty mills, the cost shall be borne as follows: twelve per cent by the town, thirty per cent by the county, and fifty-eight per cent by the state; when the tax rate determined as above is one hundred mills, the cost shall be borne as follows: ten per cent by the town, thirty per cent by the county, and sixty per cent by the state. For intermediate tax rates the percentage of cost to be borne by the town and state shall be proportional, computed to the nearest tenth of one per cent. When the tax rate determined as above is over one hundred mills,

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the town shall pay a fixed sum, equivalent to one per cent of its state valuation, the county thirty per cent of the cost of construction, and the state the balance. The cost of reconstruction of a bridge owned and maintained wholly by the county, but located in a town or organized plantation, shall be borne as follows: fifty per cent by the county, and fifty per cent by the state. The division of cost herein provided shall apply to all bridges, the construction of which under the provisions of sections sixty-three to seventy-three was begun after January fifteenth, nineteen hundred and twenty-seven.

In the event of two or more bridges being built or rebuilt simultaneously or practically so, in the same town, then the total cost of the construction of these bridges shall be made the basis for computing the tax rate used in determining the apportionments of cost to be borne by the state and the town. The cost of construction shall include the complete cost of the bridge proper and such embankments, surfacing, and other work as is necessary to provide proper, adequate, and safe approaches to the bridge; the maintenance of traffic by temporary detours and structures whenever existing highways cannot satisfactorily be used for such service; and such charges for engineering, advertising, and inspection as may be incurred in the preliminary and actual construction phases of the work.

Unless otherwise expressed or implied, wherever the word "town" occurs in sections sixty-three to seventy-three, it shall be construed as including towns, cities, and plantations, as provided in section six of chapter one.

Sec. 65. Duties of state highway commission; plans and specifications; requisition of amounts due from town and county; advertising; bidding; bonds; money, how raised. 1915, c. 319, § 3. 1917, c. 314, § 3. 1919, cc. 162, 243, § 2. 1921, c. 50, § 2. 1923, c. 193, § 3. The state highway commission shall prepare all engineering plans and specifications for materials, construction, and workmanship which it considers necessary for the complete construction of the bridge structure, approaches, and for maintenance of traffic, and, as soon as practicable after being advised that the municipal officers are authorized to raise the town's share of the estimated cost of such construction, shall requisition the county and city or town for their respective portions of the estimated cost of construction as provided in section sixty-four, and except as otherwise provided in this section, advertise for bids for the construction of the bridge in two or more public newspapers printed wholly or in part in the state, also in one public newspaper printed wholly or in part in the county in which 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 or obtain 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, or a surety bond, 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 or bonds shall be returned to the respective unsuccessful bidders. The check or bond 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 and 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 bridge construction within its limits, and shall be subject to all require-

ments prescribed for other contractors, except that no bond need be required of it. If all bids for work under the provisions of sections sixty-three to seventy-three inclusive 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 may, however, with the approval of the governor and council, provide for the construction of the bridge by contract or on a day labor basis, without advertising for bids. 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. These bonds shall protect fully the state, county, and town from all liability arising from damage or injury to persons or property as a result of the contractor's operations. The county commissioners of any county where a bridge is built or rebuilt in any unorganized township are authorized and required to assess upon said township such sums as may be required to build or rebuild said bridge according to the last state valuation. This expense shall be added to their assessment on said township for repairs authorized by section sixty of chapter thirteen, which assessment shall create a lien upon said township for the amount thereof as effectually as is now provided in relation to repairs on county roads. The portion of such expense to be assessed in any one year shall be determined by the county commissioners, but in no case shall the total expense be distributed over a period of more than five years. That portion of said assessment which is for building or rebuilding said bridge as aforesaid, shall be set down in the assessment in distinct items in a separate column and shall be enforced as is provided in section sixty-one of chapter thirteen.

The county commissioners and municipal officers of cities heretofore referred to are hereby authorized and required to raise by taxation or by borrowing or otherwise, such reasonable sums as may be necessary to carry out the provisions of sections sixty-three to seventy-three, and the municipal officers of towns, when authorized by a vote at a legal town meeting, are also required to raise by taxation or by borrowing or otherwise, such like sums as may be necessary to carry out the provisions of said sections. Any loan so made by the county commissioners or municipal officers shall be a legal debt of the county or town whose credit is pledged under this law. All loans made by the county commissioners under this law are excepted from the provisions of the laws of the state limiting the borrowing capacity of counties. Provided, however, that all loans made by the county commissioners and municipal officers under this law shall mature in not more than twenty years, and not less than one-twentieth of any loan so made shall be raised by taxation and applied in payment of the loan each year after the loan is made.

Sec. 66. Highway commission to have supervision of construction; statement of cost to be rendered to towns and counties; disposition of salvaged material; failure of county or town to pay proportional cost, state treasurer to deduct amount from moneys due. P. L. 1915, c. 319, § 4. 1919, c. 243, § 3. 1923, c. 193, § 4. The state highway commission shall have supervision of all construction work and no payment shall be made on account of any of said work except by voucher approved by said state highway commission. On completion of any bridge the state highway commission shall render an itemized statement of the complete cost of the construction to the town or towns and the county or counties interested and to the state treasurer. If there remain unexpended balances of the moneys advanced by the town or towns and the county or counties, they shall be immediately returned. If the cost of construction has exceeded the estimated cost, the town or towns and the county or counties interested shall

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forthwith, on receipt of said itemized statement, forward to the treasurer of state their proportional shares of such additional cost.

Any material salvaged from an existing structure rebuilt under the provisions of sections sixty-three to seventy-three shall be the property of the town or towns in which the bridge is located, providing the town or towns use such material for the construction or repair of other bridge structures; otherwise the state highway commission may dispose of the material in any manner it deems proper, crediting any amount received from the sale thereof to the joint fund for the construction of the bridge.

In case any county or town unreasonably neglects or refuses to pay into the state treasury its proportional part of the estimated cost of construction which may be due and payable under the provisions of the said sections or its proportional part of the excess cost of construction above the estimated cost, then the state treasurer shall, out of any funds in the state treasury due said county or town, pay such proportional part and deduct the amount so paid from any sum in the state treasury due said county or town. In case such funds due or to become due any town or county from the state treasury in any one year do not equal or exceed the town's or county's share of either the estimated cost or the actual cost of a bridge, the construction of which is provided for under the terms of the said sections, then an action of debt in the name of the state treasurer may be maintained against such delinquent county or town to recover any sum so due the state, but these remedies shall be in addition to, and not exclusive of, other remedies afforded by law for the proper enforcement of the provisions of this chapter.

Sec. 67. Provisions of §§ 63-73 apply when bridge crosses boundary lines of towns or counties; joint board in such cases, how constituted; apportionment of costs. P. L. 1915, c. 319, § 5. 1919, c. 243, § 4. 1923, c. 193, § 5. When a bridge is to be built or rebuilt under the provisions of sections sixty-three to seventy-three, which bridge crosses the boundary line between two or more towns, in the same or different counties, all the foregoing provisions shall apply to each or all towns and to the county or counties involved. In such cases the municipal officers of each of said towns and the commissioners of the county or counties shall sit upon the board provided for in section sixty-three. Notice of complete cost of construction shall be forwarded to each town and each county involved. The proportional parts of the cost borne by the towns or by the counties under the provisions of section sixty-four shall be apportioned between said towns and between said counties in proportion to their valuations last made by the board of state assessors, in absence of any legal agreement or legislative enactment in effect January one, nineteen hundred and seventeen, regulating such division of cost.

Sec. 68. Maintenance of bridges so built or rebuilt. P. L. 1915, c. 319, § 6. 1919, c. 243, § 5. 1921, c. 143. All cost of maintenance of bridges built or rebuilt under the provisions of sections sixty-three to seventy-three shall be borne by the town or towns in which they are located, apportioned upon the basis of valuation as last made by the board of state assessors where more than one town is involved; provided, however, that in case of neglect or failure by any town or towns to properly maintain any bridges built or rebuilt under the provisions of said sections, the state highway commission may order such maintenance work as in its judgment is deemed necessary. If any town or towns fail to obey, within a reasonable time, such order of the state highway commission, then the commission may proceed to do such maintenance work and the amounts payable by said towns, under the provisions of said sections, shall be certified by the commission to the state auditor, who, if he finds the amount

correct shall certify 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 or towns, with interest at six per centum per annum from the date of the auditor's certification to the treasurer of state. In any case in which the cost of maintenance and repair of bridges in any town shall make a tax rate for said town in excess of five mills for any year, the state highway commission may assume such proportion thereof as in its judgment the public interest requires from any fund available for such purpose.

Sec. 69. Existing contracts, judgments, and decisions not affected. P. L. 1915, c. 319, § 7. Nothing contained in sections sixty-three to seventy-three shall invalidate any existing contract, judgment, or decision of any tribunal whereby any bridge is wholly or partly kept in repair or any money is contributed or to be contributed for the purpose of construction or maintenance of any bridge by any individual, firm, or corporation.

Sec. 70. Proceedings. P. L. 1915, c. 319, § 8. All legal proceedings necessary to carry out any provisions of the foregoing sections shall be had under the general statute.

Sec. 71. State not liable for damages; caution signs to be posted when temporary structures are erected; existing liability to repair or for damages, not affected. P. L. 1915, c. 319, § 9. 1923, c. 193, § 6. The state shall not be liable to any person or corporation for damages arising from the construction or rebuilding, or improvement of any bridge built or rebuilt under the terms of sections sixty-three to seventy-three.

Whenever temporary means are provided for the transfer of traffic over or around a bridge site, the state highway commission shall erect, or cause to be erected, caution signs to be conspicuously placed at each end of the construction work and at distances of two hundred to five hundred feet therefrom whenever possible. These signs shall display the following words: "Bridge under Construction. Pass at your risk. Maine State Highway Commission." The commission may display signs, in conjunction with the warning signs, limiting the gross loads to be transferred over temporary structures and detours to such weight as it deems necessary for the safety of life or property. Nothing contained in the said sections shall be construed as affecting existing liability for the repair of any bridge or damages sustained by reason of neglect or want of repair of any bridge.

Sec. 72. State highway commission may employ additional aid. P. L. 1915, c. 319, § 10. The state highway commission is hereby authorized and empowered to employ such additional aid as they may deem necessary to effectively carry out the work prescribed by sections sixty-three to seventy-three, and the payment of the same shall be from any moneys appropriated by the legislature for the purposes of said sections.

Sec. 73. Exceptions. P. L. 1915, c. 319, § 12. Sections sixty-three to seventy-three shall not be construed as applying to or including any interstate or international bridge or bridges.

Miscellaneous Powers and Duties.

Note. See c. 27, §§ 131, 132.

Sec. 74. Towns having money to become available from state for road or bridge work may anticipate expenditure. 1923, c. 137, § 1. Any town to which under any legislative enactment or resolve money will become available for road and bridge work at the beginning of the fiscal year, may, on or at any time after April fifteenth preceding the commencement of the fiscal year for which such

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appropriation is made, anticipate the expenditure of any appropriation for repair or improvement of a highway or bridge, by arranging to finance such work from funds of the town, or otherwise, prior to the date when such appropriation will become available.

Sec. 75. State auditor authorized to approve bills created under previous section. 1923, c. 137, § 2. The state auditor is hereby authorized to approve any bill or account created in accordance with the provisions of section seventy-four, against any appropriation available in any fiscal year, as though said bill or account was incurred during the time for which said appropriation was made.

Sec. 76. Governor and council to permit affixing of wire lines, cable lines, and pipe lines to international and interstate bridges; restrictions. 1925, c. 192, § 1. The governor and council shall have the power, upon such terms and conditions as said governor and council shall determine, to authorize and permit persons, firms, or corporations to construct on, or to affix to, that part of any international or interstate bridge lying within the boundaries of the state of Maine and which is under the supervision of the state highway commission, such pole and wire lines, cable lines or pipe lines, as the said governor and council shall determine will not interfere with public safety or with the convenient use of such bridge by the public. Provided, however, that wire or cable lines so constructed or affixed shall not be used for transmitting electricity without the borders of the state for the purposes of furnishing light, heat, or power.

Sec. 77. Application, plans, and descriptions to be filed with governor and council; highway commission to investigate and report. 1925, c. 192, § 2. Whenever any person, firm, or corporation shall desire to construct on, or to affix to, any such bridge any such pole and wire line, cable line, or pipe line, application shall be filed with the governor and council setting forth in detail, and accompanied by plans on an appropriate scale, a description of, and the specifications for, the proposed line and the purpose thereof. The application shall be filed in duplicate, and the governor and council forthwith shall transmit one copy thereof to the state highway commission, and after receipt thereof said highway commission shall investigate as to the engineering and similar features of the proposed construction, and within thirty days shall report the result of its investigation to the governor and council, and shall give its opinion as to whether or not the proposed line will, or in the future may, interfere with public safety or with the convenient use of said bridge by the public; during the course of its investigation the state highway commission may call upon the applicant for such additional data and information as it deems necessary in the proper completion of its investigation.

Sec. 78. Public hearing to be held; notices and procedure; rules. 1925, c. 192, § 3. Upon receipt of such report from the state highway commission the governor and council shall set a date for public hearing on the application, which date shall be not more than sixty days after the filing of the application, shall give notice by publication in such newspapers as the governor and council shall designate, and such other notice as the governor and council may determine necessary in any particular case, at least fourteen days prior to the date set for such hearing. Rules for procedure at such hearings may be determined from time to time by the governor and council.

Sec. 79. Decision to be rendered within 30 days; application may be granted upon terms; right to be exercised within two years; term limitation of permit. 1925, c. 192, § 4. Decision on the application shall be rendered by the governor and council within thirty days after the hearing is closed. The governor and council may grant the application as filed, or may refuse to grant the same, or may grant the application in part only, but if the application is granted in full

or in part, the governor and council may attach thereto such terms and conditions as they deem necessary to protect the public interest in the safe and convenient use of such bridge. If any authority granted by the governor and council is not exercised within two years from the date thereof, the same shall be deemed to have expired and may not thereafter be exercised except upon further and subsequent authority from said governor and council. Any authorization made or permit granted under the provisions of sections seventy-six to seventy-nine shall be limited to a term not exceeding fifty years from the date of such authorization or grant.

Sec. 80. Highway commission to maintain highways in Indian township. 1921, c. 138. The state highway commission is hereby directed to take over as a part of the state highway system all the roads in Indian Township in Washington County. Said roads may be reconstructed from time to time as in the judgment of the commission is necessary, and the expense thereof shall be paid from state highway loan funds. Said roads shall be maintained by the state highway commission and the expense thereof charged to such funds under the jurisdiction of the commission as are available for the purpose of maintaining state highways.

Sec. 81. Highway commission to cooperate with federal government in marking interstate roads. 1925, c. 3. The state highway commission is hereby authorized to cooperate with the federal government in formulating and adopting a uniform system of numbering, or designating roads of interstate character within this state, and in the selection and erection of uniform danger signals and safety devices for the protection and direction of traffic on said highways.

Sec. 82. Highway commission may assign men to assist in enforcing motor vehicle laws, and collection of gasoline tax. 1927, c. 52. In addition to other means of enforcement of the highway and motor vehicle law or regulation relating thereto as now provided by statute, and the collection of the tax on gasoline, the state highway commission may, whenever in their judgment existing conditions demand or the public interest requires, assign for either of said purposes any men in the employ of the highway department to act in conjunction with any other state, county, or town officers: provided, however, that no person in the employ of the highway department shall be assigned for any duties relating to the enforcement of any law unless the business of the highway department permits it or the person assigned would otherwise be unemployed.

Sec. 83. Commission to act as directors of the Kennebec Bridge. P. & S. L. 1925, c. 89, § 1. The state highway commission shall constitute a board to be known as the directors of the Kennebec Bridge. Members shall hold the office of director only so long as they are members of said commission.

Note. For powers and duties of directors of the Kennebec Bridge, see Kennebec Bridge Act, P. & S. L. 1925, c. 89.

CHAPTER 29.

Motor Vehicle Laws.

Section	1	Definitions.
Sections	2- 27	Law of the Road.
Sections	28- 62	Vehicles—Their Registration, Operation. Licensing Operators.
Sections	63-101	Operation.
Sections	102-108	Administration.
Sections	109-115	State Highway Police.

Definitions.

Sec. 1. Terms defined. 1921, c. 211, § 1. As used in this chapter, unless the context otherwise indicates, the word "way" includes all kinds of public ways; the word "team" and the word "vehicle" shall each include all kinds of conveyances on such ways for persons and for property, except those propelled or drawn by human power, or used exclusively on tracks; the word "trailer" any vehicle for transportation of passengers or commodities without motive power, not operated on tracks, drawn or propelled by a motor vehicle, except a pair of wheels commonly used for other purposes than transportation; the term "solid tires" shall include tires of rubber or other material that do not depend on confined air for the support of the load; the term "motor vehicle," any self-propelled vehicle not operated exclusively on tracks, except tractors; the word "tractor," any self-propelled vehicle not used on fixed rails, designed or used as a traveling power plant for drawing vehicles, but having no provision for carrying loads independently; the word "owner," any person, firm, corporation, or association owning a vehicle or having exclusive right to the use thereof under contract, lease, hiring, or otherwise; the word "curb," the outer edge of a defined sidewalk, or either edge of the wrought and usually traveled part of a way; the word "section" shall refer to this chapter unless otherwise indicated; and words in the context indicating operation or use of a vehicle refer to its operation or use upon any way or bridge in this state, including public parks and parkways.

See c. 1, § 6; c. 27, § 99. *124 Me. 198.

Note. Public laws of 1921, c. 211, which codifies the motor vehicle law and law of the road, supersedes R. S. 1916, c. 26 and the following acts amendatory thereof: 1917, c. 53, 54, 171, 213, 234, 256, 272, 287; 1919, c. 24, 123, 211, 242, 250, § 1, and the present chapter is based on the codification of chapter 211 of the public laws of 1921 and acts amendatory thereof and additional thereto.

Law of the Road.

Sec. 2. Teams approaching to meet to turn to right; to stop a reasonable length of time at some convenient passing place if requested. 1921, c. 211, § 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 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; *118 Me. 42, 74;

*124 Me. 240; 125 Me. 399.

Sec. 3. Teams stationary or traveling slowly to turn to right to allow another approaching from rear to pass. 1921, c. 211, § 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 stop a reasonable time at a convenient place, to allow the other to pass.

*25 Me. 46; 71 Me. 347.

Sec. 4. Stationary vehicles not to obstruct way; animal drawn vehicles not to be left on a way unless fastened. 1921, c. 211, § 4. No person shall leave his vehicle stationary on a way so as to obstruct the free passage of other vehicles; or allow an animal-drawn team to be in the way unattended unless it is reasonably fastened.

Sec. 5. Vehicles to keep to right boundary of way so as to allow swifter vehicles approaching from rear passage to left. 1921, c. 211, § 5. A person in control of any vehicle moving slowly along a way shall keep said vehicle as closely as practicable to the right-hand boundary of the way, allowing more swiftly moving vehicles reasonably free passage to the left.

Sec. 6. Bells to be attached to horse or animal drawn vehicles when snow is on ground. 1921, c. 211, § 6. One or more bells shall be either attached to one of the foremost horses drawing vehicles without wheels on snow, or attached to the shafts of the vehicle.

Sec. 7. At intersecting ways vehicles to keep to right of center of intersection if turning right and pass to right of center if turning left; not to pass moving vehicle from rear at top of hill or on a curve or while crossing an intersecting way. 1921, c. 211, § 7. Whoever operates a motor vehicle shall at the intersection of ways keep to the right of the intersection of the center lines of the traveled part of such ways when turning to the right, and pass to the right of such intersection when turning to the left, except when traffic officers otherwise direct traffic. No operator shall pass a moving vehicle from the rear at the top of a hill or on a curve when the view ahead is in any way obscured or while the vehicle is crossing an intersecting way.

122 Me. 128.

Sec. 8. Right of way at intersecting ways. 1923, c. 9. All vehicles shall have the right of way over other vehicles approaching at intersecting public ways from the left, and shall give the right of way to those approaching from the right; except that traffic officers stationed at such intersections may otherwise regulate traffic thereat.

125 Me. 72.

Sec. 9. Highway commission may designate "through" ways; vehicles on through ways have right of way; vehicles to stop before entering a through way. 1927, c. 138, § 1. For the purposes of this and the succeeding section, the state highway commission of Maine may from time to time designate certain state and state aid highways as through ways, and may after notice revoke any such designation. Every vehicle approaching on a through way to point of its intersection with a way other than a through way so as to arrive at such point at approximately the same instant as a vehicle approaching on such other way shall as against such other vehicle have the right of way, and every vehicle immediately before entering or crossing a through way at its point of intersection with another way shall first come to a full stop, provided that whenever a traffic officer is stationed at such point, he shall have the right to regulate traffic thereat. No such designation of a through way shall become effective as to regulation of traffic at such a point of intersection until said commission shall have caused suitable warning signs or signals to be erected at or near such point. For the purposes of this and the succeeding section, a way joining a through way

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at an angle, whether or not it crosses the same, shall be deemed to intersect it, and the word "way," unless the context otherwise requires, shall include a through or other way.

Sec. 10. Penalties for violations. 1927, c. 138, § 2. Any person who violates the provisions of the previous section, and any person who removes, destroys, damages, or defaces any sign or signal erected by or under the direction of the state highway commission as herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars or more than fifty dollars, or by imprisonment in the county jail for not more than sixty days or by both such fine and imprisonment in the discretion of the court for each such offense.

Sec. 11. Street crossings and safety zones for pedestrians may be created by municipal ordinance. 1921, c. 211, § 8. Cities and towns may enact ordinances or by-laws providing for the establishment of street crossings and safety zones for pedestrians, and restrict or prohibit the crossing of streets by pedestrians except within the limits of crossings or zones so established.

Sec. 12. Vehicles approaching stationary street car from rear. 1921, c. 211, § 9. An operator of a vehicle shall bring it to a full stop not less than five feet from the rear of any street car headed in the same direction which has stopped for the purpose of taking on or discharging passengers, and shall remain stationary until such car has taken on or discharged its passengers; provided, however, that such operator may pass such car where a safety zone is established or where he may pass such car at a distance of at least eight feet from the running board or lowest step thereof; and provided, further, that he shall slow down and proceed cautiously. He may also pass to the left of such car when there is a clear view and a clear way for at least one hundred feet in advance of such car on its left; provided he shall slow down and proceed cautiously.

Sec. 13. Police and fire department vehicles and ambulances have right of way. 1921, c. 211, § 10. Police, fire department, traffic emergency repair vehicles, and ambulances, when operated in response to calls, shall have the right of way; and on the approach of any such vehicle the driver of every other vehicle shall immediately draw his vehicle as near as practicable to the right hand curb and parallel thereto and bring it to a standstill until such public service vehicles have passed. The person in control of a street car shall also immediately stop said car upon the approach of fire apparatus and keep it stationary until such apparatus has passed.

Sec. 14. Teams conveying passengers not to be left unattended; brakes to be set on stationary motor vehicles. 1921, c. 211, § 11. No driver of a team having passengers therein conveyed for hire shall leave it without a person in charge or without fastening it securely; and no person having control or charge of a motor vehicle shall allow such vehicle to stand upon any way and remain unattended without effectively setting its brakes.

Sec. 15. Height and width of motor vehicles and trailers limited. 1921, c. 211, § 12. No motor vehicle or trailer which, with or without load, is wider than eight feet over all, or is over twelve feet, six inches high, shall be operated upon any way or bridge. No portion of any such vehicle or load, except the reflecting mirror required by this chapter, shall project beyond the side of said vehicle to make a total width greater than herein specified.

Sec. 16. Injurious substances not to be placed on any way or bridge. 1921, c. 211, § 13. No person shall throw or place, or cause to be thrown or placed upon any way or bridge, any tacks, nails, wire, scrap metal, glass, crockery, or other substance injurious to the feet of persons or animals or to tires or wheels

of vehicles. Whoever accidentally, or by reason of an accident, drops from his hand or a vehicle any such substance upon any way or bridge shall forthwith make all reasonable efforts to clear such way or bridge of the same.

Sec. 17. Speed on bridges regulated. 1921, c. 211, § 14. No animal-drawn 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; and no motor vehicle shall travel over any such bridge faster than twelve miles an hour, provided, that heavy vehicles may be further restricted, as hereinafter provided.

Sec. 18. Penalty for violation of speed limit over bridge. 1921, c. 211, § 15. 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 state or municipal corporation required to keep it in repair.

Sec. 19. Certain vehicles not to be operated on roads and bridges without special permit. 1921, c. 211, § 16. No vehicle, engine, contrivance, or object shall be moved upon or over any way or bridge upon wheels, rollers, or otherwise in excess of the weights prescribed in this chapter or without obtaining a permit in accordance with section twenty-one; nor shall any vehicle, engine, team, or contrivance of whatever weight be moved upon or over any way or bridge which has any flange, rib, clamp, or other object attached to its wheels, or made a part thereof, likely to bruise or injure the surface of such way or bridge, without permit obtained as provided in this chapter. Mowing machines, light farm tractors, not customarily operated over public ways, and other light-weight farming vehicles, are exempted from the provisions of this section. This section shall not be construed to prohibit the use of tire chains of reasonable proportions on vehicles when required for safety because of snow, ice, or other conditions tending to cause such vehicle to slide or skid. Provided, however, that this act shall not apply to ways open to the public, privately owned or maintained, or to the use of such ways by those owning or maintaining them.

Sec. 20. Speed limit on bridges of four ton vehicles; of six ton vehicles. 1921, c. 211, § 17. No tractor, with or without trailers, and no motor vehicle having a gross weight in excess of four tons shall be operated upon any bridge at a rate of speed greater than fifteen miles per hour; and no such vehicle having a gross weight in excess of six tons shall be operated upon any bridge at a rate of speed greater than six miles per hour.

Sec. 21. Permits for moving heavy objects over ways and bridges; jurisdiction; permits limited. 1921, c. 211, § 18. Jurisdiction is hereby vested in the state highway commission to grant emergency permits upon proper application in writing to move objects having a weight or width greater than specified in the two preceding sections over any way or bridge upon which the money of the state has been expended or over which said commission has assumed control; and like permits may be granted by county commissioners, municipal officers, superintendents of streets, or other road officials having charge of the repair and maintenance of any other way or bridge.

Said permits shall be issued to cover the emergency or purpose stated in the application and shall be limited as to the particular objects to be moved and the particular ways and bridges which may be used.

Provided, however, that the state highway commission, in respect to state and state aid highways and bridges within city or compact village limits, and municipal officers in respect to all other ways and bridges within such city and compact village limits, may grant permits to operate vehicles having a gross weight

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exceeding the limit of gross weight in this chapter prescribed, and all such permits may contain any special conditions or provisions which in the opinion of the grantors are necessary.

Sec. 22. Special restrictions relating to heavy objects passing over bridges. 1921, c. 211, § 19. Notwithstanding any loads authorized in this chapter upon any bridge, officials charged with the repair and maintenance thereof may limit the load permitted on any bridge to such weight as they deem necessary for the safety of life or property, or the maintenance of such bridge. Upon the failure or neglect of local officials to prescribe such weights for any bridge, said commission may fix such limit of weight as it deems proper. Such regulations shall be in effect when notice thereof is conspicuously posted at each end of the bridge affected.

Sec. 23. Ways may be closed to certain vehicles during certain seasons of the year; notices to be posted; jurisdiction. 1921, c. 211, § 20. 1927, c. 198. The state highway commission shall designate state and state aid highways and improved third class highways and bridges, or sections thereof, over which, during such periods of each year as may be determined by the commission, it shall be unlawful for any motor truck or other vehicle or team to pass having a weight, with or without load, exceeding that prescribed by said commission; or to pass except according to restrictions as to weight, speed, operation, and equipment prescribed by the commission and pursuant to its written license. County commissioners and municipal officers may make similar designations of any other ways and bridges within their respective jurisdictions, and impose similar restrictions upon vehicles passing over the same. Provided always that a notice specifying the designated sections of a way or bridge, the periods of closing, and prescribed restrictions, or exclusion, shall be conspicuously posted at each end thereof. The municipal officers of each city, town, and plantation shall, within their respective municipalities, have the same power as the chief and members of the state highway police in the enforcement of the provisions of this section and of all rules and regulations promulgated by the state highway commission, the county commissioners, and the municipal officers of towns pertaining thereto, and in arresting all violators thereof and in prosecuting all offenders against the same; such municipal officers shall, in such cases, serve without compensation.

Sec. 24. Penalties for violating five preceding sections; bond may be required for permits. 1921, c. 211, § 21. Whoever as owner, driver, operator, or mover of any engine, team, vehicle, or contrivance mentioned in the five preceding sections violates any provision of said 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 offense; and he shall also be responsible for all damage which said way or bridge may sustain as a result thereof, and the amount may be recovered in an action on the case brought by the municipality, when any way or bridge is injured which is under the care of said municipality; by the county commissioners in behalf of any unincorporated township injured, and by the state when any state or state aid way or bridge is injured; and shall be used for the repair of the ways and bridges so injured. Highway officials in granting permits under the preceding sections may require from owners or operators a bond satisfactory to them running to the state or the municipal corporation affected, conditioned to reimburse it for any expenses necessarily incurred in repairing all damage caused to the way or bridge by the use thereon of such vehicle, load, contrivance, or other object.

Sec. 25. Log-haulers and traction engines to obtain permits. 1921, c. 211,

§ 22. Log-haulers, traction engines, or other motive power to be used in drawing heavily loaded sledges, carts, drays, or vans may be operated upon ways; provided the owners of operators thereof shall apply for and obtain a permit as provided in the preceding sections and shall deposit a bond as provided in said sections.

Sec. 26. Movable track tractors not subject to weight provisions of section fifty-one. 1921, c. 211, § 23. Tractors, the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain known as a movable track, shall not be subject to the limitation upon permissible weight per inch width of tire as provided in section fifty-one if the portions of the movable track in contact with the surface of the way present plane surfaces.

Sec. 27. Roads closed for repairs; notices. 1921, c. 211, § 24. No person shall remove, injure, or tamper with any sign placed by authority of the state highway commission, or by any local official having charge of the repair and maintenance of ways and bridges; nor shall any person operate any vehicle over a way or bridge which is lawfully closed for construction or repairs, and contrary to posted notice whether the work thereon is being done by the state, county, or municipality, or by a contractor, unless permit to pass is expressly granted by some person in charge of the work.

Vehicles—Their Registration, Operation. Licensing Operators.

Sec. 28. Secretary of state to register motor vehicles; reports. 1921, c. 211, § 26. The secretary of state, hereinafter called the secretary, shall collect all fees required for licensing and registering all vehicles and operators, and shall forthwith transmit the same to the treasurer of state. He shall from time to time as required by the governor and council, make report of his doings and of the fees received from vehicle registrations, licenses issued, and from other sources, with such recommendations as he may consider appropriate.

Sec. 29. Deputies. 1921, c. 211, § 27. The secretary may appoint deputies or agents stationed at convenient places in the state to receive applications for registration and licenses, and to conduct examinations when ordered by the secretary. Inspectors may be delegated to act as such deputies or agents.

Sec. 30. Secretary may conduct hearings to aid in enforcement of motor vehicle laws; fees of witnesses; justice supreme judicial court may issue summary process to enforce orders. 1921, c. 211, § 28. 1925, c. 144, § 6. In the administration of the laws relative to motor vehicles and to the operators and the operation thereof, the secretary may conduct hearings, subpoena witnesses, administer oaths, take testimony, and order the production of books and papers, and for the purposes mentioned in this chapter may issue all processes necessary for the performance of his duties. The fees for travel and attendance of witnesses shall be the same as for witnesses before the supreme judicial court and shall be paid by the state out of motor vehicle registration fees upon certificates of the secretary filed with the auditor. Any justice of the supreme judicial court, on the petition of the secretary, may issue summary process to enforce the lawful orders of the secretary on any matter.

Sec. 31. Records of secretary open to public inspection; complaint may be regarded as confidential. 1921, c. 211, § 29. All records of the secretary pertaining to the applications and registration of motor vehicles and to operators' licenses shall be open to public inspection during office hours. Complaints in writing may be regarded as confidential.

Sec. 32. Applications for operators' licenses; licensee may operate any registered vehicle unless specifically limited. 1921, c. 211, § 30. Applications to operate motor vehicles shall be made under oath and may be presented by mail or otherwise to the secretary upon blanks prepared under his authority, and which shall therein call for specific answers to questions of a character designed to show the experience and competency of the applicant to operate a motor vehicle; a fee of two dollars shall accompany the application. Before the license is granted, an applicant may be required to pass such examination by actual demonstration or otherwise as to his qualifications to operate a motor vehicle as the secretary shall require; and no license shall be issued until the secretary is satisfied that the applicant is a proper person to receive it; no license shall be issued to any person under fifteen years of age. A record of all applications for license and of all licenses issued shall be kept by the secretary. Each license shall state the name, age, place of residence of the licensee and the distinguishing numbers or marks assigned to him and may contain a brief description of the licensee for the purpose of identification and such other information as the secretary shall deem necessary. A person to whom a license to operate a motor vehicle has been issued, unless such license contains a special limitation or restriction, may operate any registered motor vehicle. Every licensee shall endorse his usual signature upon the margin of the license before using it, and no license shall be valid until so endorsed.

Sec. 33. Chauffeurs; special license; badge; fee; definition of term. 1921, c. 211, § 31. Special licenses to operate motor vehicles shall be issued to chauffeurs subject to the same general requirements governing the issuance of an operator's license as is provided in the preceding section; but no such license shall be issued to any person less than eighteen years of age. An operator's license shall not entitle a person to drive a motor vehicle as a chauffeur as defined in this section.

The secretary shall furnish every licensed chauffeur with a suitable metal badge with distinguishing number or mark assigned to him thereon without extra charge therefor. Said badge shall thereafter be worn by such chauffeur affixed to his clothing at all times while he is operating or driving a motor vehicle, and shall be valid only during the term of the license of the chauffeur to whom it is issued.

Every application for a chauffeur's license shall be accompanied by a fee of five dollars; provided, however, that if such applicant already holds an operator's license the accompanying fee shall be three dollars.

Failure of an operator or chauffeur to exhibit his license to any magistrate, motor vehicle inspector, police officer, sheriff, or other authorized official, on demand, shall be prima facie evidence that such person is not duly licensed.

A chauffeur who is registered under the provisions of law of the state or country of his residence shall be exempt from license under this section, provided he shall wear a badge or carry a license certificate assigned to him by the jurisdiction of his residence.

The word "chauffeur" as herein used shall mean any person employed for the purpose of operating a motor vehicle, and whose principal duty is to operate such vehicle; but as used elsewhere generally in this chapter with respect to the use and operation of motor vehicles the word "operator" and "driver" shall include the word "chauffeur."

Temporary licenses without fees may be issued to chauffeurs in the employ of the state or any municipal corporation, to terminate when their employment ends.

Sec. 34. Special license for operation of motor cycle. 1921, c. 211, § 32.

The secretary shall also prepare suitable blanks for applicants for a license to operate motor cycles and he shall issue licenses to competent persons to operate motor cycles, subject to the same general requirements obtaining with respect to a license to operate a motor vehicle.

A license to operate a motor vehicle shall not authorize the licensee to operate a motor cycle, unless the license shall so specify; but licensees to operate a motor vehicle may on application be granted a license to operate a motor cycle without paying an additional fee.

Sec. 35. Unlicensed persons not to operate motor vehicles. 1921, c. 211, § 33. No person shall operate a motor vehicle upon any way in this state unless licensed according to the provisions of this chapter; but the provisions of this section shall not prevent the operation of a motor vehicle by an unlicensed person, not less than fifteen years of age, if riding beside a licensed operator in said vehicle for the purpose of becoming familiar with the use and handling of a motor vehicle preparatory to taking out license for driving; and provided, further, that such unlicensed person has not theretofore had a license revoked, suspended, or finally refused.

115 Me. 134; 120 Me. 142.

Sec. 36. Non-resident cars and operators licensed in home state may operate; exceptions; non-resident trucks of over one ton to be registered. 1921, c. 211, § 34. 1925, c. 214. 1927, c. 161, § 1; c. 200. The provisions of this chapter relative to the registration of motor vehicles, tractors, and trailers, and the granting of operators' licenses shall not apply to a motor vehicle, tractor, or trailer owned by a non-resident, other than a foreign corporation doing business in this state, or to a non-resident operator other than the operator of any such vehicle belonging to a foreign corporation doing business in this state, provided that the owner of such vehicle and its operator have complied with the provisions of law of the state or country of his residence relative to the registration of such vehicles and the granting of operators' licenses. But this exemption regarding operators' licenses shall not apply to any operator resident in any other state or country whose laws do not require such operators' licenses. The provisions of this section shall, however, be operative as to an owner and operator of such vehicle only to the extent that under the laws of the state or country of his residence, like exemptions and privileges are granted to owners and operators of like vehicles registered under the laws of this state; and the secretary of state shall determine what states and countries grant similar privileges and the extent of the privileges so granted; and his determination shall be final. Nothing in this chapter shall be construed to permit a non-resident vehicle having a weight in excess of or equipped contrary to that allowed a similar resident vehicle, to be operated on the ways of this state.

But no vehicle owned or operated by a non-resident shall be operated on the public ways of this state as a vehicle engaged in the business of livery or for hire, or as a jitney, within this state, and no motor truck or trailer having a rated carrying capacity of more than one ton and owned or operated by a non-resident shall be operated on the highways of this state, except and until it has been registered under the laws of this state and made to comply with the by-laws and ordinances of municipalities wherein it is operated, in the same manner as may be required of like vehicles owned, operated, and registered in this state, and all operators of the same shall be licensed in like manner as residents of this state are required to be licensed.

If any non-resident owner or operator of any such vehicle shall continue its operation within this state after the expiration of the term permitted him by

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this chapter he shall comply with the provisions of statute pertaining to the registration of motor vehicles by resident owners and licensing of operators thereof.

Provided further that the secretary may issue to public utilities operating in this state for a nominal fee, a special permit for vehicles engaged in emergency repair work in this state provided such vehicles are registered in some other state and have attached thereto registration plates and are driven by persons licensed to operate in this or some other state.

Sec. 37. Secretary may suspend or revoke operator's license or certificate of registration. 1921, c. 211, § 35. 1925, c. 144, § 6. The secretary may suspend or revoke any certificate of registration or any license issued to any person to operate a motor vehicle after hearing for any cause which he deems sufficient. Pending a speedy hearing he may also summarily suspend a license of any motor vehicle operator in his discretion and may order the license or registration certificate to be surrendered to him whenever he has reason to believe that the holder thereof is an improper person or incompetent to operate a motor vehicle, or is operating so as to endanger the public; and neither the certificate nor the license shall be reissued unless upon examination or investigation the secretary or the appellate court determines that the operator shall again be permitted to operate.

Sec. 38. Notice of revocation or suspension of right of non-residents to operate or have operated motor vehicle to be sent to department of state from which it was issued. 1921, c. 211, § 36. 1925, c. 144, § 6. Notice of the revocation or suspension of the right of a non-resident owner or operator of a vehicle to operate or to have operated said vehicle in this state shall forthwith be sent by the secretary to the motor vehicle department of the state or country which issued his license or registration.

Sec. 39. Notice of hearings; service of notice. 1921, c. 211, § 37. 1925, c. 144, § 6. Notice of any hearing held by the secretary, or by his authority, under this chapter, shall state the place, day, and hour thereof, and warn the licensee or registrant that he may then and there appear, in person or through counsel, to show cause why his license should not be suspended or revoked, or why the registration of the vehicle should not be annulled; and service of such notice shall be sufficient if sent by registered mail to the address given by the licensee or registrant, five days at least before the day set for the hearing.

Sec. 40. Non-resident's right to operate motor vehicle or have same operated may be revoked or suspended by secretary; in case non-resident's license has been revoked by state of issue, right to operate in this state may be suspended or revoked. 1921, c. 211, § 38. 1925, c. 144, § 6. The secretary may suspend or revoke the right of any non-resident operator to operate in this state and may suspend or revoke the license or right of any non-resident owner to operate or have operated in this state any vehicle for the same causes and under the same conditions and in the same manner that he could take such action regarding any resident owner or operator, or vehicle owned in this state; and thereupon the right of such non-resident owner or operator to operate or have operated any such vehicle in this state shall terminate, and he shall be subject to the same penalties as any resident owner or operator who operates without license or registration.

Whenever the secretary is notified by the licensing or registration department of another state or country that any licensee or registrant resident therein has had his license or registration suspended, revoked, or annulled, the secretary may forthwith suspend, revoke, or terminate any right, license, or registration granted to such person in this state.

Sec. 41. Appeal may be taken from decision or ruling of secretary to justice of supreme judicial or superior court. 1921, c. 211, § 39. 1925, c. 144, § 6. If any person is aggrieved by the decision of the secretary in revoking or suspending a license or certificate of registration or by the refusal of the secretary to issue a license or certificate of registration, he may within ten days thereafter appeal to any justice of the supreme judicial or a superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the secretary; and after hearing he may affirm or reverse his decision, and the decision of such justice shall be final. Pending judgment of the court, the decision of the secretary in revoking or suspending any license or certificate of registration shall remain in full force and effect.

Sec. 42. Certificate of registration of motor vehicle which is a menace to public or so constructed as to cause unnecessary damage to highways may be revoked or suspended. 1921, c. 211, § 40. 1925, c. 144, § 6. Subject to the same conditions as to appeal, the secretary may revoke or suspend the certificate of registration of any vehicle which is so constructed as to be, when in operation, a menace to the safety of its occupants or to the public, or is so constructed or operated as to cause unreasonable damage to ways or bridges.

Sec. 43. Court record of conviction of violation of statute relative to motor vehicles to be sent to secretary; to be held as a public record; magistrate may make recommendation. 1921, c. 211, § 41. 1925, c. 144, § 6. Every court and trial justice in every case wherein a person is convicted of the violation of any statute relative to motor vehicles or to the operation of any vehicle shall forthwith transmit to the secretary an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of hearing, the plea, the judgment, and the result; and they shall be open to public inspection during reasonable hours. Said magistrates may make such recommendations to the secretary as to suspension or revocation of licenses and certificates of registration of respondents as they deem to be in furtherance of justice.

Sec. 44. Court may temporarily suspend operator's license. 1921, c. 211, § 42. 1925, c. 144, § 6. In addition to any other penalty provided in this chapter and imposed by any court or trial justice upon any person for violation of any provision of this chapter, the court or trial justice may suspend an operator's license for a period not exceeding ten days, in which case the magistrate shall take up the license certificate of such person, who shall forthwith surrender the same, and forward it by registered mail to the secretary. It may thereupon grant a hearing and take such further action relative to suspending, revoking, or restoring such license or the registration of the vehicle operated thereunder as it deems necessary.

Sec. 45. Motor vehicles and trailers to be registered; application; secretary may refuse registration. 1921, c. 211, § 43. 1925, c. 144, § 6. No person shall operate any motor vehicle or trailer, nor shall the owner or custodian of such vehicle permit the same to be operated or remain upon any way unless the same is registered and equipped in accordance with the provisions of this chapter. Application for such registration may be made by mail or otherwise to the secretary upon blanks prepared under his authority. The application shall be under oath and, in addition to such other particulars as may be required by the secretary, contain a statement of the name, place of residence and address of the applicant, with a brief description of the vehicle, including the name of its 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 the

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actual weight of the vehicle ; and its loading capacity, if intended for commercial use. The applicant shall state in his application the kind of lens used in the headlights upon his motor vehicle, and shall specify whether he has complied with the rules and regulations of the commission, framed, published, and in effect. In case said applicant has not given satisfactory answers, the secretary shall refuse to register such vehicle, or issue a license for its operation.

*115 Me. 134; *116 Me. 202; 275; *117 Me. 117; 455; 120 Me. 142.

Sec. 46. Rate of speed of commercial vehicles. 1921, c. 211, § 44. No commercial vehicle equipped with pneumatic tires shall be operated on open country ways at a rate of speed exceeding twenty miles per hour, or within the compact built-up portions of any city, town, or village at a rate of speed exceeding twelve miles per hour; said ways and built-up portions being defined in section sixty-four. Nor shall any commercial vehicle equipped with two or more solid tires be operated on said open country ways at a rate of speed exceeding fifteen miles per hour, or within said compact built-up portions at a rate of speed exceeding ten miles per hour.

Sec. 47. Authority delegated to commission to correct abuse of highways by all vehicles. 1921, c. 211, § 45. The rights and powers of the commission to exclude, or restrict the weight or equipment, or to regulate the speed of, vehicles enumerated in section forty-six, when in their judgment the passage of any such vehicle over any way or bridge would be unsafe or likely to cause excessive damage to the same, is hereby expressly conferred on said commission and nothing in any section of this chapter shall be construed to restrict or abridge any of said rights and powers; the intent of this chapter being to confer upon the state highway commission, and upon the appropriate highway officials, broad regulative authority to encourage reasonable use of the ways and bridges and to correct abuse thereof; such delegated authority being necessary in the opinion of the legislature for the reasonable use and proper protection and continued maintenance of the ways and bridges of this state.

Sec. 48. Appeal may be taken to commission from decision of local highway officers. 1921, c. 211, § 46. An appeal in writing may be taken from any order or decision of local highway officials made under the provisions of sections nineteen to twenty-five inclusive, to the commission, and the commission may hear and decide the matter in a summary manner, modifying, affirming, or vacating the action of such officials and may issue any order necessary to carry its decision into effect. No appeal shall suspend the order or decision of said highway officials, pending the decision of the commission.

Sec. 49. Fees for registration of vehicles. 1921, c. 211, § 47. 1925, cc. 58, 123. 1927, c. 151. The annual fees for the registration and licensing of vehicles shall be in accordance with the following schedule, and shall accompany the application for registration:

		Per 100
Equipped with	Per H. P.	lbs. weight
Pneumatic tires	25 cents	25 cents
Solid tires (two or more)	25 cents	50 cents

Motor vehicles used for livery or hire shall pay double the above fees, provided, however, that private automobiles occasionally employed for use at funerals by a duly registered or licensed undertaker, and not otherwise used for hire, shall not be subject to such double fees, and provided further, that motor vehicles used for no other passenger service or hire than for the transportation of school children to and from school are not subject to the double registration

fee. Motor vehicles used for the carrying of passengers for hire and operating under the provisions of chapter sixty-five, shall pay registration fees as follows: motor vehicles of not over seven persons seating capacity shall pay the fees as provided in the foregoing part of this section; motor vehicles of over seven persons seating capacity shall pay in addition to the above fees an additional sum of two dollars and fifty cents for each seat in addition to seven.

b. Tractors.

Equipped with	Per H. P.	Per 100 lbs. weight
Pneumatic tires	25 cents	25 cents
Solid rubber tires	25 cents	50 cents
Iron, steel or other hard tires	25 cents	80 cents

Tractors used for agricultural purposes or not customarily used on public ways shall pay one-tenth of the above rates; caterpillar tractors, so-called, except as above provided, shall pay a registration fee of fifteen dollars. Tractors not used for hauling or carrying loads on the highways shall be exempt from registration and license.

c. Trailers.

Equipped with	Per 100 lbs. gross weight of vehicle and load
Pneumatic tires	15 cents
Solid tires	40 cents
Iron, steel or other hard tires	75 cents

d. Motorcycles \$5.00 each

e. Motorcycle sidecars \$5.00 each

In computations under this section minor fractions of horse power and weight shall carry the lower rating, and major fractions shall carry the next higher rating.

Horse power specified in this chapter shall be based on the "A. L. A. M." standard, so-called.

"Steam Vehicles."—In the computation of fees for all vehicles propelled by steam, the horsepower rating shall be based on the system of rating adopted by the United States Government.

"Electric Vehicles."—For vehicles propelled by electricity the rating shall be the normal horsepower designated by the manufacturers of the electric motor or motors in the vehicle.

In the computation of fees based on gross weight, said gross weight, in the case of freight or merchandise vehicles, shall be the actual weight of the vehicle in pounds plus the manufacturer's rated load capacity, and in the case of passenger vehicles shall be the actual weight of the vehicles. In no case shall the registration fee be less than ten dollars.

On any application for registration applied for by an owner resident of this state, of a motor vehicle or trailer, not including a log hauler, or traction engine, during the period between the first day of October and the thirty-first day of December, one-half the registration fee shall be charged. The secretary upon granting the application shall register in a book or upon suitable index cards to be kept for the purpose, the vehicle described in the application, giving to its owner a distinguishing number or other mark, and shall thereupon issue a certificate of registration which shall contain the name, place of residence and address of the owner.

Sec. 50. Registration number plates to be furnished by secretary; form of registration plates valid for calendar year; new plates may be used on or after December 25th; certificate of registration to be carried by operator or about the vehicle; in case number plate is lost, temporary plates may be used; procedure to be employed in obtaining new plates; plates lost in transportation may be replaced without charge. 1921, c. 211, § 48. 1927, c. 3. The secretary shall furnish suitable register number plates, seals, and other distinguishing marks, without charge, to every person whose vehicle is registered under this chapter. Such plates shall be of a distinctly different color or shade each year and shall be in such form as the secretary may determine; and shall bear the numerals of the year of issue, or the last two numerals of said year, the word "Maine" or the abbreviation "Me." in letters not less than one inch in height. The numerals of the register number thereon, except on motor cycle number plates, shall be substantially not less than four inches high. The secretary may select and issue a special distinguishing letter, mark, or design for number plates issued to manufacturers and dealers; also for any temporary or other special classes of registration and for use on motor cycles, trucks, trailers, tractors, and side cars, which are required to be registered under this chapter.

Number plates so furnished shall be valid only for the calendar year for which they are issued, except that on and after December twenty-fifth of such calendar year, it shall be lawful to use and display on motor vehicles, the number plates issued for the next succeeding year. Each number plate displayed shall be horizontal and shall be so fastened as not to swing, and its lower edges shall be at least twelve inches from the ground. Not more than one set of number plates shall be displayed upon any vehicle, except as may be otherwise permitted by this chapter.

In the case of all motor vehicles and tractors, one number plate shall be attached to the front and the other to the rear of said vehicle, so that the plates and the registered number thereon shall always be plainly visible. In the case of trailers, semi-trailers, and side cars, one such plate shall be attached to the rear thereof and shall be always plainly visible. All plates shall be kept reasonably clean and the numbers legible.

The certificate of registration shall always be carried on the person of the operator or occupant, or in some easily accessible place in or about the vehicle therein described, except that certificates of registration of dealers need not be so carried.

If any number plate is lost or the register number thereon becomes mutilated or illegible, the owner or person in control of the vehicle for which said number plate was furnished shall immediately place a temporary number plate bearing his register number upon said vehicle. Such temporary number plate shall conform to the register number plate and shall be displayed as nearly as possible as herein provided for said regular number plate, and such person shall within twenty-four hours after such loss or mutilation give notice thereof to the secretary and apply under oath for new number plates; and thereupon the secretary, if satisfied of the truth of the facts stated in the application, shall supply a new set of number plates upon payment of a fee of seventy-five cents for each plate.

If the secretary is unable to furnish immediately to any person entitled thereto any plate or marker provided in this chapter, he may issue a temporary certificate with temporary number plates, which certificate shall be carried and said plates shall be displayed upon said vehicle in the same manner as required for regular certificates and number plates. Whenever one of a set of number plates is lost and a new set is issued, as provided in this section, the remaining plate shall forthwith be returned to the secretary. In case plates are lost in trans-

portation, and the applicant shall certify in the affidavit that the plates have not been received by him and agrees that if they shall be received at some later date to return them forthwith, the secretary, after a thorough investigation, may furnish the applicant with a second set of plates without additional charge.

Sec. 51. Weight of commercial vehicles limited. 1921, c. 211, § 49. 1923, c. 69. No truck, tractor on wheels, trailer, or other commercial vehicle having a gross weight of more than eighteen thousand pounds distributed by four wheels on a road surface or having a gross weight on any one axle exceeding thirteen thousand, five hundred pounds imparted to a road surface, shall be operated over any way or bridge; except that when the gross weight is distributed on the road surface upon six or more wheels by the combined use of a trailer, or otherwise, so that the imparted weight from any one axle shall not exceed thirteen thousand, five hundred pounds, the permissible gross weight of a vehicle or vehicles thus combined may be increased not exceeding fifty per cent. But no vehicle having a load of over seven hundred pounds per inch width of tire upon any wheel concentrated upon the road surface, said width to be measured between the flanges of the rim, shall be operated upon any way or bridge; except in special cases under special permit to be granted by the commission for greater weights as elsewhere provided in this chapter. Provided, however, that the gross weight of any such vehicle distributed on four wheels may be increased to twenty thousand pounds if the weight upon any wheel concentrated upon the road surface does not exceed six hundred pounds to an inch width of tire, measured between the flanges of the rim, and if the weight on any one axle imparted to the road surface does not exceed sixteen thousand pounds. The term "gross weight" shall mean the actual weight of the vehicle and load.

Sec. 52. Schedule of fees for registration of motor trucks. 1921, c. 211, § 50. 1927, c. 161, § 2. With each application for registration of a motor truck shall be deposited an annual registration fee graduated as follows when equipped with pneumatic tires:

For trucks with a rated carrying capacity of one thousand pounds or less	\$10.00
For trucks having a rated carrying capacity of over one thousand pounds and not over one ton.....	15.00
For trucks having a rated carrying capacity of over one ton and not over two tons.....	20.00
For trucks having a rated carrying capacity of over two tons and not over three tons.....	55.00
For trucks having a rated carrying capacity of over three tons and not over four tons.....	80.00
For trucks having a rated carrying capacity of over four tons and not over five tons.....	125.00
For trucks have a rated carrying capacity of over five tons..	150.00

Provided, however, that every such vehicle equipped with two or more solid tires shall pay an additional fee of thirty-three and one-third per cent more than any such vehicle would be hereby required to pay if equipped with pneumatic tires; provided, further, however, that any motor vehicle with a rated carrying capacity of over five tons may be registered and operated if such motor vehicle is owned and registered on April 9, 1921. But no vehicle shall be operated on ways or bridges which, either loaded or without load, exceeds the limits prescribed in section fifty-one, or is contrary to the provisions of any other section of this chapter, or any other statute pertaining thereto.

Sec. 53. State or municipal controlled vehicles to be registered free of charge. 1921, c. 211, § 51. All motor vehicles owned and used by the state, or any municipal corporation therein, shall be registered, but shall be exempt from the provisions of this chapter as to payment of registration fees; but all such vehicles shall display register plates as required by this chapter or approved by the commission.

Sec. 54. Weight of commercial vehicles to be plainly indicated on vehicle. 1921, c. 211, § 52. Every vehicle intended for commercial use shall have attached thereto in some visible place a plate giving its actual unloaded weight with the weight of its seating or loading capacity, as specified by the manufacturer, or fixed by the commission; or such seating or loading capacity shall be plainly marked or painted on said vehicle. The weight and capacity so appearing shall be prima facie evidence of their correctness.

Sec. 55. Dealer's registration; fees for plates; vehicles under dealers' registration not to be operated for hire; limitation of use of commercial vehicle so registered. 1921, c. 211, § 53. Every manufacturer or dealer in motor vehicles or trailers, may, instead of registering each vehicle owned or controlled by him, make application under oath upon a blank provided by the secretary for a general distinguishing number, color, or mark. The 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, color, or mark assigned to him and made in such form as the secretary may determine; and all vehicles owned or controlled by such manufacturer or dealer shall be regarded as registered under such general distinguishing number, color, or mark until sold, exchanged, or operated for hire. The annual fee for every such certificate of registration shall be thirty dollars. The secretary shall furnish the manufacturer or dealer with three pairs of registration number plates free of cost; and there may be issued to any such applicant two similar pairs of plates, in addition to the three pairs so issued, upon payment of ten dollars for each such additional pair; and upon payment of five dollars per pair, additional plates shall be furnished. Extra registration plates shall be furnished to replace lost or mutilated plates for seventy-five cents each. Single plates shall be furnished for trailers. On applications for registration, or for additional plates applied for by said manufacturers or dealers 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. No motor truck, tractor, or trailer registered under this section shall be used for other than demonstration or emergency purposes.

Sec. 56. Motor cycle dealers' registration; fee. 1921, c. 211, § 54. Every manufacturer or dealer in motor cycles shall annually pay a fee of fifteen dollars for a registration certificate to handle, demonstrate, sell and exchange motor cycles. The secretary shall furnish the manufacturer of, or dealer in, motor cycles with three sets of distinguishing plates free of cost, and additional sets for five dollars per set. For every plate in addition to the three originally furnished to the manufacturer or dealer in motor cycles, to replace lost or mutilated plates, fifty cents shall be charged.

Sec. 57. Dealers' registration fee to be paid before December thirty-first of preceding year; proviso; "dealer" defined. 1921, c. 211, § 55. 1927, c. 70. Every manufacturer or dealer in motor vehicles shall pay to the secretary the required registration fee for the succeeding year on or before the thirty-first day of December annually; provided, that any manufacturer or dealer commencing business after the first day of January of any year shall pay the fee at the time of commencing business. The word "dealer" as used in this chapter

shall mean any person, firm or corporation actively engaged in the business of buying, selling, or exchanging motor vehicles and having an established place of business for such purpose, or providing such person, firm or corporation has a bona fide contract for buying, selling or exchanging motor vehicles with any wholesale dealer in or manufacturer of motor vehicles.

Sec. 58. Special license for motor service station or repair shop for purpose of moving unregistered vehicles. 1921, c. 211, § 56. Any person engaged in the business of carrying on a motor vehicle service station or repair shop may make application under oath to the secretary for a special license to move and operate any unregistered motor vehicle or trailer, not his own, to and from any service station or repair shop for the purpose of making repairs or performing other labor on said vehicle, and delivering it to the owner. The secretary may grant the application if satisfied of the facts therein stated, and upon payment of a fee of ten dollars, issue to the applicant an annual license containing the name and business address of the licensee, together with one set of number plates of a distinguishing color or design. Such plates when conspicuously attached to each end of any such vehicle shall authorize its operation by any licensed operator of motor vehicles over ways and bridges for the purposes herein specified. After the first day of October one-half of such fee shall be charged.

Sec. 59. Dealers to notify secretary of sale or transfer of motor vehicles. 1921, c. 211, § 57. Whenever a manufacturer or dealer sells or exchanges a motor vehicle or trailer, he shall immediately notify the secretary that the vehicle has been sold or exchanged, giving a description of the vehicle, name of maker, name of make, if possible, horse power, and name and address of the vendee.

Sec. 60. Registration certificates and licenses terminate with calendar year. 1921, c. 211, § 58. All registrations of vehicles, all certificates of registration and number plates, and all licenses to operate motor vehicles shall terminate and become void at midnight on the thirty-first day of December of each year; and no person shall operate any motor vehicle on or after the first day of January of any year unless then duly licensed to operate such vehicle for such year.

Sec. 61. Registration certificate not transferable; vendor to notify secretary of transfer. 1921, c. 211, § 59. Upon the transfer of ownership of any motor vehicle or trailer, its registration shall expire and the person in whose name such vehicle or trailer is registered shall forthwith return the certificate of registration to the secretary with a written notice containing the date of the transfer of ownership and the name, place of residence, and address of the vendee and a description of the vehicle.

Sec. 62. Registration in same calendar year; fees and procedure; special certificate permitting use of same plates. 1921, c. 211, § 60. Whoever transfers the ownership or discontinues the use of a registered motor vehicle or trailer and applies to the secretary for registration of another motor vehicle or trailer in the same calendar year, shall be entitled to a certificate of registration permitting the use of the same number plates thereon upon payment of a fee of two dollars, provided the horse power or rating is the same as that of the former vehicle; but if the horse power or rating of the vehicle to be registered 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 or rating. Whoever exchanges or discontinues the use of a motor vehicle or trailer before the first day of August in any year and procures a certificate of registration, paying therefor a fee of two dollars, shall if the vehicle registered in its stead is of less horse power or rating than the former vehicle, be entitled to a rebate of one-half the difference between the registration fee of said former vehicle and

the registration fee for such vehicle received in exchange. Whoever transfers the ownership or discontinues the use of a motor cycle and applies for the 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 the number plate. The certificate issued for the registration of the former vehicle shall be returned to the secretary, who shall cause an endorsement to be stamped upon the original certificate and also upon the duplicate certificate upon file in his office, showing that the ownership of such vehicle has been transferred or its use discontinued and that the registration has been cancelled.

Operation.

Sec. 63. Secretary to promulgate rules and regulations relative to lights and adjustment of brakes; sale and use of certain lighting devices forbidden; other rules and regulations. 1921, c. 211, § 61. 1925, c. 144, § 6. The secretary shall prepare rules and regulations from time to time governing the adjustment, use, and operation of lights on vehicles and governing the sufficiency and adjustment of brakes; and may from time to time alter, rescind, or add to any rules and regulations previously made.

No person shall equip his vehicle with, use, or sell any lens, reflector, or lighting device designed for use on vehicles on public ways contrary to this chapter or contrary to such rules and regulations of the secretary. The rules and regulations of the secretary and any changes therein shall take effect when approved by the governor and council and published at least once in each daily newspaper in the state. The certificate of the secretary shall be received as prima facie evidence in any court of law to prove that such rules and regulations have been enacted as herein provided. The secretary may also make rules and regulations not inconsistent with this chapter or other laws of the state, found needful to administer the provisions of this chapter. Such rules and regulations shall be approved and published, and may be proved in court, as above provided.

Sec. 64. Speed limit in built up portions and in open country. 1921, c. 211, § 62. No motor vehicle shall be operated upon any way of this state at a rate of speed exceeding fifteen miles an hour within the compact or built-up portions of any city, town, or village. If the rate of speed of a motor vehicle operated upon any way of this state exceeds twenty-five miles per hour in the open country outside of the compact or built-up portions of any city, town, or village, such rate of speed shall be prima facie evidence that the person operating such vehicle is operating the same at a rate of speed greater than is reasonable and proper, and in violation of the provisions of this section, and the burden of proof shall be upon the person operating said motor vehicle to show that such rate of speed was not greater than was reasonable and proper as above set forth. Provided, however, that no motor vehicle shall be operated upon any way of this state at a rate of speed greater than thirty-five miles per hour under any circumstances or conditions, except under permit granted by municipal officers in accordance with the provisions of section sixty-six. 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 and 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 either the words "speed limit, fifteen miles," or the words and figures "speed limit, 15 miles," to be conspicuously displayed on sign boards along ways,

and such other signs as will clearly designate such compact or built-up portion. No municipal officer or other person shall erect or cause to be erected speed limit signs contrary to this section, and if any such signs now exist, municipal officers shall cause their removal.

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Sec. 65. Persons arrested to be given immediate trial; exceptions; bail; penalty for failure to appear. 1921, c. 211, § 63. 1925, c. 144, § 6. 1927, c. 161, § 3. Whoever is arrested for violation of any provisions of this chapter, except those of sections seventy-four, seventy-five, seventy-six, ninety-five and ninety-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 to do so, the officer making the arrest shall immediately take the prisoner before some bail commissioner, who before admitting him to bail, shall require him to give his name, his place of residence, the number of his license to operate a motor vehicle, and the registration number of the motor vehicle operated at the time of his arrest, and shall make a record thereof on the bail bond, and may take his personal recognizance for his appearance in court on a specified day, not less than two days thereafter if requested by the person arrested; or such officer in like cases may accept the personal recognizance of such person for his appearance as aforesaid. If such person fails to appear in court on the day specified, either in person or by counsel, the court shall notify the secretary, who shall immediately suspend or revoke his license, if licensed in this state, or suspend or revoke his right to operate motor vehicles in this state, if a non-resident and not licensed in this state, and also suspend or annul the registration of the motor vehicle driven by such person when arrested, if said motor vehicle is registered in this state.

Sec. 66. Rate of speed to be regulated by traffic; racing forbidden; intersecting ways, etc.; hill climbing contests. 1921, c. 211, § 64. 1927, c. 125. No person operating a motor vehicle on any way shall drive at any speed greater than is reasonable, safe, and proper, having regard to the traffic and use of the way by others, or so as to endanger life or limb. Racing and reckless driving on any way 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 in the built-up or compact portion of any city or town at a rate of speed exceeding fifteen miles per hour where the operator's view of the road traffic is obstructed either upon approaching an intersecting way or in traversing a crossing or intersection of ways, or in going around a corner or curve. Permits may be granted by municipal officers after a public hearing thereon to drive automobiles or motor cycles in hill climbing contests during a specified time upon a certain way at any rate of speed.

Sec. 67. When approaching frightened animal vehicles to be stopped if signal is made; passing animal or vehicle from rear. 1921, c. 211, § 65. Whoever, driving or operating a motor vehicle upon any way, when approaching from the opposite direction a person riding, driving, or leading a horse or other animal which appears to be frightened, is signalled 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.

Sec. 68. Adequate brakes; signalling device; unnecessary noise to be avoided. 1921, c. 211, § 66. Every motor vehicle shall be provided with adequate brakes in good working order and sufficient to control such vehicle at all times when

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the same is in use, and a suitable and adequate horn or other device for signalling. No signalling device shall be unnecessarily sounded in the thickly settled part of a city or town so as to make a harsh, objectionable, or unreasonable noise; except in the case of fire and police department vehicles and ambulances. All motor vehicles shall be equipped with a muffler of such construction and device as to prevent excessive noise. No person operating a motor vehicle shall at any time open the muffler cut-out, nor permit the exhaust to make any unnecessary noise.

Sec. 69. Speed controller or governor not to be tampered with. 1921, c. 211, § 67. No equipment in the nature of a speed controller or governor attached to a motor vehicle shall be removed therefrom or tampered with so that such vehicle may be operated at a greater rate of speed than is allowed by such equipment; nor shall any vehicle whose equipment is so tampered with or removed be operated on any way or bridge.

Sec. 70. Motor vehicles to be equipped with lights conforming to rules of secretary; to be lighted during certain periods; specifications; fire-trucks excepted. 1921, c. 211, § 68. 1923, c. 141. 1925, c. 144, § 6. 1927, c. 195. Every motor vehicle and tractor on wheels shall be equipped with lamps and lights as provided in this chapter, of sufficient power and so adjusted and operated as to enable its operator to proceed with safety to himself and to other users of the ways under all ordinary conditions of highway and weather. Said lamps and lights shall conform to and operate in accordance with the rules and regulations promulgated from time to time by the secretary, as provided in this chapter, and shall be lighted during the period from one-half hour after sunset to one-half hour before sunrise; except as provided in section seventy-one.

Every motor vehicle and tractor on wheels, other than a motorcycle, shall have mounted on the front thereof a pair of lamps, one on the right side and one on the left side, each of approximately equal candle-power; and every motorcycle shall have mounted on the front thereof one lamp. If any such vehicle is so mechanically constructed, governed, or controlled that it cannot exceed a speed of fifteen miles per hour, it shall have front lamps capable of furnishing light of sufficient candle-power to render any substantial object clearly discernible on a level way at least fifty feet directly ahead and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least twenty-five feet. If said vehicles can exceed a speed of fifteen miles per hour, then they shall have front lamps capable of furnishing light of sufficient candle-power to render any substantial object clearly discernible on a level way at least two hundred feet directly ahead and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least one hundred feet; provided that no front lamp capable of furnishing more than four candle-power light shall be used if equipped with a reflector, unless so designed, equipped, or mounted that no portion of the beam of light when projected seventy-five feet or more ahead of the lamps shall rise above a plane forty-two inches higher than and parallel with the level surface on which the vehicle stands; and provided, further, that, at no time, shall the top of any main beam of light be higher than the headlight centers; and provided, further, that no electric bulb or other lighting device of a greater capacity than thirty-two candle-power shall be used, no matter how the same may be shaded, covered, or obscured. For the purpose of enforcing the provisions of this section, it shall be deemed to be a violation of its provisions if a front light or front lights of a motor vehicle projects the top of any main beam, at a distance of twenty-five feet ahead of the motor vehicle, on an approximately level stretch of highway, onto the body of a person

or on a motor vehicle or any object, at a height greater than the distance of the centers of the front lights from the highway.

Every trailer, when operated at night shall carry at the front of its left side one lamp capable of throwing a white light visible from both sides of such vehicle; excepting, however, small two-wheel trailers of one thousand pounds capacity or less, towed closely behind a motor vehicle, whose overall length, including towing vehicle and load, does not exceed thirty feet.

Every such motor vehicle, tractor, and trailer shall have on the rear thereof, and to the left of the axis thereof, one lamp capable of displaying a red light visible for a distance of at least one hundred feet behind such vehicle; provided that when a vehicle is used in conjunction with another vehicle or vehicles, only the last of such vehicles shall be required to carry such lamp. Every such motor vehicle, tractor, and trailer shall carry a lamp illuminating with white light the rear registration plate of such vehicle so that the characters thereon shall be visible for a distance of at least fifty feet.

The provisions of this chapter governing the equipment or use of front lights on motor vehicles shall not apply to motor vehicles owned or controlled by municipalities or village corporations, and used for fire fighting purposes.

Sec. 71. Every vehicle on wheels to display lights; certain exceptions. 1921, c. 211, § 69. Every vehicle on wheels, whether stationary or in motion, on any way or bridge shall have attached to it a light or lights so displayed as to be visible from the front and rear thereof during the period from one-half hour after sunset to one-half hour before sunrise; provided, however, that this section shall not apply to any vehicle which is designed to be propelled by hand, nor to any vehicle not in motion and parked or beside a curb in a place and under conditions where there is sufficient artificial light to make such vehicle clearly visible from a distance not less than one hundred feet in each direction.

Sec. 72. Vehicles carrying objects extending five feet from rear to be equipped with danger signals both day and night; trailers to be securely fastened. 1921, c. 211, § 70. Every vehicle carrying objects which project more than five feet from the rear shall, during the period of one-half hour after sunset to one-half hour before sunrise, carry a red light at or near the rear end of the objects so projecting, and at all other times such vehicle shall carry a danger signal at or near the end of the object so projecting. Trailers having more than two wheels shall be connected to the towing vehicle or preceding trailer by at least one chain, in addition to the hitch bar, of sufficient strength to hold the trailer on a hill if the hitch bar becomes disconnected, or shall be provided with some other adequate holding device.

Sec. 73. Municipal officers may limit speed in dangerous places. 1921, c. 211, § 71. Municipal officers may designate places on any way 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 signs on each approach to such place not less than one hundred and fifty feet distant therefrom. No motor vehicle shall pass any place so designated at a greater speed than ten miles an hour.

Sec. 74. Penalty for reckless driving, going away without stopping after an accident; using motor vehicle without authority. 1921, c. 211, § 72. 1923, c. 14. 1925, c. 124. Whoever operates a motor vehicle upon any way recklessly, so that 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 goes away without stopping and making himself known after caus-

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ing injury to any person or property, or uses a motor vehicle without authority from its owner, shall be punished by a fine of not more than two hundred dollars, or by imprisonment for a term not exceeding three months, or by both fine and imprisonment; and if any person be convicted the second time for a violation of this section, he shall be punished by a fine of not less than two hundred dollars and not more than five hundred dollars, or by imprisonment for not more than eleven months, or both.

Sec. 75. Reckless driving or operating while under influence of drugs or intoxicating liquor to be reported to secretary; secretary to investigate and may suspend or revoke license or right to operate; conditions of restoration; license and right to operate suspended pending appeal. 1921, c. 211, § 73. 1925, c. 144, § 6. If any motor vehicle is so driven in a reckless manner or by a person apparently under the influence of intoxicating liquor or drugs, it shall be the duty of every officer who is charged with the enforcement of law and of every citizen, to forthwith report the same to the secretary, giving the register number of the vehicle, the state registering the same, and the name and residence of the operator or owner, if known. Upon receipt of such complaint the secretary shall forthwith investigate the case and may suspend or revoke the license of such operator, or, if a non-resident, his right to operate in this state, and annul the registration of any vehicle so operated, for such time as he shall deem advisable. No person whose license to operate a motor vehicle has been revoked upon conviction of violating sections seventy-four, seventy-five, and seventy-six of this chapter shall again be licensed or permitted to operate a motor vehicle in this state for three years; provided, however, that after one year if the secretary on petition and after hearing shall determine that public safety will not be endangered by issuing a new license or permit, with or without conditions attached thereto, a new license or permit may then be so issued. If any person convicted of any violation of the provisions of this chapter shall appeal from the judgment and sentence of the trial court, his license and right to operate a motor vehicle in this state shall be suspended during the time his appeal is pending in the appellate court, unless the trial court shall otherwise order, or unless the secretary, after a hearing, shall restore the license or permit pending decision on the appeal.

Sec. 76. Penalty for operating motor vehicle while under the influence of intoxicating liquor or drug. 1921, c. 211, § 74. 1925, c. 211. No person shall operate or attempt to operate a motor vehicle upon or along any way, bridge, public park, or parkway in this state, when intoxicated or at all under the influence of intoxicating liquor or drugs; and no person shall operate or attempt to operate a motor vehicle in any other place where the life or safety of any other person is endangered, when intoxicated or at all under the influence of intoxicating liquor or drugs. Whoever violates the foregoing provision shall be punished upon conviction by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment for not less than thirty days nor more than eleven months, or by both fine and imprisonment. The license of any person convicted of violating the provisions of this section shall be immediately revoked by the secretary upon receipt of an attested copy of the court records, without further hearing. Any person convicted of a second or subsequent offense shall be punished by imprisonment for not less than three nor more than eleven months, and his license to operate shall be revoked by the secretary.

Whoever shall operate or attempt to operate a motor vehicle upon or along any way, bridge, public park, or parkway in this state when intoxicated or at all under the influence of intoxicating liquor or drugs and whoever shall operate

or attempt to operate a motor vehicle in any other place when intoxicated or at all under the influence of intoxicating liquor or drugs, where the life or safety of any other person is endangered, when such offense is of a high and aggravated nature shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment of not less than sixty days nor more than two years or by both fine and imprisonment. The license of any person against whom probable cause is found and who is held under bail pending the action of the grand jury for the violation of the foregoing provision shall be suspended until the final disposition of the charge; and the license of any person convicted of violating the provision of this section shall be immediately revoked by the secretary upon receipt of an attested copy of the court records, without further hearing. Any person convicted of a second or subsequent offense shall be punished by imprisonment for not less than three months nor more than three years and his license to operate shall be revoked by the secretary. A copy of sections seventy-four, seventy-five, and seventy-six shall be printed on every operator's license.

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Sec. 77. Operating motor vehicle at grade crossings, caution to be observed; to stop if warning signal indicates approach of train. 1925, c. 168, § 1. Every person operating a motor vehicle upon passing any such sign which is located more than one hundred feet from a grade crossing shall upon reaching a distance of one hundred feet from the nearest rail of such crossing, forthwith reduce the speed of the vehicle to a reasonable and proper rate and shall proceed cautiously over the crossing. Wherever such crossing is protected by gates, by a flagman, or by automatic signal, every such motor vehicle operator, or person in control of such vehicle, if the gates are lowered or are being lowered, or if the action of the flagman or the operation of the automatic signal shall indicate that a train is approaching, shall bring such vehicle to a full stop at a distance of not less than ten feet from the nearest rail of the crossing and shall not proceed on or across the railroad track or tracks until the gates shall have been raised, or until the action of the flagman shall indicate that no train is approaching such crossing, or if the crossing is protected by automatic signal, until such driver has ascertained that no train is approaching. This provision shall be deemed to require a precaution in addition to the duties and precautions imposed by law on persons approaching or crossing a railroad grade crossing.

Sec. 78. Penalty for violation of § 77. 1925, c. 168, § 2. Whoever violates the provisions of the foregoing section shall, upon conviction, be punished as provided by section seventy-four; and in addition thereto his license to operate shall be suspended or revoked. The state highway police shall enforce the provisions of sections seventy-seven and seventy-eight, and an abstract thereof shall be delivered or mailed by the secretary of state with each operator's license.

Sec. 79. Proof of financial responsibility required from persons convicted of operating while intoxicated or of reckless driving; amount; registration suspended until proof furnished. 1927, c. 210, § 1. The secretary of state shall require from any person who shall have been convicted of a violation of the law relative to operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor or drugs or of a violation of the law relating to the operation of a motor vehicle upon any way recklessly, so that the lives or safety of the public are in danger, by reason of the operation of a motor vehicle, or from the person in whose name such motor vehicle is registered or from both, proof of financial responsibility to satisfy any claim for damages, by reason of personal injury to or the death of any person, of at least five thousand dollars.

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and for damage to property of at least one thousand dollars; and, if such person or persons shall fail to furnish such proof, said secretary of state may, until such proof shall be furnished, suspend the registration of such motor vehicle or refuse thereafter to register any motor vehicle owned by such person, or, if such person shall not be a resident of this state, withdraw from such person the privilege of operating any motor vehicle in this state and the privilege of operation within this state of any motor vehicle owned by him, or refuse to register any motor vehicle transferred by him if it shall not appear to said secretary of state's satisfaction that such transfer is a bona fide sale.

Sec. 80. Proof of responsibility to be satisfactory to secretary of state; how furnished; bond; a lien against real estate; cash deposit. 1927, c. 210, § 2. Such proof of financial responsibility shall be furnished as shall be satisfactory to said secretary of state and may be evidence of the insuring of such person against public liability in said amount and property damage in said amount, provided the policy of insurance shall be non-cancellable except after ten days' notice to the secretary of state; or such proof may be the bond of a surety company or a bond with individual surety owning real estate, which bond shall be conditioned for the payment of said amounts. Such bond shall constitute a lien in favor of the state upon the real estate of any such surety, which lien shall exist in favor of any holder of a judgment on account of damage caused by the operation of such person's motor vehicle, upon the filing of notice to that effect by the secretary of state, in the registry of deeds in the county where such real estate shall be located. Such proof of financial responsibility may also be evidence presented to the secretary of state of a deposit by such person with the state treasurer of a sum in money or collateral, the amount of which money or collateral shall be determined by and shall be satisfactory to said secretary of state. The treasurer of the state shall accept any such deposit and issue a receipt therefor, and, if such deposit shall be a sum in money, the state shall pay interest thereon if so directed by the secretary of state at a rate not greater than five per centum per annum. In case of a corporation subject to regulation by the public utilities commission the secretary of state may accept other proof of financial responsibility in lieu of the proofs hereinbefore enumerated. Additional evidence of financial responsibility shall be furnished the secretary of state at any time upon his request therefor.

Sec. 81. Bond or collateral to be held to satisfy judgments; for investigating surety's title to real estate. 1927, c. 210, § 3. Such bond, money, or collateral shall be held by the secretary of state or treasurer, as the case may be, to satisfy any execution issued against such person in any cause arising out of damage caused by the operation of any motor vehicle owned by such person. Such policy or bond shall be in such terms as the secretary of state shall deem adequate. A reasonable sum, not exceeding ten dollars, shall be charged for such investigation of the title of any surety's real estate or of collateral so deposited and of the value of the same and for the filing fee to be paid to the register of deeds.

Sec. 82. Operating record to be furnished insurance companies; fee. 1927, c. 210, § 4. Upon the request of any insurance company, any person furnishing any financial responsibility or any surety on any bond herein provided for the secretary of state shall furnish such company, person, or surety a certified abstract of the operating record of any person subject to the provisions of this chapter, and, if there shall be no record of any conviction of such person of a violation of any provision of any statute relating to the operation of motor vehicles or of any injury or damage caused by such person as herein provided, the secretary of state shall so certify. The secretary of state shall collect for each such certificate the sum of one dollar.

Sec. 83. Number plates to be returned to secretary on suspension of registration; penalty for failure. 1927, c. 210, § 5. Any registrant whose certificate of registration shall have been suspended as herein provided shall immediately return to the secretary of state his certificate of registration and the number plates issued thereunder. If any person shall fail to return to the secretary of state the certificate of registration and the number plates issued thereunder as provided herein, the secretary of state shall forthwith direct any state highway police officer to secure possession thereof and to return the same to the office of the secretary of state. Any person failing to return such certificate and number plates shall be fined not more than twenty-five dollars, and to the fine imposed the trial court shall add the expense of securing such registration and number plates. The amount of such fine and expense shall be paid to the state highway commission in the manner provided for the payment of fines for violation of the motor vehicle laws.

Sec. 84. Bond or insurance may be cancelled after three years from a conviction; condition. 1927, c. 210, § 6. The secretary of state may cancel such bond or return such evidence of insurance, or the treasurer may, with the consent of the secretary of state, return such money or collateral to the person furnishing the same, provided three years shall have elapsed since such deposit during which such person shall not have violated any provision of the motor vehicle laws and provided no right of action or judgment arising out of the operation of a motor vehicle shall then be outstanding against such person.

Sec. 85. Secretary to make regulations. 1927, c. 210, § 7. The secretary of state shall make rules and regulations necessary for the administration of the six preceding sections.

Sec. 86. Neutral zone; permitting operation of certain motor vehicles by resident of adjoining state living within 15 miles of border. 1921, c. 211, § 75. Any motor vehicle, except a truck, tractor, or trailer, used for commercial purposes as specified in section thirty-six, 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 highways 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. The secretary shall furnish, upon payment of two dollars, to every person whose motor vehicle is registered as aforesaid, a metal tag of such design and shape as the secretary may prescribe, 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, in addition to its register number plates. Application for registration under the provision of this section shall be verified by the oath of the applicant and shall be made upon blanks furnished by the secretary. 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, together with a brief description of the motor vehicle, which shall include the maker's number and the registration number which has been assigned to it in the state of the owner's residence. The secretary, upon granting the application, shall register in a book or upon suitable index cards to be kept for that purpose, the motor vehicle described in the application and thereupon shall issue to the applicant

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a certificate of registration, which shall contain such facts and which shall be in such form as the secretary may determine. Every registration under the provisions of this section shall expire with each calendar year.

Sec. 87. Secretary to publish abstract of laws. 1921, c. 211, § 76. 1923, c. 10. The secretary shall publish an abstract of statutes pertaining to motor vehicles and the law of the road and rules and regulations made by the commission pertaining to the administration of its duties and the duties of the secretary under this chapter, together with such other information as he deems helpful to public safety and the better regulation of traffic.

Sec. 88. Reservation of plates and numbers. 1921, c. 211, § 77. 1927, c. 14. Whenever the owner has once registered a motor vehicle, under the provisions of this chapter, the secretary shall, at the request of such owner, allow him to keep and use the same number plates for the entire calendar year for which the plates were issued, provided he complies with the other provisions of the motor vehicle law. The secretary shall reserve until December first of each year the same registration number for the succeeding year for persons having registration numbers two to five thousand for pleasure vehicles, and numbers one to five hundred for commercial vehicles, if such person shall, previous to the first day of December of the current year, pay for the registration of his vehicle for the succeeding year and otherwise comply with the provisions of the motor vehicle law.

Sec. 89. Inspectors and police officers in uniform may stop motor vehicles for examination; may examine stationary vehicles. 1921, c. 211, § 78. 1925, c. 144, § 6. The inspectors of the state highway police, when in uniform, and all police officers in uniform may at all times, with or without process, stop any motor vehicle to examine identification numbers and marks thereon, raising the hood or engine cover if necessary to accomplish this purpose, and may demand and inspect the driver's license, registration certificate, and permits. Whenever a motor vehicle is being operated by a person not having upon his person or in such vehicle the registration certificate covering such vehicle, or if it be operated by a person other than the person in whose name it is registered, and such operator is unable to present evidence of his authority to operate such motor vehicle, such inspector or police officer, or any sheriff or his deputy, may impound such vehicle and hold it until the same is claimed and taken by the registered owner thereof, who shall be forthwith notified of the impounding. Said officers if wearing a badge may also at all times, with or without process, and with or without uniform, enter public garages, parking places, and buildings where motor vehicles are stored or kept, for the purpose of examining identification numbers and marks thereon and may also examine any vehicle standing in any public way or place.

Any such officer may in like manner and under like circumstances examine any vehicle to ascertain whether its equipment complies with the requirements of this chapter.

Sec. 90. Reports of thefts of motor vehicles made to secretary to be recorded; to make a report to other states. 1921, c. 211, § 79. Whenever the secretary shall receive report of the theft of a motor vehicle, whether the same be registered or not, and whether owned in this or any other state, together with a description of the same, he shall make a distinctive record thereof and cause the same to be properly filed, and shall promptly report by mail or otherwise the theft of said vehicle to the motor vehicle commissioner or departments of such states of the United States and provinces of the Dominion of Canada as he deems needful, giving a complete description of the vehicle, including the name and post office address of the person reporting the theft.

Sec. 91. In case motor vehicle is recovered owner to notify secretary who shall in turn notify other states. 1921, c. 211, § 80. Whenever the owner of a vehicle previously reported as stolen shall recover it, he shall notify the secretary that the vehicle has been recovered, and the secretary shall remove or cancel his record of theft and notify each of said foreign motor vehicle departments of such recovery.

Sec. 92. Procedure when application for registration of motor vehicle reported stolen is received. 1921, c. 211, § 81. Whenever the secretary shall receive an application for registration of a vehicle previously reported as stolen, he shall notify the owner of such vehicle as shown by the records of his office; and unless registration has already been issued, he may withhold registration until further investigation.

Sec. 93. When registration has been annulled, vehicle not to be operated; person whose license has been revoked or suspended not to operate motor vehicle; number plates not transferable; plates to be properly displayed. 1921, c. 211, § 82. No person shall operate a motor vehicle after his license to operate has been suspended or revoked, or operate or permit any other person to operate a vehicle while the certificate of registration of such vehicle is suspended or after it has been terminated or cancelled, or attach or permit to be attached to a vehicle a number plate assigned to another vehicle, or obscure or permit to be obscured the figures of any number plate attached to any vehicle, or fail to properly display on a vehicle the number plates and registration number duly issued therefor.

Sec. 94. Registration plates to be surrendered on demand of secretary; penalty taking registration plates without right. 1921, c. 211, § 83. All registration number plates, issued by the secretary, shall continue to be the property of the state, and the person to whom the same are issued shall surrender the same, on demand of the secretary, whenever his registration certificate is suspended or revoked. Whoever steals, takes, or carries away any register number plate from any person entitled to its possession shall be liable to the penalty provided in section one hundred six.

Sec. 95. Penalty for deception or false statements on application for license or registration. 1921, c. 211, § 84. Whoever shall deceive or substitute, or cause another to deceive or substitute in connection with any examination required hereunder, or shall knowingly make use of any registration certificate, number plate, or operator's license or badge issued upon an application containing any material false statement of fact shall be liable to the penalty provided in section one hundred six; and every such certificate, license plate, or badge shall be void from the date of its issue, and shall be surrendered to the secretary upon demand, and any moneys paid for the same shall be forfeited to the state.

Sec. 96. Truck, tractor, or trailer with a load more than 20 per cent greater than specified in application not to be operated on highway. 1921, c. 211, § 85. No person shall operate or cause to be operated any truck, tractor, or trailer with a load that is more than twenty per cent above that specified in the registration certificate issued for such vehicle.

Sec. 97. Penalty for refusing to give name to officer when requested. 1921, c. 211, § 86. Whoever while operating a vehicle not lighted or equipped as required by any of the provisions of this chapter shall fail or refuse when requested by an officer authorized to make arrests to give his correct name and address shall be liable to the penalty provided in section one hundred six.

Sec. 98. Penalty for selling or having in possession motor vehicle from which identification marks have been removed. 1921, c. 211, § 87. Whoever know-

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ingly buys, sells, receives, disposes of, aids in the disposal of, conceals, or has in his possession any motor vehicle from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed for the purpose of concealment or misrepresenting the identity of said vehicle shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Sec. 99. Mirror must be attached to motor vehicles which are so constructed or loaded that operator does not have a clear view to rear. 1921, c. 211, § 88. No person shall operate upon any public way any taxicab, commercial motor vehicle, motor truck, or trailer so constructed, equipped, loaded, or used that the driver or operator is prevented from having a constantly free and unobstructed view of the highway immediately in the rear, unless there is attached to the vehicle a mirror or reflector so placed and adjusted as to afford the operator a clear, reflected view of the highway in the rear of the vehicle, for a distance of at least fifty feet. Such mirror or reflector shall measure at least six inches in diameter or length.

Sec. 100. Regulation of spot lights. 1921, c. 211, § 89. There shall not be used on or in connection with any motor vehicle a spot light, so-called, the rays from which shine more than two feet above the road at a distance of thirty feet from the vehicle, except that such spot light may be used for the purpose of reading signs, and as an auxiliary light in cases of necessity when the other lights required by law fail to operate.

Sec. 101. Use of highways by vehicles authorized unless specifically prohibited. 1921, c. 211, § 90. Subject to the provisions of the several sections of this chapter, vehicles of every kind or description may be operated on the ways of this state unless prohibited or restricted by special law or town ordinance duly authorized by legislative act prohibiting or restricting the use of motor vehicles in certain towns, or by the rules, orders, and regulations promulgated by the commission under authority of this chapter.

Administration.

Sec. 102. Assessors to make return to secretary of state of all vehicles in their municipality. 1921, c. 211, § 91. Assessors of cities, towns, and plantations shall annually, on or before the first day of June, make return to the secretary of all persons owning vehicles subject to registration as appears on their assessment books.

Sec. 103. Disposition of motor vehicle fees. 1921, c. 211, § 92. 1927, c. 122. All fees and moneys received by the secretary under the preceding sections shall be turned over to the treasurer of state as provided in section twenty-eight and shall be appropriated and used for the administration of the office and duties of the commission as provided by general law, including the expenses of administering the motor vehicle department and the licensing of operators and registration of vehicles, and for the repair and maintenance of state and state aid highways under the direction of the commission, and to meet all provisions of the bond issues for highway construction as heretofore provided by statute.

See c. 28, § 40.

Sec. 104. Court jurisdiction of violations; transmission of fines. 1921, c. 211, § 93. 1925, c. 98. Municipal and police courts and trial justices in their respective counties shall have concurrent jurisdiction with the supreme judicial and superior courts over all prosecutions for all violations of the provisions of this chapter. All fines and forfeitures collected under this chapter shall be paid (1) to the commission and applied as provided in section one hundred three

hereof, together with any part of the costs taxed by the court for a state highway police or inspector, when the prosecution or arrest is made by such police, or inspector, but (2) into the treasury of the county where the offense is prosecuted, when the prosecution or arrest is made by any other officer.

Sec. 105. Unconstitutionality of any part not to affect chapter as a whole. 1921, c. 211, § 94. In case any section or provision of this chapter shall be questioned in any court and shall be held to be unconstitutional or invalid, the same shall not be held to affect any other provision or section of this chapter.

Sec. 106. General penalty for violation where specific penalty is not provided. 1921, c. 211, § 95. Whoever violates or fails to comply with the provisions of any section of this chapter, or any rules or regulations established thereunder, except when such section therein specifies the penalty, shall be subject to a fine not exceeding one hundred dollars or to imprisonment not exceeding ninety days, or both.

115 Me. 134.

Sec. 107. Certificates, licenses, etc. of secretary and orders, rules, etc. of all officers to remain in force unless suspended or altered by appropriate officials created under this chapter. 1921, c. 211, § 96. All lawful registrations, licenses, orders and acts of the secretary of state and of the public utilities commission existing when chapter two hundred eleven of the public laws of nineteen hundred twenty-one took effect, shall be and remain effective for the full term for which they were granted or made, and shall be considered of the same legal force and effect and duration as if granted or made under the provisions of this chapter; subject, however, to suspension, revocation, change or repeal by the appropriate officials created or existing under authority of this chapter, for any violation of law.

Sec. 108. Secretary authorized to destroy records more than five years old. 1921, c. 211, § 97. The secretary of state is hereby authorized to remove and destroy all records and papers in his office pertaining to the registration of motor vehicles and the issuance of operators' licenses which are more than five years old and are not now in use, and which in his judgment are no longer of value.

State Highway Police.

Sec. 109. State highway police and members of force; appointment; tenure. 1925, c. 144, § 1. The governor, with the advice and consent of the council, shall appoint a chief of the state highway police, to serve during their pleasure. The chief shall be the executive head of the state highway police and shall execute the duties of his office under the direction and subject to the approval of the governor and council. The governor, with the advice and consent of the council, upon recommendation of the chief of the state highway police, may appoint suitable persons as members of the state highway police to enforce the provisions of this chapter, who shall hold office during the pleasure of said chief. Subject to the approval of the governor and council, the chief may designate a member of the state highway police to act as his deputy.

Sec. 110. Powers and duties; duty of other officers to cooperate. 1925, c. 144, § 2. The specific duties of the state highway police shall be to patrol the state highways and other important ways, especially outside the compact portion of cities and towns, for the purpose of enforcing the provisions of this chapter and all laws relating to motor driven and horse drawn vehicles and all rules and regulations in regard thereto, and of arresting all violators thereof and prosecuting all offenders against the same. The chief and members of the state highway police shall have the same power to serve criminal processes against such

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offenders as sheriffs and also the same power as sheriffs have to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the state until a legal warrant can be obtained. They shall immediately report by telephone or other expeditious means to the proper authorities all information and complaints by them received concerning the commission of any crime, and shall have the same rights as sheriffs to require aid in executing the duties of their office. They may serve any subpoenas, notices and processes issued by the secretary of state or the state highway commission under authority of this chapter. They shall also at all times be subject to the call of the governor for emergency purposes at his discretion.

The state highway police, sheriffs and deputy sheriffs, constables, city marshals and deputy marshals and police officers of cities and towns shall so far as possible cooperate in the detection of crime, the arrest and prosecution of criminals, and the preservation of law and order throughout the state.

Sec. 111. Uniform and equipment, when worn; to hold no other office. 1925, c. 144, § 3. Members of the state highway police shall be provided at the expense of the state with a distinctive uniform and badge, and with suitable equipment, including motorcycles for use when requisite to the performance of their official duties, all of which shall remain the property of the state. When on duty to enforce the laws of the road, and at such other times as the chief may require, state highway policemen shall be in uniform. They shall hold no other office during their term of service.

Sec. 112. May be assigned duty as inspectors; duties of inspectors. 1925, c. 144, § 4. Members of the state highway police may be designated and assigned to special duty as inspectors to enforce the laws, rules and regulations relating to the registration of motor vehicles and the licensing of operators of motor vehicles; but assignment to special duty shall not affect their powers as state highway police. Such inspectors shall cooperate with and assist the secretary of state in the collection of fees and penalties due the state under the laws relating to the registration of motor vehicles and the licensing of operators of such vehicles. They shall also aid the state highway commission in the enforcement of its rules and orders and permits pertaining to the use of highways.

Sec. 113. Salary and compensation determined by governor and council; to be sworn and give bond; not to receive fees as witnesses or complainants; fees taxed to be transmitted to state. 1925, c. 144, § 5. The governor and council shall determine the salary of the chief and the compensation of the other members of the state highway police. Before entering upon the duties of their office they shall be sworn and shall give bond to the treasurer of state with surety, or sureties approved by the treasurer of state conditioned for the faithful performance of the duties of their office, as follows: the chief shall give bond in the sum of five thousand dollars and each of the other members in the sum of two thousand dollars. No inspector or member of the state highway police shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, but shall be reimbursed by the state for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court in any proceeding in which a member of the state highway police is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner. He shall receipt for same when paid and immediately transmit it to the chief, who shall pay forthwith the same to the treasurer of state.

Sec. 114. Certain proceedings pending before highway commission to be heard and decided by the secretary of state; rules, orders, and decisions continued

in form; further powers of secretary and deputy. 1925, c. 144, § 6. All proceedings pending before the state highway commission and which were transferred to the secretary of state by chapter one hundred forty-four, section six, of the public laws of nineteen hundred twenty-five shall be reheard or decided by the secretary of state as justice may require. All rules, orders, and decisions of the state highway commission made in such matters and heretofore continued in force shall continue until modified or revised by the secretary of state. In the absence of the secretary of state, his deputy may act in any matter. The secretary of state shall have custody and control of all dockets, papers and records of the state highway commission pertaining to said rules and the suspension or revocation of said licenses and registrations.

Sec. 115. Maintenance of state highway police provided for. 1925, c. 144, § 7. Payment of the expense of maintenance of the state highway police shall be made as heretofore provided; but shall not exceed one hundred and twenty-five thousand dollars for each year.

CHAPTER 30.

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. 27, § 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. 27, § 2. 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. 27, § 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

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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. 27, § 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. 93, § 16.

Sec. 5. Steam or horse ferry. R. S. c. 27, § 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.

121 Me. 109.

Sec. 6. Keeping a ferry, or conveying passengers or property, contrary to law; penalty. R. S. c. 27, § 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; 121 Me. 109.

Sec. 7. Ice to be leveled and way kept in repair in winter. R. S. c. 27, § 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. 27, § 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. 27, § 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. 27, § 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. Obstruction to ferries, prohibited; penalty. R. S. c. 27, § 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. 27, § 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.

Sec. 13. Somerset commissioners, jurisdiction. R. S. c. 27, § 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. 63, § 8; for disorderly conduct §§ 70, 71.

Note. Fares between Peaks Island and Portland, established. 1927, c. 222.

Toll-Bridges.

Sec. 14. Free passage over toll-bridges. R. S. c. 27, § 14. 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 toll-gather. R. S. c. 27, § 15. 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. 27, § 16. 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. 27, § 17. 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. 27, § 18. 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-gate or attempting to pass without paying toll; penalty. R. S. c. 27, § 19. 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. 27, § 20. Every toll-bridge, if in whole or in part covered, shall be suitably lighted with not less than

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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. 27, § 21. 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. 27, § 22. 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-seven.

See c. 27, § 8.

Sec. 23. Owners of ferries and bridges may take land for tollhouses. R. S. c. 27, § 23. 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. R. S. c. 27, § 24. 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 to be set aside. R. S. c. 27, § 25. 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 bonds or other indebtedness incurred by the county for damages or expenses in taking said bridge.

Sec. 26. Apportionment of damages. R. S. c. 27, § 26. 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. R. S. c. 27, § 27. 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-seven, 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.

Kennebec Bridge to be operated as toll bridge (except for foot passengers) until 45 per cent of bond issue paid; tolls to be fixed by Public Utilities Commission. P. & S. L. 1925, c. 89, § 6.

CHAPTER 31.

Fences. Drainage of Salt Marshes.

Sections 1-16 Fences.

Sections 17-19 Ditches on Salt Marshes.

Sections 20-48 Improvement of Marshes, Meadows and Swamps.

Fences.

Sec. 1. Legal fences. R. S. c. 28, § 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. 26, §§ 5, 8.

*82 Me. 126; *98 Me. 513; 112 Me. 342.

Sec. 2. Maintenance. R. S. c. 28, § 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. 28, § 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 occu-

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pant, 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. 28, § 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. 28, § 5. When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, two or more fence-viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each his share thereof, and limit the time in which each shall build or repair his part of the fence, not exceeding thirty days. Such assignment and all other assignments of proprietors of partition fences herein provided for, recorded in the town clerk's office, shall be binding upon the parties, and they shall thereafter maintain their part of said fence. If such fence has been built and maintained by the parties in unequal proportions, and the fence-viewers adjudge it to be good and sufficient, they may, after notice as aforesaid, in writing under their hands, award to the party who built and maintained the larger portion, the value of such excess, to be recovered in an action on the case against the other party, if not paid within six months after demand. Parties to assignments under the provisions hereof shall pay the fees of the fence-viewers certified under their hands, in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence-viewers may pay the same and recover 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 to build part assigned; if not, remedy for either party. R. S. c. 28, § 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. 28, § 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. 28, § 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. 28, § 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. 28, § 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. 28, § 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. 28, § 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. 28, § 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

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support their respective portions of fence under such agreement, until otherwise ordered by the fence-viewers on application to them by either party. And when a party has constructed his part of a fence in pursuance of a parol or written agreement or assignment of fence-viewers, no assignment shall thereafter be made by fence-viewers depriving him of the full value of such fence or any part thereof.

60 Me. 560.

Sec. 14. Foregoing provisions not applicable to house-lots, nor to agreements.

R. S. c. 28, § 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. 28, § 15.** 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. 28, § 16. 1921, c. 27.** Each fence-viewer shall be paid by the person employing him, at the rate of three 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. 28, § 17.** 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. 28, § 18.** 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. 28, § 19.** When a ditch between improved lands of different owners is divided by fence-viewers or by the written agreement of the parties recorded in the town clerk's office where the land lies,

the owners shall make and maintain it accordingly; but if any person lays his lands common, determines not to improve any part of them adjoining such ditch, and gives six months' notice to all occupants of adjoining lands, he shall not be required to maintain such ditch while his lands so lie common and unimproved.

Improvement of Marshes, Meadows and Swamps.

Sec. 20. Improvement of lands owned by several proprietors. R. S. c. 28, § 20. 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. 28, § 21. 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. 28, § 22. 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 to make improvements. R. S. c. 28, § 23. 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. 28, § 24. 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. 28, § 25. They shall apportion the whole charge and expense of the improvements and of executing the commission among the proprietors of the lands, having regard to the quantity, quality, and situation of each proprietor's part thereof, and the benefit that he will derive from the improvements, and shall assess the same upon the proprietors.

Sec. 26. Collector may be appointed; duties and powers. R. S. c. 28, § 26. 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. 14, §§ 1-64.

Sec. 27. Liability of collectors. R. S. c. 28, § 27. If the collector neglects for twenty days after being thereto required by the commissioners, to account

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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. 28, § 28. 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. 28, § 29. 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. 28, § 30. 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. 28, § 31. 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 floodgates, and build temporary dams. R. S. c. 28, § 32. 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. 28, § 33. 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. 28, § 34. 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. 28, § 35. 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. 28, § 36. The commissioners, before proceeding to open floodgates, 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. 28, § 37. 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. 28, § 38. 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. 28, § 39. 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.

Sec. 40. Meetings, how called. R. S. c. 28, § 40. 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. 28, § 41. 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. 28, § 42. 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. 28, § 43. 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

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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. 28, § 44. 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. 28, § 45. 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. 28, § 46. 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. 28, § 47. 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. 28, § 48. 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 32.

Paupers, Their Settlement and Support.

Sec. 1. Settlements, how acquired. R. S. c. 29, § 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 of 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; *117 Me. 124; 122 Me. 269; *303; 126 Me. 433.

III. Children, legitimate or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth, but when the parents of such children born after March twenty-four, eighteen hundred and sixty-four, intermarry, they are deemed legitimate and have the settlement of the father.

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; 118 Me. 293; 126 Me. 433.

See c. 29, § 1.

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

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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, 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; 117 Me. 134.

See c. 155, § 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. 29, § 2. To constitute pauper supplies, they must be applied for in case of adult persons of sound mind, by such persons themselves, or by some person by them duly authorized; or such supplies must be received by such persons, or by some person authorized by them, with a full knowledge that they are such supplies; and all care, whether medical or otherwise, furnished to said persons is subject to the same rule.

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. 29, § 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; 106 Me. 240; 107 Me. 176; 111 Me. 371.

Sec. 4. Towns relieving persons, who lose settlement under sec. 3, reimbursed by state. R. S. c. 29, § 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. 29, § 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 National Home at Togus. R. S. c. 29, § 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. 8, § 81; 95 Me. 56.

Sec. 7. Towns relieving former inmates, to be reimbursed by state. R. S. c. 29, § 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. 29, § 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, sailors, and marines in the war of 1861, the War with Spain, and World War, who received honorable discharge, not to be considered paupers; families to be supported in place other than poorhouse; penalty. R. S. c. 29, § 9. 1917, c. 202. 1921, c. 106. No soldier, sailor, or marine who served in the army, navy, or marine corps of the United States, in the war of eighteen hundred and sixty-one, in the war with Spain, or in the World War; and who has received an honorable discharge from said service, 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, sailor, or marine 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, sailor, or marine, or his family. The word "family" here used shall be held to include the soldier, sailor, or marine, 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 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, sailor, or marine and his family in the town of his settlement as herein provided.

Sec. 10. Revision of laws does not affect settlement. R. S. c. 29, § 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. 29, § 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. 5, §§ 12, 77; *83 Me. 221; 91 Me. 21; *105 Me. 138.

Sec. 12. Overseers' duties. R. S. c. 29, § 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. 72, § 57; see c. 157, § 8; *64 Me. 415; *70 Me. 115; 93 Me. 184; 115 Me. 525.

Sec. 13. When overseers of poor are to be designated by governor to take charge of local immigration. R. S. c. 29, § 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. 29, § 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. Towns, or two or more towns, may unite in maintaining home of poor and infirm; may acquire land, buildings, and equipment by purchase, lease, or otherwise. R. S. c. 29, § 15. 1927, c. 22. Towns, or two or more towns, in the state, by vote thereof, at an annual, or special town meeting called for that purpose by an appropriate article in the warrant, may acquire by purchase, lease, or otherwise, land and buildings together with household furniture, farming tools, implements, and equipment, and live stock, for the purpose of suitably, efficiently, and humanely caring for the poor and infirm within their respective territorial limits, 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 homes used for such dependents may be used as homes for dependents in towns making such union, when they so agree.

Sec. 16. Paupers may be removed to union farm. R. S. c. 29, § 16. 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. 29, § 17. 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. 157, §§ 7, 8.

Sec. 18. Kindred liable. R. S. c. 29, § 18. 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. 153, § 15; c. 155, § 29; 23 Me. 420; *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. 29, § 19. 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 warrant of distress. Such assessment shall not be made to pay any expense for relief afforded more than six months before the complaint was filed.

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. 29, § 20. 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. 94, §§ 17, 18; 85 Me. 282.

Sec. 21. Assessment for future support; court may order with whom pauper is to live. R. S. c. 29, § 21. 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. 29, § 22. 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. 29, § 23. 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. 153, §§ 1, 6; 93 Me. 184.

Sec. 24. Person bound may complain to court. R. S. c. 29, § 24. 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. Relief of paupers in unincorporated places; state paupers. R. S. c.

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29, § 25. 1925, c. 153. 1927, c. 104. 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. The governor and council may, in their discretion, make such other arrangements as they may deem advisable for the care and support of paupers and other dependent persons having no settlement within the state. They may acquire property adjoining any state institution and erect suitable houses thereon, or may erect such houses on land owned by the state, for the occupancy of such persons, and may order such persons placed therein and cared for and employed in or at such institution or elsewhere under the direction of the superintendent of any such institution, and the expense of acquiring such property or erecting such houses shall be paid from the appropriation for support of paupers and other dependent persons having no settlement within the state. Whenever such persons are so employed elsewhere than in or at such institution, said superintendent shall contract for the payment of wages for such employment which shall be collected by him, paid into the state treasury, and credited to said appropriation for support of paupers and other dependent persons having no settlement within the state and used, under the direction of the governor and council, for the support of the families of such persons.

Sec. 26. Towns relieving persons removing from unincorporated place, to be reimbursed by state. R. S. c. 29, § 26. 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. 29, § 27. 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 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 to reimburse for relief furnished persons having no legal settlement. R. S. c. 29, § 28. 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 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. R. S. c. 29, § 29. 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. 29, § 30. Plantations having a population of two hundred or more and a valuation of at least one hundred thousand dollars shall hereafter support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the state.

Sec. 31. Persons needing relief in certain plantations, under care of assessors; state paupers not affected. R. S. c. 29, § 31. Persons found in plantations having a population of more than two hundred, to be determined by the returns of the county commissioners, as provided by section one hundred ninety-one of chapter five, 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. 29, § 32. 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.

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S. c. 29, § 33. 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; *116 Me. 423; 123 Me. 82.

Sec. 34. Recovery, effect of. R. S. c. 29, § 34. A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering, in any future action brought for the support of the same pauper.

33 Me. 181, 354; 53 Me. 130.

Sec. 35. Overseers' notice and request to town liable. R. S. c. 29, § 35. 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. 153, § 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; *126 Me. 489.

Sec. 36. Answer to be returned within two months. R. S. c. 29, § 36. 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. 29, § 37. 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. 29, § 38. 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 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. 29, § 39.** 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. 29, § 40.** 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. 29, § 41.** 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. 29, § 42.** 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. 153, §§ 7-16.

Sec. 43. Towns may recover of paupers. **R. S. c. 29, § 43.** 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; 115 Me. 525.

Sec. 44. Overseers to take possession of property of paupers deceased. **R. S. c. 29, § 44.** A town which has incurred expense for the support of a pauper, whether he has a settlement in that town or not, may recover it of him, his executors or administrators, in an action of assumpsit.

186 Mass. 341; 4 Me. 262; *22 Me. 448; 41 Me. 600; 66 Me. 62; *78 Me. 217; 94 Me. 474.

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Sec. 45. May prosecute and defend. R. S. c. 29, § 45. 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. 29, § 46. 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. 29, § 47. 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. 5, §§ 68-70. Duties of overseers of poor as to notice in case of paupers committed to house of correction, c. 153, § 13.

Aid furnished to neglected children does not make them paupers, c. 72, § 55.

Aid furnished to mothers with dependent children, same, c. 161, § 2.

Aid furnished to dependents of soldiers and sailors, same, c. 159, § 6.

Aliens admitted or committed to public institutions; records to be furnished U. S. immigration officer. c. 33, § 1.

CHAPTER 33.

Aliens.

Sec. 1. Commitment of all aliens to institutions supported wholly or in part by public funds to be reported to United States immigration officer. 1927, c. 1, § 1. Whenever any person shall be admitted or committed to the state penitentiary, the state reformatory, the county jail, or any other state, county, city, or private institution which is supported wholly or in part by public funds, it shall be the duty of the warden, superintendent, sheriff, or other officer in charge of such institution to inquire at once into the nationality of such person, and if it shall appear that such person is an alien, to notify immediately the United States immigration officer in charge of the district in which such penitentiary, reformatory, jail, or other institution is located, of the date of and the reason for such alien's admission or commitment, the length of time for which admitted or committed, the country of which he is a citizen, and the date on which and the port at which he last entered the United States.

Sec. 2. Certified copies of records to be furnished immigration officers. 1927, c. 1, § 2. Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien to any state, county, or private institution which is supported wholly or in part by public funds, it shall be the duty of the clerk of such court to furnish without charge a certified copy of the complaint, information, or indictment and the judgment and sentence and any other record pertaining to the case of the convicted alien.

Sec. 3. Subjects of foreign countries at war with United States to register; governor to issue proclamation; duty of hotel managers, etc.; penalty for violation. 1917, c. 112. Whenever between the United States of America and any foreign country a state of war shall exist or shall be imminent, the governor may by proclamation direct and require every subject or citizen of such foreign country within this state to appear within twenty-four hours after such proclamation and from time to time thereafter within twenty-four hours after his arrival in this state before such public authorities as the governor may in such proclamation direct, and then and there such subject or citizen of such foreign country shall personally register his name, residence, business, length of stay, and such information as the governor may from time to time in such proclamations prescribe. The person in control, whether owner, lessee, manager, or proprietor, of each hotel, inn, boarding house, rooming house, building, and private residence shall within twenty-four hours after such proclamation notify such public authorities of the presence therein of every such subject or citizen of such foreign country, and shall each day thereafter notify such public authorities of the arrival thereat and departure therefrom of every such subject or citizen. A failure to comply with all the requirements of any such proclamation or to do or perform any of the acts herein provided shall be a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not exceeding one year or both.

CHAPTER 34.

Enginemen, 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. Fire engines and apparatus; management by towns, corporations, and individuals; employment and compensation of men. R. S. c. 30, § 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 enginemen 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. Engineers and officers to have powers and duties of fire wards; towns responsible for their acts. R. S. c. 30, § 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 enginemen, so employed, have all the powers and privileges, and are subject to all the duties and liabilities of enginemen, as prescribed in this chapter.

Sec. 3. Enginemen excused from serving as jurors; tenure of office; to meet and elect officers; established rules and regulations. R. S. c. 30, § 3. Such enginemen shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as are approved by said municipal officers and not repugnant to law, and affix penalties to be recovered by their clerk, not exceeding six dollars for any one offense.

Sec. 4. Duty of engine companies. R. S. c. 30, § 4. Companies of enginemen 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. 30, § 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; penalty for omitting to notify acceptance. **R. S. c. 30, § 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. 30, § 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. 30, § 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 same powers as fire wards. **R. S. c. 30, § 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. 30, § 10.** If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town, in a special action on the case.

Sec. 11. Plundering at fires declared larceny. **R. S. c. 30, § 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. 131, § 3.

Note. Penalty for giving false alarms of fire, c. 139, § 29; by telephone, c. 129, § 22.

Prevention of Fires.

Sec. 12. Certain occupations in maritime towns regulated; penalty. **R. S. c. 30, § 12.** No person shall occupy any tenement in a maritime town for sail-

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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; penalty. R. S. c. 30, § 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; 123 Me. 197.

Sec. 14. Penalty for lighting or smoking pipe or cigar in mills, shipyards, etc., contrary to notice. R. S. c. 30, § 14. No person shall enter any mill, mill-yard, 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. 30, § 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. 30, § 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. 30, § 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; 123 Me. 197.

Sec. 18. Lumber drivers may kindle necessary fires. R. S. c. 30, § 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. 30, § 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, explo-

sive oils, and other dangerous substances; penalty. R. S. c. 30, § 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 libelled according to law.

See c. 26, § 11; c. 48, § 27; 102 Me. 286.

Sec. 21. Recovery of damages by sufferers by explosion. R. S. c. 30, § 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. 30, § 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. 30, § 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. 30, § 24. Penalties provided in the preceding sections may be recovered by complaint, indictment, or action of debt, half to the town where the offense is committed, and half to the prosecutor.

Inspection of Buildings.

Sec. 25. Inspector of buildings; election; qualification; compensation; jurisdiction; deputy. R. S. c. 30, § 25. 1917, c. 78. 1921, c. 122. In every town and city of more than two thousand inhabitants, and in every town of two thousand inhabitants or less, if such a town shall so vote at an annual town meeting, the municipal officers shall annually in the month of April elect 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. Whenever the inspector of buildings shall become incapacitated, the municipal officers may appoint or authorize the inspector of buildings to appoint a deputy inspector of buildings who shall serve until removed by the municipal officers, but in no event beyond the term for which the inspector of buildings was appointed. Such deputy inspector shall perform such duties as may be required of him by the inspector. His compensation shall be determined by the municipal officers.

117 Me. 17; 120 Me. 201.

Sec. 26. Duty to inspect new buildings, in process of construction. R. S. c. 30, § 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

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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. 30, § 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.

^{*117} Me. 17.

Sec. 28. Inspection of chimneys, flues, funnels, etc., when required. R. S. c. 30, § 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. 30, § 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. 30, § 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 not to be occupied unless inspector certifies as to safety from fire; penalty; appeal. R. S. c. 30, § 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. 30, § 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. 30, § 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. 30, § 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 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. 26, §§ 35-39.

Sec. 35. Jurisdiction of offenses. R. S. c. 30, § 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. 30, § 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 to open outwards. R. S. c. 30, § 37. 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. 19, § 15.

Sec. 38. Fire escapes for hotels, factories, places of amusement, tenement houses, and school buildings. R. S. c. 30, § 38. Every public house where guests are lodged, and every building in which any trade, manufacture, or business is carried on, requiring the presence of workmen above the first story, and all rooms used for public assembly or amusement, and all tenement houses three stories in height where only one stairway or means of egress from the upper stories 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

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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. 53, § 12; *97 Me. 250; *99 Me. 436; 122 Me. 309.

Sec. 39. Inspection of fire-escapes by municipal officers or fire inspector, by board of engineers, by chief of fire department. R. S. c. 30, § 39. 1917, c. 46. 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 with a population of over five thousand, having an organized fire department, the duties aforesaid shall be discharged by the board of engineers and in towns, cities, and villages with a population of less than five thousand, having an organized fire department, the duties aforesaid shall be discharged by the chief of the fire department.

Sec. 40. Notice as to sufficiency of safeguards. R. S. c. 30, § 40. 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. 30, § 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 to give occupant certificate of sufficiency of safeguards; compensation; return to town clerks. R. S. c. 30, § 42. 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; penalty for neglect. R. S. c. 30, § 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. 30, § 44. 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. 30, § 45. All fines and forfeitures imposed by the four preceding sections may be recovered by the town where the building is located, by an action on the case, or by indictment.

102 Me. 286.

Sec. 46. Upon complaint, state factory inspector or deputy to make investigation. R. S. c. 30, § 46. 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 Fire.

Sec. 47. Election of fire ward required who shall be a fire inspector; duties and compensation of fire inspectors. R. S. c. 30, § 47. 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. R. S. c. 30, § 48. 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,

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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. R. S. c. 30, § 49. 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 to investigate origin of fires; commissioner may direct investigation. R. S. c. 30, § 50. 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 to file statement of facts relating to cause of fire; record, open to public. R. S. c. 30, § 51. 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; to take testimony on oath; if evidence is sufficient, to cause arrest of person accused. R. S. c. 30, § 52. The insurance commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances, and origin of all fires occurring in the cities and towns within the state, of which he has knowledge, by which property is damaged or destroyed, and may specially examine and decide whether the same was the result of carelessness or design. The insurance commissioner shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which such examination is made, and may cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offense, and

shall furnish to the proper county attorney all such evidence, together with 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; penalty for false swearing; commissioner may enter any building when fire is in progress; investigations may be private. R. S. c. 30, § 53. 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. 133, § 1.

Sec. 54. Insurance companies to report to commissioners adjustment of all losses. R. S. c. 30, § 54. 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 incur expense for investigators and inspection; limit. R. S. c. 30, § 55. 1917, c. 270. 1919, c. 230. The insurance commissioner may 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 three thousand one hundred dollars annually, and all bills and expenses incurred shall be audited by the state auditor.

Sec. 56. Municipal officers to keep record of returns. R. S. c. 30, § 56. 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. 30, § 57. 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.

CHAPTER 35.

Innkeepers and Victualers. Lodging Houses. Lunch Wagons, Camps, and Roadside Places.

Sections 1-19. Innkeepers and Victualers.
Sections 20-21. Lodging Houses.
Sections 22-26. Registers.
Section 27. Lunch Wagons.
Sections 28-31. Recreational Camps and Roadside Places.

Innkeepers and Victualers.

Sec. 1. Licenses to innkeepers and victualers; may be revoked. R. S. c. 31, § 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. See § 24.

Sec. 2. Bond. R. S. c. 31, § 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 the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force."

117 Me. 339.

Sec. 3. Licenses may be granted for a part of the year. R. S. c. 31, § 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.

*115 Me. 513.

Sec. 4. License fee and record. R. S. c. 31, § 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. 31, § 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. 31, § 6. 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. 31, § 7. 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. 135, § 41.

Sec. 8. Nor reveling, drunkenness, etc. R. S. c. 31, § 8. 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. 31, § 9. 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. 31, § 10. 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. R. S. c. 31, § 11. 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

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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; *115 Me. 190.

Sec. 12. Special arrangement may be made to receive deposits. R. S. c. 31, § 12. 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 to be given for property delivered for safe keeping. R. S. c. 31, § 13. 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 to be that of a depository for hire; limit of liability. R. S. c. 31, § 14. 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 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. 31, § 15. 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. R. S. c. 31, § 16. 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. R. S. c. 31, § 17. 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., to be proof of fraudulent intent. R. S. c. 31, § 18. 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 to be posted. R. S. c. 31, § 19. 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.

Sec. 20. Municipal officers may, by ordinance, require lodging houses to be licensed; lodging house defined. 1923, c. 142, § 1. The municipal officers of

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cities and towns shall have authority to require by ordinance the granting of licenses to lodging houses. The term "lodging house" shall not be deemed to include a house where lodgings are let to less than five lodgers, nor to the dormitories of charitable, educational, or philanthropic institutions, nor to the emergency use of private dwelling houses at the time of conventions or similar public gatherings. The term "lodger" shall not be deemed to include persons within the second degree of kindred to the person conducting a lodging house.

Sec. 21. Licenses may be issued by same persons issuing innkeepers' and victualers' licenses; term of license; no fee. 1923, c. 142, § 2. Licenses required by section twenty of this chapter may be issued by the same persons issuing innkeepers' and common victualers' licenses, as provided in section one, and shall be for the same period as provided in said section. All innkeepers' licenses shall be expressed to be subject to the provisions of sections twenty to twenty-six, inclusive, of this chapter. No license fee shall be collected for a lodging-house license.

Registers.

Sec. 22. Register to be kept; true name of guests to be inscribed therein; contents and method of keeping register prescribed; register open to inspection of licensing authority; penalty. 1923, c. 142, § 3. Every person conducting any hotel or lodging house shall at all times keep and maintain, or cause to be kept and maintained therein, a register in which shall be inscribed the true name of each and every guest or person renting or occupying a room or rooms therein. Such register shall be signed by the person renting such room or rooms, or by some one under his direction; and the proprietor of such hotel or lodging house, or his agent, shall thereupon write opposite such name or names so registered the number of each room assigned to and occupied by each such guest, together with the date such room is rented. The proprietor of such hotel or lodging house, or his agent, shall also keep and preserve a record showing the date when the occupant of each room so rented shall quit and surrender the same. Such record may be made a part of the register, and both shall be kept available for a period of two years at all reasonable times to the inspection of any lawful agent of the licensing authority. Any person who wilfully violates any provision of this section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than ninety days for each offense or by both such fine and imprisonment.

Sec. 23. No person to write other than true name in register; all persons must register; penalty. 1923, c. 142, § 4. No person shall write, or cause to be written, or if in charge of a register knowingly permit to be written, in any register in any lodging house or hotel any other or different name or designation than the true name or names in ordinary use of the person registering or causing himself to be registered therein. Nor shall any person occupying such room or rooms fail to register or fail to cause himself to be registered. Any person violating any provision of this section shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars for each offense.

Sec. 24. License may be revoked or suspended; hearing must be held and licensee given opportunity to hear evidence; notice, how served; appeals. 1923, c. 142, § 5. A license issued under the provisions of this chapter may be revoked if at any time the licensing authority shall be satisfied that the licensee is unfit to hold the license. It shall also have the right to suspend and make inoperative for such period of time as it may deem proper all the aforesaid licenses mentioned herein for any cause deemed satisfactory to it. The revocation and sus-

pension shall not be made until after investigation and hearing, nor until the licensee shall have been given opportunity to hear the evidence in support of the charge against him and to cross-examine, himself or through counsel, the witnesses, nor until the licensee shall have been given an opportunity to be heard; notice of hearing shall be served on the licensee or left at the premises of the licensee not less than three days before the time set for the hearing. The licensing authority, as designated in this chapter, is hereby specifically charged with the duty of enforcing its provisions and of prosecuting all offenders against the same. Appeal from the decision of the licensing authority may be had to the supreme judicial court, or to the superior court in and for the county in which the licensing authority is located, in the usual manner provided for appeals from municipal courts; courts of competent jurisdiction, for due cause shown, may issue temporary orders returning the enforcement of such revocations and suspensions, and after full hearing may vacate such temporary orders or make same permanent.

Sec. 25. Copy of sections 20-26 to be posted near register. 1923, c. 142, § 6. All licensed innholders and all licensees under sections twenty to twenty-six shall post in a conspicuous place near the register, if required by the licensing authority, a notice to be furnished by it containing the provisions of this chapter relating to the entry of names in the register, together with the penalties herein provided for their violation.

Sec. 26. Record of convictions to be transmitted by clerk of court to licensing authority. 1923, c. 142, § 7. The clerk of a court in which any person is convicted of a violation of any provision hereof shall forthwith send a copy of the record of the conviction to the licensing authority in the city or town where the offense occurred.

Lunch Wagons.

Sec. 27. Lunch wagons may be licensed; license may be revoked; objection of abutters. R. S. c. 31, § 20. 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.

See § 24.

Recreational Camps and Roadside Places.

Sec. 28. Overnight and recreational camps, roadside eating and lodging places to be licensed. 1927, c. 233, § 1. No person, corporation, firm, or co-partnership shall conduct, control, manage, or operate, directly or indirectly, any over night or recreational camp, or roadside eating or lodging place, which is located outside the compact portion of cities, towns, and plantations and which is operated only a part of each year, unless the same shall be licensed by the public health council.

Sec. 29. Public health council authorized to license. 1927, c. 233, § 2. The public health council is empowered to license overnight and recreational camps,

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and roadside eating and lodging places which are located outside the compact portions of cities, towns, and plantations, and which are operated only part of each year.

Sec. 30. Terms and fees to be approved by governor and council. 1927, c. 233, § 3. Such licenses shall be issued by the public health council under such terms and conditions, and such fees for licenses not exceeding five dollars may be charged, as may be approved by the governor and council.

Sec. 31. Penalty. 1927, c. 233, § 4. Any person, corporation, association, firm, or co-partnership violating the provisions of section twenty-eight shall be fined not more than one hundred dollars.

CHAPTER 36.

Public Exhibitions and Amusements.

Sec. 1. Penalty for pageantry, etc., without license. R. S. c. 32, § 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; fees; prosecutions; traveling circuses required to obtain state license; penalty. R. S. c. 32, § 2. 1923, c. 136. 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. No traveling circus shall advertise or exhibit any parade, show, or entertainment in this state without first paying a state license of five hundred dollars for each calendar year. Application for such license shall be made to the secretary of state and shall contain the name of the person or corporation owning or operating said traveling circus and a statement of the proposed territory within the limits of said state and the names of the cities and towns in which said traveling circus is to exhibit. Upon the payment of the sum of five hundred dollars, a license shall issue.

The advertising and exhibiting of any parade, show, or entertainment of any traveling circus without first taking out such license shall be deemed a misdemeanor, and the person, persons, firm, or corporation owning or controlling such traveling circus, or the manager or officer in charge thereof within the state shall be punished by a fine not exceeding one thousand dollars.

Municipal, superior, or supreme judicial courts in the counties where such traveling circus advertises and exhibits or parades shall have jurisdiction over said offense.

Note. Exhibitions of reproduction of prize fights prohibited, c. 135, § 32. Immoral exhibitions prohibited, c. 135, §§ 33, 34.

Bowling-Alleys and Billiard Rooms.

Sec. 3. Penalty for keeping unlicensed alleys and billiard rooms. R. S. c. 32, § 3. 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. 32, § 4. 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. 32, § 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. 32, § 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. 32, § 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. 32, § 8. Any person licensed to own, keep, and operate a bowling-alley or bowling-alleys, shooting-gallery, pool, bagatelle, or billiard room, 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 to be licensed; penalty. R. S. c. 32, § 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. 32, § 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. Licenses required for operating merry-go-round. R. S. c. 32, § 11. 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 ten of chapter twenty-six.

Sec. 12. Penalty for operating without license. R. S. c. 32, § 12. Whoever operates or runs a merry-go-round or steam riding gallery in any town without such license shall be fined five dollars for each and every day that he so operates or runs such merry-go-round or steam riding gallery.

Sec. 13. Jurisdiction of offenses. R. S. c. 32, § 13. Municipal and police courts and trial justices, in their respective counties, shall have jurisdiction of all offenses arising under this chapter, except as provided in section two relating to state license for traveling circuses, and all penalties herein provided, except that specified in said section two, shall be recovered by complaint for the use of the town where incurred.

Cinematograph and Moving-Pictures.

Sec. 14. Cinematograph or moving-picture machine to be licensed; apparatus to be enclosed; provisions not to apply in certain cases. R. S. c. 32, § 14. 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 to be inspected; license fee; appeal. R. S. c. 32, § 15. 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 to operate without a license; operator to be eighteen years of age and thoroughly skilled; license for one year. R. S. c. 32, § 16. 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. R. S. c. 32, § 17. 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

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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 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. Asbestos booth may be used for moving picture machine in open air or tents. 1919, c. 185. For exhibition of moving pictures in the open air or in a tent, a portable asbestos booth may be used provided such booth meets the specifications hereinafter set forth, and while in use shall be located not less than three hundred feet from any building or woods.

Sec. 19. Size of booth. 1919, c. 185. The portable asbestos booth shall be at least six feet six inches in height by five feet no inches square, and is designed for use for one picture machine only. The frame shall be of standard pipe, angle ventilator trap, and fittings, and shall conform to the specifications herein set forth. The four corner posts shall be of three-fourths inch standard pipe, the eight horizontal members of one-half inch standard pipe, and the eight corner fittings of malleable iron or bronze casting, with braced corners. The ventilator trap shall be made of one inch by one-inch by one-eighth inch angles on all sides, shall extend the full width of the top and two inches beyond the front of the top pipe, shall be securely hinged one foot ten inches from the front, and the corners shall be braced with one-eighth inch gusset plate bolted to each angle with three-sixteenths inch bolts.

Sec. 20. Specifications. 1919, c. 185. The sides shall be of plain commercially pure asbestos cloth weighing not less than two pounds to the square yard, which shall be in one piece, long enough to lap over not less than two feet no inches where it comes together around the booth, and shall be not less than seven feet six inches in width so as to lap on the floor; it shall be held in place by substantial metal hooks over the top pipe and with snap catches or asbestos cord on the bottom pipe, such hooks, bottom catches, or cord to be not more than eight inches on centers. The top shall be covered with asbestos cloth of the same quality as the sides, which shall be of sufficient size to hang down on all sides at least eight inches; it shall be provided with metal hooks or asbestos cord which shall hook or lace onto the pipe, to hold it in place. The floor shall be covered with an asbestos mat of the same material not less than one foot no inches larger than the booth on all sides, and held in place when in use with heavy thumb tacks.

Sec. 21. Entrance and exit. 1919, c. 185. The overlapping sides shall form the entrance and exit of the booth. All raw edges of asbestos cloth shall be bound or hemmed at least one inch deep.

Sec. 22. Ventilation. 1919, c. 185. The angle ventilator described in section nineteen shall be so arranged that it may be raised at least one foot no inches above the top pipe of the booth, and held by a toggle joint, or other approved device, whereby, in case of accident, it can be instantly dropped.

Sec. 23. Apertures. 1919, c. 185. The apertures, two in number, one for the machine not more than six inches in height by twelve inches in width, and one for the operator not more than twelve inches in height by six inches in width, shall be provided with shutters sewed to curtain at the top of opening, and the

lower edges of the same shall be weighted with three-eighths inch gas pipe, which shall be long enough to go the whole horizontal length of the shutter, and provided with cord and fusible link, as specified for the standard booth, running through a screw eye, or a ring attached to the pipe frame over the openings. All shutters shall be of size to lap over curtain at least one and one-half inches on all sides.

Sec. 24. Penalties. 1919, c. 185. Whoever keeps, uses, or operates any cinematograph or similar apparatus contrary to the provisions of the ten 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 and in case such appeal be sustained, such complaint or indictment shall be dismissed.

Sec. 25. County commissioners to exercise powers of municipal officers in unincorporated places and counties to exercise rights of towns. 1921, c. 64. County commissioners, within their counties, and counties, within their limits, shall respectively exercise over unincorporated places all the powers of municipal officers and towns under this chapter.

CHAPTER 37.

Inland Fish and Game.

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Commissioner. Administration.

Sec. 1. Commissioner of inland fisheries and game; appointment; office in state capitol; museum and aquarium, minerals, historic documents and relics. R. S. c. 33, § 1. 1917, c. 219, § 1. c. 244, § 1. 1919, c. 201. The governor, with the advice and consent of the council, shall appoint a commissioner of inland

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fisheries and game who shall hold office for three years, and until his successor is appointed and qualified. Said commissioner 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 he may appoint a clerk. He may employ attorneys at trials in inferior courts for violations of the provisions of the inland fish and game laws, and may appoint necessary additional clerks in his office, and may have at least three daily newspapers published in the state, to be selected by him, for use in his office, all of which shall be paid for out of the regular appropriation for his department. He may also maintain a museum in which may be exhibited specimens of game and fish, an aquarium for the exhibition of live fish, minerals, and historic documents and relics connected with the history of the state. He shall, on or before the thirty-first day of December of each year, make an annual report to the governor.

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Note. This chapter is based on the revision of the inland fish and game laws contained in chapter 219 of the public laws of 1917, which repealed chapter 33 of the revised statutes of 1916 and all public and private and special laws relating to inland fish and game, with certain exceptions therein specified. References in the head-notes of the following sections are made to this chapter and to subsequent amendments thereto and to additional laws, and a large number of acts in the nature of fishing regulations are collated in sections eighteen and nineteen.

Sec. 2. Duties. 1917, c. 219, § 2. The commissioner of inland fisheries and game shall have general supervision of the enforcement of the inland fish and game laws. Whenever he shall deem it for the best interests of the state he may regulate the times and places in which and the circumstances under which wild birds, wild animals, and inland fish may be taken for a series of years not exceeding four, upon petition of at least twenty-five per cent of the legal voters of the city, town, or plantation in which the waters or lands to be affected are situated, or upon petition of a majority of the municipal officers thereof whenever in the judgment of the commissioner an emergency exists which demands immediate action, and in cases where the lands or waters to be affected are situated in unorganized townships, upon petition of at least twenty-five interested citizens of this state. Provided, however, that said commissioner shall not authorize the taking of wild birds or wild animals or inland fish at a time in which the taking thereof is prohibited by the laws of the state. He may, from time to time, modify or repeal rules and regulations promulgated by him whenever he deems it necessary for the protection and preservation of the wild birds, wild animals, and inland fish of the state. He shall file in the offices of the clerks of courts in the counties to be affected a copy of the rules and regulations adopted by him, and publish the same three weeks successively in a newspaper printed in the county; he shall also, immediately upon the adoption of any rules and regulations contemplated by this section, file a copy of the same in the office of the secretary of state. He may, when he deems it necessary, post notices on the banks of waters affected by rules and regulations promulgated by virtue of this section.

Note. For authority to renew rules and regulations, see P. L. 1921, c. 204; 1925, c. 190.

Sec. 3. Penalty for violation of rules and regulations of commissioner. 1917, c. 219, § 3. Whoever fishes for, takes, catches, kills, destroys or has in possession any protected inland fish, or hunts, chases, catches, kills, takes, destroys, or has in possession any protected wild birds or wild animals, or part or parts thereof, in any manner at any time, in violation of any of the rules and regulations of the commissioner of inland fisheries and game, made and promulgated in conformity with the provisions of this chapter and of chapter one hundred ninety of the public laws of nineteen hundred twenty-five, shall be punished in

the same manner and to the same extent as is provided by law for illegally taking, catching, killing, destroying, or having in possession such protected inland fish or for illegally hunting, chasing, catching, killing, taking, destroying, or having in possession such protected wild birds or wild animals.

Whoever fishes for, takes, catches, kills, destroys, or has in possession any unprotected inland fish, or hunts, chases, catches, kills, destroys, or has in possession any unprotected wild birds or wild animals, or part of parts thereof, in any manner at any time, in violation of any of the rules and regulations of the commissioner of inland fisheries and game, made and promulgated in conformity with the provisions of this chapter, shall be punished by a fine of not less than ten, nor more than fifty dollars and costs, for each offense.

Sec. 4. Penalty for wilful defacement of notice of commissioner. 1917, c. 219, § 4. Whoever wilfully mutilates, defaces, or destroys any notice, rule, or regulation of the commissioner of inland fisheries and game, posted in conformity with the provisions of this chapter, shall pay a fine not exceeding fifty dollars.

Sec. 5. Commissioner may take fish and game for certain purposes; penalty for certain offences; permits for breeders; penalty, reports; penalty. 1917, c. 219, § 5. 1919, c. 196, § 1. 1925, c. 70, § 2; c. 109. 1927, c. 115. The commissioner of inland fisheries and game may take fish, wild birds, and wild animals of any kind when, where, and in such manner as he chooses for the purpose of science and of cultivation and dissemination, and he may grant written permits to other persons to take fish, wild birds, and wild animals for the same purposes, and may introduce or permit to be introduced, any kind of fish into any waters. He 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, he 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 for each offense and a further penalty of one dollar for each fish so taken or killed; provided, however, that before such hearing the commissioner shall give notice thereof, by publication for two successive weeks in at least one newspaper printed in the county where such waters lie. He may grant permission to take wild animals and wild birds for park and exhibition purposes in this state, under such rules, regulations, and conditions as he shall establish.

He 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.

He may grant permits to transport in and beyond the limits of the state, live fish, wild animals, or game birds taken in the state, for breeding or advertising purposes.

He may issue permits to any person, firm, or corporation to engage in the business of propagating game birds, game, or fur-bearing animals under such regulations as he shall establish. He may issue to any person, firm, or corporation permit to fence in or enclose land not exceeding twenty-five acres in area for the above named purpose. When it appears that such application is made in good faith, and upon the payment of an annual fee of two dollars, said commissioner may issue to the applicant a breeder's license permitting the breeding

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and rearing of any species of game birds, game or fur-bearing animals within such enclosure. Such licensed breeders may at any time sell, transport, or kill and sell, and any person, firm, or corporation may purchase, have in possession, or transport any game birds, game, or fur-bearing animals raised by virtue of the provisions of this section, under such regulations as said commissioner may establish. Whoever engages in the business of breeding or rearing any game birds or game or fur-bearing animals at any time without first having procured a breeder's license as provided in this section, shall be subject to a penalty of not less than ten dollars nor more than fifty dollars and costs for each offense and five dollars additional for each game bird or game or fur-bearing animal raised or had in possession in violation of any provision of this section.

Every licensed game or fur farmer and every person authorized to take birds or wild animals or fish for scientific purposes shall, on or before the thirty-first day of December of each year, make a detailed report to said commissioner of all they have done during the year by virtue of such license or permit, on blanks to be furnished by the said commissioner of inland fisheries and game. Whoever fails to file the annual report as required by this section shall be subject to a penalty of not less than ten nor more than fifty dollars and costs for each offense.

Fishways.

Sec. 6. Commissioner may cause dams, etc. to be provided with fishways; appeal; proceedings; penalty. 1917, c. 219, § 6. 1919, c. 236, § 1. If the commissioner of inland fisheries and game deems it expedient that any dam or other artificial obstruction above tidewater in any river or stream frequented by salmon, landlocked salmon, shad, alewives, or other migratory fish shall be provided with a fishway, he shall give fourteen days' notice in writing to one or more of the owners or occupants of such dam or other obstruction for a hearing thereon. If, after said hearing, the commissioner finds the fishway to be expedient, he may, by an order in writing, require said owner or occupant to provide said dam or obstruction with a durable and efficient fishway within such time and with such specifications as to location, form, and capacity as shall be specified in said order. Certified copies of said order shall be mailed to some owner or occupant of said dam or other artificial obstruction. An appeal may be taken by such owner or occupant from any order of said commissioner to any justice of the supreme judicial court within fourteen days after the mailing of the copy of said order, by filing in the office of the clerk of the supreme judicial court in the county in which said dam or other obstruction is located, notice in writing of such appeal, stating the reasons therefor. Said justice shall appoint a time to view the premises and hear the parties and give due notice thereof and after such hearing he shall decide all questions in relation thereto and cause record to be made thereof. If the requirements of the commissioner of inland fisheries and game are affirmed, the owner or occupant of any such dam shall be liable for the costs of all proceedings arising after the appeal, otherwise said costs shall be paid by the state. On the completion of a fishway to the satisfaction of the commissioner of inland fisheries and game, or at any subsequent time, he 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 commissioner of inland fisheries and game may change the time as he sees fit. Unless otherwise provided, fishways shall be kept open and unobstructed from the first day of May to the fifteenth day of July. If a fishway thus required to be built is not completed to the satisfaction of the commissioner of inland fisheries and

game within the time specified, or if a fishway, when completed, is not kept open and unobstructed as required by regulations made by said commissioner in accordance herewith, each owner or occupant shall forfeit not more than one hundred, nor less than twenty dollars, for every day of such neglect.

Sec. 7. Repairs and alterations; penalty for neglect; delegation of powers. 1917, c. 219, § 7; 1919, c. 236, § 2. Whenever the commissioner of inland fisheries and game finds a fishway out of repair or needing alterations, he 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, unless the cost of said repairs or alterations, as estimated by said commissioner, exceeds five hundred dollars, in which case an appeal may be taken as provided in the preceding section. If the dam is owned and occupied by more than one person, each is liable for the cost of erecting and maintaining such fishway in proportion to his interest in the dam, and if any owner or occupant neglects or refuses to join with the others in erecting or maintaining such fishway, the other owners or occupants shall erect or repair the same, and have an action on the case against such delinquent for his share of the expenses. If the owner or occupant of such dam resides out of the state, said penalties may be recovered by a libel against the dam and land on which it stands, filed in the supreme judicial court in the county where it is located, in the name of the commissioner 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 commissioner 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 commissioner in relation to the construction of fishways.

Fish Hatcheries.

Sec. 8. Real estate may be taken for fish hatcheries. 1917, c. 219, § 8. The commissioner 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 commissioner of inland fisheries and game deems 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

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for highways to the supreme judicial court in the county in which the land is situated.

Screens.

Sec. 9. Outlets of ponds and lakes may be screened; penalty for destroying screens or fish. 1917, c. 219, § 9. 1923, c. 67. The commissioner may in his discretion authorize the screening of the outlet of any pond or lake under such conditions as he may determine. Provided, further, that the commissioner of inland fisheries and game, upon petition of twenty-five interested citizens of the state, may promulgate regulations prohibiting all fishing within five hundred yards of any screen installed by authority of the department of inland fisheries and game or by virtue of an appropriation made for same by the legislature of this state. Whoever shall take up, destroy, or injure any screen erected at the outlet of any lake or pond by authority of the commissioner of inland fisheries and game, or whoever fishes for, takes, catches, kills, or destroys any kind of fish at any time in any waters closed to fishing by virtue of this section, shall pay a fine of not less than fifty nor more than five hundred dollars and costs for each offense or imprisonment not exceeding three years.

Inland Fish and Game Wardens.

Sec. 10. Inland fish and game wardens; appointment, tenure, duties, bond, service of processes. 1917, c. 219, § 10. 1921, c. 218, § 1. The governor, with the advice and consent of the council, upon the recommendation of the commissioner 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 to arrest and prosecute camp trespassers, or those suspected of larceny from any cottage, camp, or other building, 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 commissioner of inland fish 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.

Sec. 11. Sheriffs, etc. vested with like powers of wardens. 1917, c. 219, § 11. 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.

Sec. 12. Town may elect fish and game wardens. 1917, c. 219, § 12. 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. 13. Deputy wardens; tenure, duties and powers. 1917, c. 219, § 13. The commissioner of inland fisheries and game may appoint inland fish and game deputy wardens and may revoke such appointment at any time. The appoint-

ment 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.

Guides.

Sec. 14. Guides to be registered; must furnish commissioner with information; penalty. 1917, c. 219, § 14. No person shall engage in the business of guiding, either for inland fishing or forest or shore hunting, until he has caused his name, age, and residence to be recorded in a book kept for that purpose by the commissioner of inland fisheries and game and has procured a certificate from said commissioner, setting forth in substance that he is deemed suitable to act as such guide, 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 commissioner, forward, on blanks furnished him by the commissioner, a statement of the number of persons he has guided in inland fishing and forest and shore 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 commissioner may deem of importance to the state, under a penalty of fifty dollars for unreasonably or wilfully refusing to comply with these requirements.

Sec. 15. Guides divided into classes; fees; registration may be revoked; penalty. 1917, c. 219, § 15. Such registration shall be as follows: The applicant shall apply in writing or personally to the commissioner for registration, or to some person designated by the commissioner, setting forth in his application whether he desires to be registered as a general or local guide; and the commissioner shall, as soon thereafter as may be, after such investigation as he deems advisable, register such person as a guide in such class as he shall deem proper; but said commissioner may refuse to register any applicant whom he deems unfit to be a guide, and may, for cause shown, after due notice and hearing, cancel any registration by him made, and may advance anyone from the local class to the general class, whenever he 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 or other waters, 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 and shore hunting parties. A person may receive a certificate as a local guide who does not, in the judgment of the commissioner, 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 commissioner of inland fisheries and game may, in his 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 annual fee for such non-resident guide license shall be twenty dollars.

Whenever a guide registered, as provided in this section, is charged with

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having violated any of the inland fish and game laws, the commissioner may, at his discretion, temporarily suspend his certificate of registration; and whenever a guide registered, as provided in this section, is convicted of a violation of the inland fish and game laws, said commissioner may, at his 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 commissioner. Any certificate canceled or suspended by virtue of this section shall be immediately returned to the commissioner, under a penalty of fifty dollars for refusal or neglect to comply with this requirement.

Sporting Camps.

Sec. 16. Sporting camps, regulation of by commissioner; deer lawfully killed may be purchased for consumption; penalty. 1917, c. 219, § 16. 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 commissioner 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 commissioner of inland fisheries and game, together with a report of the number of residents and non-residents entertained in such camp, and such other useful information relative to the inland fish and game interests as the commissioner may deem of importance to the state. The commissioner of inland fisheries and game may refuse to issue a license or licenses to such person or persons as he deems unsuitable. Whoever violates any provision of this section shall pay a fine of fifty dollars and costs for each offense.

Fishing.

Sec. 17. Terms "closed season," "open season," "tributaries," etc., defined. 1917, c. 219, § 17. 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.

See c. 11, §§ 33-36.

Jurisdiction of state. 84 Me. 444; 94 Me. 99.

Sec. 18. Closed seasons in the several waters of the state. 1917, c. 219, § 18. 1919, c. 196. 1921, c. 73. 1925, c. 71. 1927, c. 194. See other amendments noted in text. Except as hereinafter provided, there shall be an annual closed season on the particular kind of fish specified, in all the lakes and ponds of the state, as follows:

On salmon, landlocked salmon, trout, and togue from the first day of October

until the ice is out of the lake or pond fished in the following spring; on white perch from the thirtieth day of September to the twentieth day of June following, both days inclusive; provided, however, that any person who catches a white perch while lawfully trolling in good faith for landlocked salmon, trout, or togue, during closed season on white perch, may lawfully keep the same, but no person shall in one day keep more than six white perch so caught; provided, further, that no party, or the occupants of any boat, canoe, raft, or other vessel or conveyance shall keep more than six white perch so caught in any one day; provided, further, that in Sebago Lake and Long Pond in Cumberland County the closed season on landlocked salmon and trout shall be from the first day of October to the thirty-first day of March of the following year, both days inclusive; and in Moosehead Lake in Piscataquis County the closed season on landlocked salmon, trout, and togue shall be from the first day of October to the thirtieth day of April of the following year, both days inclusive; and in Thompson Pond, in Androscoggin, Cumberland, and Oxford Counties, the closed season on landlocked salmon, trout, and togue shall be from the first day of September to the thirty-first day of December, both days inclusive; and in Lower Kezar Pond in Oxford and Cumberland Counties and in Upper Kezar Pond and (1925, c. 141) in Lovewell's Pond in Oxford County, the closed season on white perch shall be from the first day of December to the thirtieth day of June of the following year, both days inclusive, and on trout and landlocked salmon shall be from the first day of October to the thirty-first day of March of the following year, both days inclusive; and (1927, c. 26) provided that it shall be lawful to fish in accordance with the general law applying to fishing for protected fish from the fifteenth day of September to the thirtieth day of September, both days inclusive, for landlocked salmon, trout, togue, and white perch in the waters between the dam at Forest City, so-called, in Washington County down to Joe Lewey's Carry, so-called, on Mud Lake, so-called, in Washington County, said waters being on the boundary between Maine and New Brunswick; and provided that it shall be lawful at any time to take white perch in (1925, c. 161) Crawford Lake in Washington County, and provided that it shall be lawful at any time to take white perch in (1925, c. 161, 1927, c. 83) Lake Cobbosseecontee in Kennebec County, and in (1927, c. 38) Pemaquid Pond, situated wholly or partly in the towns of Nobleboro, Damariscotta and Bremen, in (1927, c. 38) Biscay Pond, situated wholly or partly in the towns of Damariscotta, Bremen, and Bristol, and in (1927, c. 38) McCurda Pond or Hilton Lake, so-called, situated wholly or partly in said town of Bremen, all in Lincoln County, subject to the general law relating to the daily limit of such fish.

On black bass from the first day of October to the twentieth day of June of the following year, both days inclusive; provided, however, that in Crawford Pond in Knox County and in Lake Megunticook in Knox and Waldo Counties, black bass may be taken with unbaited flies, or fly fishing, or by trolling, so-called, from the time the ice is out of said Crawford Pond and Lake Megunticook in the spring until the twentieth day of June.

Except as hereinafter provided, there shall be an annual closed season on the particular kind of fish hereinafter specified in all the rivers of the state, above tide waters, as follows:

On salmon, landlocked salmon, and trout [and togue], from the fifteenth day of September to the time the ice is out of the river fished in the following spring; provided, that in Moose River, between Brassua Lake and Moosehead Lake, the closed season shall be until May first on all fish; and provided that from the fifteenth day of September to the thirtieth day of September, both days inclusive, it shall be lawful to take landlocked salmon and trout in the ordinary way of

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casting with artificial flies, in said portion of Moose River, and (1927, c. 26) landlocked salmon, trout, togue, and white perch in the waters between the dam at Forest City, so-called, down to Joe Lewey's Carry, so-called, on Mud Lake, so-called, in Washington County.

On (1927, c. 194) black bass, from the first day of October to the twentieth day of June of the following year, both days inclusive.

Except as hereinafter provided, there shall be an annual closed season on the particular kind of fish hereinafter specified in all the brooks and streams of the state, above tide waters, as follows:

On salmon, from the fifteenth day of September until the ice is out of the brook or stream fished in the following spring;

On white perch and black bass, from the fifteenth day of September to the twentieth day of June of the following year, both days inclusive;

On togue, from the first day of October until the ice is out of the brook or stream fished in the following year;

On (1925, c. 71) trout and landlocked salmon, from the sixteenth day of August until the ice is out of the brook or stream fished in the following spring.

Provided that it shall be lawful to fish in accordance with the general law of the state [viz. until September fifteenth] or in accordance with private and special laws now or hereinafter enacted, or with regulations of the commissioner of inland fish and game, promulgated in accordance with law, in the rivers of the state and in (1925, c. 71) Kennebago Stream, Rangeley Stream, and Little Kennebago Stream in Franklin County, and in Carrabasset River, so-called, and tributaries in Franklin and Somerset Counties, in Cupsuptic Stream and Cupsuptic River, so-called, the river at Upper Dam, Rapid River, so-called, the tributaries to the Magalloway River, the tributaries to Aziscohos Lake except Twin Lakes, and the outlet of Lake Penesseewassee, situated wholly or partly in Oxford County, in Cobbosseecontee Stream in Kennebec County, in the inlet of Kokadjo River, Sourdnahunk Stream, Davis Stream, a tributary to Sebec Lake in Piscataquis County, and the East Outlet of Moosehead Lake, the West Outlet of Moosehead Lake, the outlet of Dobsis Lake in Grand Lake Stream in Washington County, in Belgrade Stream in Kennebec County, and (1927, c. 182) in the tributaries to Upper Shin Pond and the tributaries to Sebois River in Penobscot County.

And provided, further, that in Waldo County the closed season in the brooks and streams on landlocked salmon, trout, and togue shall be from the fifteenth day of July to the time the ice is out of the brook or stream fished in the following spring.

And (1927, c. 177) provided that it shall be lawful to fish, in accordance with the general law of the state, for landlocked salmon and trout from the fifteenth day of August to the thirtieth day of September following, both days inclusive, with unbaited artificial flies or fly fishing, so-called, in the tributaries of the South Branch of the Penobscot River and the tributaries to the West Branch of the Penobscot River down as far as Norcross in Penobscot County; and in the tributaries to the East Branch of the Penobscot River down as far as Grindstone in said county; and in the tributaries to the St. John River, down as far as St. Francis in the county of Aroostook; and provided that it shall be lawful at any time to take white perch (1925, c. 161) in the tributaries of Crawford Lake in Washington County, subject to the general law relating to the daily limit of such fish.

Provided, however, that during February, March, and April in the counties of Aroostook, Penobscot, Piscataquis, Somerset, Washington, and Hancock, and

during February and March in the counties of Androscoggin, Kennebec, York, Sagadahoc, Knox, Lincoln, Waldo, Cumberland, Oxford, and Franklin, citizens of the state and non-residents specially licensed as provided in section eighty may fish for and take landlocked salmon, trout, togue, and white perch (1927, c. 194) in waters open to ice fishing, 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 homes for consumption therein, but not otherwise.

Provided, however, that it shall be unlawful to fish through the ice at any time for any other species of fish except as hereinafter provided:

Pickarel may be taken at any time through the ice in waters open to ice fishing for landlocked salmon, trout, togue, and white perch, with not more than five set lines to each family, or with not more than five set lines to each person, during the months of November and December, when fishing through the ice in the daytime and when under the immediate personal supervision of the person fishing.

The following waters are closed to ice fishing, except as hereinafter provided: (1927, c. 128) Annabessacook Lake, situated partly in the town of Winthrop and partly in the town of Monmouth in Kennebec County, Long Pond, so-called, (1925, c. 66), situated partly in the town of Somerville and partly in the town of Jefferson in Lincoln County and partly in the town of Windsor in Kennebec County; Tyler Lake, (1927, c. 7), Lily Lake, Spring Lake, Lower Silver Lake, Upper Silver Lake, Fairbanks Lake, Gilman Lake, Bean Lake, Doctor's Lake, Sidney Lake, Carl Lake, Joe's Lake, Chamberlain Lake, Wilman Lake, Penney Lake, and Clark's Lake, said lakes being the chain of lakes known as the Silver Lakes, so-called, situated wholly or partly in the towns of Manchester, Sidney, and Belgrade in Kennebec County; Alewife Pond (1925, c. 82) and Kennebunk Pond (1925, c. 20) which ponds are situated in the town of Kennebunk in York County; China Lake (1921, c. 198) and any of that portion of said lake, known as Mud Pond, which lake and pond are situated in the town of China and in the town of Vassalboro in Kennebec County, except that fishing is lawful in said China Lake and Mud Pond in accordance with the general law relating to ice fishing on Thursday, Friday, and Saturday of each week during February and March; Cochnewagon Pond (1927, c. 181, § 1), situated in the town of Monmouth in said Kennebec County, except that fishing through the ice in said pond for pickarel and white perch is lawful in accordance with the general provisions of law relating to ice fishing, on Saturday of each week during February and March; in Watchic Pond (1927, c. 68), situated in the town of Standish in Cumberland County, except that fishing through the ice for pickarel and white perch is lawful in accordance with the general provisions of law relating to ice fishing.

The following waters are closed to fishing for any kind of fish between eight o'clock in the afternoon and sunrise of the following morning:

(1921, c. 136; 1923, c. 79), Purgatory Pond, Sand Pond, Buker Pond, and Jimmie Pond, said ponds being the Tacoma chain of lakes, so-called, situated partly in the town of Litchfield and partly in the town of Monmouth; and Cobbosseecontee stream from Collins' Dam on said stream to the upper dam in the City of Gardiner, all of said waters being situated in Kennebec County.

The following waters are closed to such fishing between one-half hour after sunset of each day and sunrise of the following day:

(1925, c. 162) Upper and Lower Richardson Lakes and all their tributaries, Rapid River between Lower Richardson Lake and Umbagog Lake and Pond in-

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the-River, so-called, in said Rapid River, all of which waters are in Oxford County.

The following waters are closed to fishing for trout at all times, except as hereinafter provided:

(1927, c. 97) Branch Brook and its tributaries, situated in the town of Durham in Androscoggin County, from its source to Harrington bridge, so-called; Newell Brook and its tributaries, situated in said Durham, from its source to the bridge on the highway leading from South Durham to West Durham, known as the Bliss bridge; that part of Harvey Brook and its tributaries, situated in Pownal in Cumberland County, which is above the forks, so-called, of said brook, said forks being near the boundary line of said town of Pownal and the town of Freeport in said Cumberland County, and all other parts of said streams, except that it shall be lawful to fish for trout in accordance with the general law of the state in said other parts of said streams in Durham, Freeport, and Pownal on Monday, Wednesday, and Friday of each week during the open season for trout.

The following waters are closed to fishing for pickerel at all times, except as hereinafter provided:

(1927, c. 86, § 1.) Union River, including the portions of said river now known as Leonard lake and Graham lake, and any stream or brook tributary to said river, in the county of Hancock, from the thirtieth day of September of each year until the ice is out of said river or tributary fished in the following spring, except it shall be lawful to take pickerel through the ice in said river, including the portion thereof known as Graham lake and Leonard lake, in accordance with the provisions of the general law of the state applying to ice fishing for salmon and trout. Provided, however, that it shall be unlawful for any person to take, catch, kill, or have in possession in any one day more than fifteen pounds of pickerel, unless the last fish taken increases the combined weight thereof to more than fifteen pounds, taken in said river or Graham lake, so-called.

The following waters are closed to fishing for any kind of fish, except as hereinafter provided:

Sunday River, so-called (1925, c. 54), situated in the towns of Bethel and Newry and in Riley Plantation, in Oxford County, and the tributaries to said river, except it shall be lawful to fish in said Sunday River below the Forks, so-called, in said Riley Plantation, in accordance with the general law of the state, on Monday, Wednesday, and Friday of each week; Stony Brook (1925, c. 29), situated in the towns of Newry and Hanover in said Oxford County, except that it shall be lawful to fish in said brook in accordance with the general law of the state on Tuesday, Thursday, and Saturday of each week; Bog Brook, so-called, (1925, c. 2), situated in the town of Hebron in said Oxford County and in the town of Minot in Androscoggin County, and the tributaries to said brook, except that it shall be lawful to fish therein in accordance with the general law of the state from the time the ice is out of said waters in the spring of each year until July first, following; Bowler pond, so-called (1927, c. 50), in the town of Palermo, in the county of Waldo, except in the ordinary manner of casting with unbaited, artificial flies, or fly fishing, so-called; Howard Pond (1925, c. 72) in the town of Hanover in Oxford County from July first of each year to September thirtieth following, both days inclusive, by means of plug fishing, so-called; Birch Harbor Pond (1925, c. 68), in the town of Winter Harbor in Hancock County, except that it shall be lawful to fish through the ice in said pond during the months of February, March, and April of each year, in accordance with the general ice fishing laws of the state; Rangeley stream

(1923, c. 186, § 1), the outlet of Rangeley lake, which lake is situated in the county of Franklin, except it shall be lawful to fish in said stream from the sign at the old wharf near the head of said stream down to the dam across said stream, and from the upper end of the dead water on said stream to Indian Rock, in the ordinary way of casting with artificial flies or by fly fishing, so-called, from the time the ice is out of said stream in the spring until the thirtieth day of September following of each year, both days inclusive; Little Kennebagog stream (1923, c. 186, § 2), the outlet of Little Kennebagog lake, which stream is situated in township three, range four, W. B. K. P., Franklin County, except it shall be lawful to fish in said stream in the ordinary way of casting with artificial flies or by fly fishing, so-called, from the time the ice is out of said stream in the spring until the thirtieth day of September following of each year, both days inclusive; Kennebagog Stream (1919, c. 134; 1921, c. 19; 1923, c. 186, § 3), the outlet of Kennebagog Lake in Franklin County and Oxford County, except it shall be lawful for a person fishing in the ordinary way of angling with artificial flies or fly fishing to take one fish in any one day from the time the ice is out of said waters in the spring until the thirtieth day of September following of each year, both days inclusive, from dawn until darkness sets in each day from the Big Falls on Kennebagog Stream to the outlet of said stream at Indian Rock; Cupsuptic river, otherwise known as Cupsuptic stream, a tributary to Cupsuptic lake, in the county of Oxford, except it shall be lawful to fish in said Cupsuptic river from the pier at the mouth thereof to Big Falls on said river, in the ordinary way of casting with artificial flies or fly fishing, so-called, from June fifteenth until the thirtieth day of September following of each year, both days inclusive; provided, however, it shall be unlawful for any person to fish for, take, catch, or kill, in any manner, at any time, any kind of fish in that portion of said river from the foot of Little Falls up to the dam on said stream at the head of said Little Falls; all the fresh water brooks (1925, c. 16) in the town of York in York County, except it shall be lawful to fish in said brooks during the months of May and June, in accordance with the general law of the state; Coburn Pond (1925, c. 13) and Daymond Pond in Moose River Plantation; Cold Stream Pond and Long Pond in Cold Stream Township and Parlin Pond Township; Gander Brook Pond, Ronco Pond, Smith Pond, and Burnt Land Pond in Dennistown Plantation; Campbell Pond situated on Kelly Gore, so-called; Cape Horn Pond in Prentiss Township, all of which waters are in Somerset County, after June first of each year, except it shall be lawful to fish during open season provided by the general law after said June first of each year in the ordinary way of angling with unbaited artificial flies, or fly fishing, so-called; (1927, c. 69, § 1), the tributaries to Royal's River, so-called, in the town of Gray in Cumberland County and Bennett Brook, so-called, situated wholly or partly in said town of Gray, for a period of two years from the fifteenth day of July, 1927, and for a further period of two years following said closed season said waters shall be closed except on Wednesday of each week in accordance with the general law of the state; Lily Pond, so-called (1927, c. 5), in the town of Rockport in Knox County for a period of two years from September thirtieth, 1927; the brook (1925, c. 19) emptying into Thompson Lake at Oxford, known in the towns of Oxford and Otisfield as Greely Brook and in the town of Norway as Lombard Brook, situated in said towns of Otisfield in Cumberland County and Oxford and Norway in Oxford County, for a period of five years from the tenth day of July, 1925; East Stream, so-called, (1925, c. 108), situated in the towns of Cutler, Whiting, and Trescott in Washington County, for a period of five years from the tenth day of July, 1925; St.

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Croix Lake (1925, c. 27), which lake is situated in townships seven and eight, range four, in Aroostook County and the tributaries to said lake; the tributaries (1921, c. 186) to Lake Annabessacook, which lake is situated in the town of Winthrop and in the town of Monmouth in Kennebec County; the brooks (1927, c. 4) known as Twin Brooks, tributaries to Aziscohos Lake in Oxford County; Upper Taylor Brook (1925, c. 79), situated wholly or partly in Lakeville Plantation in Township No. 3, Range 1, in Penobscot County and in Township No. 4 in Hancock County; the East Branch, so-called, of Passadumkeag Stream, the West Branch, so-called, of Passadumkeag Stream, and Brown Brook, so-called, all in Penobscot and Hancock counties; the tributaries (1925, c. 26) to Lake Anasagunticook, which lake is situated in the town of Canton and in the town of Hartford in Oxford County, except it shall be lawful to take smelts, eels, and suckers in said tributaries, in accordance with the general laws of the state; Miller Brook, so-called (1925, c. 22), a tributary to Moose Pond, which pond is situated in the town of Bridgton in Cumberland County; Salmon Pond, so-called, which pond is situated in the town of Guilford in Piscataquis County, said pond being the source of water supply for the Dover-Foxcroft Water District (1927, c. 170).

The following waters are closed to fishing for trout and landlocked salmon at all times, except as hereinafter provided:

Watchic pond (1927, c. 68, § 2) in the town of Standish in Cumberland County, except in the ordinary way of casting with artificial flies or fly fishing, so-called, from the time the ice is out of said pond in the spring to the thirtieth day of September of each year, both days included, from sunrise until sunset in each day.

The following waters are closed to plug fishing for trout and landlocked salmon:

Mooselucmeguntic lake and the Richardson lakes (1923, c. 152) in the counties of Oxford and Franklin, except from permanent wharf or shore, from June first of each year to September thirtieth, both days inclusive.

The following waters are closed at all times to the taking of trout or landlocked salmon by still or plug fishing, so-called:

Messalonskee lake or Snow pond, so-called, of the Belgrade Chain of Lakes, in the county of Kennebec.

Sec. 19. Size of fish and weight of catch limited; special provision in various localities. 1917, c. 219, § 19. 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, further, 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 landlocked salmon, trout, togue, white perch, and black bass, 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 landlocked salmon, trout, togue, white perch, and black bass even though the twenty-five fish caught and killed weigh less than fifteen pounds, provided, further, that no landlocked salmon less than twelve inches in length, no trout or white perch less than six inches in length, and no black bass less than ten inches in length shall be caught and killed or had in possession by any person at any time, except as hereinafter provided; provided, further (1923, c. 185), that it shall be unlawful for any person to take, catch, and kill, at any time, any trout less than ten inches or any landlocked

salmon less than fourteen inches in length, in Rangeley lake in Oxford and Franklin counties, or in Cupsuptic, Mooselucmeguntic, and Richardson lakes, in Oxford and Franklin counties, or in the portions of Kennebago and Rangeley streams which are open to fishing, or to have in possession at any time any trout less than ten inches in length taken in any of the said waters, and it shall be unlawful for any person to take, catch and kill in any one day more than ten pounds of landlocked salmon and trout in all in any of the above-named lakes, and to have in possession at any one time more than ten pounds of trout and landlocked salmon in all taken in any one day in any of the above named lakes; except the taking, catching, and killing, or having in one's possession one trout or salmon weighing more than ten pounds, or two such fish, each weighing less than ten pounds, shall not be considered a violation of this provision; and provided, further (1923, c. 186, § 1), that it shall be unlawful for any person to take, catch, and kill more than one fish in any one day in the portion of Rangeley stream in the county of Franklin in which it is lawful to fish, or (§3) in the portion of Kennebago stream in said county in which it is lawful to fish, or from the fifteenth day of September to the thirtieth day of September in each year, both days inclusive, in (1923 c. 186, § 5; 1925, c. 121, § 5) the pool at Upper Dam, so-called, between Mooselucmeguntic and Upper Richardson Lakes, or in the river leading from said pool to said Upper Richardson Lake, or in Rapid River, so-called, in the county of Oxford, or in the Pond-in-the-River, so-called, on said Rapid river, or more than five fish in all in any one day in (1923, c. 186, § 2) Little Kennebago stream in the county of Franklin, or more than three pounds of fish in all, or more than five fish although said five fish may weigh less than three pounds, or any fish less than eight inches in length in (1923, c. 186, § 4) the portion of Cupsuptic river in the county of Oxford in which it is lawful to fish, and it shall be unlawful for any person to have in his possession at any time any kind of fish taken in violation of these provisions; and provided that it shall be unlawful for any family, party, or the occupants of any one boat, canoe, raft, or other vessel or conveyance to take, catch, kill, or to have in possession in any one day more than forty white perch (1921, c. 208) in all in East Pond or in North Pond of the Belgrade Chain of Lakes in Kennebec and Somerset counties; and (1917, c. 219) provided that in Great, Long, East, North, Ellis, McGraw, and Snow ponds, being a part of said Belgrade Chain of lakes, 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, it shall be unlawful for any person to take, catch, and kill in any one day more than six black bass in all or either of said ponds or in Lake Kezar or in Lake Kezar Pond in the county of Oxford, or (1925, c. 161, § 2; 1927, c. 83) any trout less than ten inches in length or more than fifteen pounds of white perch or more than twenty-five white perch in all (1927, c. 60) in Lake Cobbosseecontee in the county of Kennebec, or to take or have in possession in any one day, in the aggregate, more than ten pounds of fish, before such fish are dressed, from (1923, c. 37) any of the following named waters located in said county of Kennebec, namely: From Cobbosseecontee stream, between Collins' Dam, so-called, and the upper dam at the city of Gardiner, including the Oxbow, so-called, and Horse-shoe pond; and provided it shall be unlawful for any person at any time to take, catch, and kill (1927, c. 179) any square tail trout less than ten inches in length, or any landlocked salmon less than fourteen inches in length in any lake or pond situated wholly or partly in the county of Cumberland, or to have in possession at any time any such fish taken in said waters in violation of this provision (1927, c. 68, § 2), or any trout less than ten inches in length

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or any land-locked salmon less than fourteen inches in length, or more than three trout and land-locked salmon in all in any one day, taken in Watchic Pond in the County of Cumberland, or more than fifteen fish in all or more than ten pounds of fish in all (unless the last fish taken increases the combined weight thereof to more than ten pounds) taken in (1927, c. 97) Branch Brook and its tributaries in Durham in the county of Androscoggin, Newell Brook and its tributaries in said Durham, and Harvey Brook in Pownal or Freeport in the county of Cumberland; and provided it shall be unlawful for any person to take, catch, and kill more than six fish in all in Bowler Pond in the town of Palermo in the county of Waldo (1927, c. 50, § 2) in any one day or to have in possession in any one day more than six fish in all taken in said pond, and provided further it shall be unlawful for any person to take, catch, kill, or have in possession in any one day more than fifteen pounds of pickerel in all, unless the last fish taken increases the combined weight thereof to more than fifteen pounds, taken in (1927, c. 86) Union River or Graham Lake, so-called, in the county of Hancock; and provided that it shall be unlawful for any person or family to take, catch, or kill in (1927, c. 181) Cochnewagon pond in the town of Monmouth in the county of Kennebec, more than fifteen pounds of pickerel and white perch in all, in any one day, while fishing through the ice or to have in possession in any one day more than fifteen pounds of pickerel and white perch in all so taken in said pond, and (1923, c. 36) provided it shall be unlawful for any person at any time to take, catch, kill, or destroy in any one day more than fifteen white perch in all in Bear Pond, which pond is in the town of Hartford in Oxford county and in the town of Turner in Androscoggin county, or to have in possession in any one day more than fifteen white perch in all taken from said pond; and provided, further, that no limitation is placed on the taking of white perch in (1925, c. 161) Crawford lake and its tributaries in the county of Washington; and provided it shall be unlawful for any person to take, catch, and kill or have in possession in any one day, more than ten fish in all in (1925, c. 28) C. Pond, so-called, which pond is situated in Township C. Surplus, in the County of Oxford, or for any person or party or the occupants of any one boat, canoe, raft, or other vessel or conveyance propelled by steam, electricity, hand, or other power, to fish for, take, catch, or kill more than five black bass in all in any one day, collectively, or more than two black bass in all individually, or more than fifteen pounds of black bass in all, unless the last fish so taken increases the combined weight thereof to more than fifteen pounds, in the waters of (1923, c. 154) Lake Walden or Hancock lake, so-called, which waters are situated wholly or partly in the town of Denmark, in the county of Oxford, and in the town of Sebago, in the county of Cumberland, or to have in possession at any time any black bass taken in violation of said provision; and provided it shall be unlawful for any person to take or catch and kill or have in possession in any one day more than eight pounds of landlocked salmon, trout, and togue in all [taken] in (1927, c. 67) Moose River in Somerset county, down to the head of Brassua Lake, or in Wood pond in Jackman, Dennistown; and Attean Township, so-called, or in Little Wood Pond, or Mud Pond, so-called, in Attean Township, or in Little Big Wood Pond in Dennistown, or in Long Pond in Long Pond Plantation and Jackman, or in Attean Lake in Attean Township, or in Holeb Pond partly in said Attean Township and partly in Holeb Township, all in the county of Somerset.

Sec. 20. Number of lines limited. 1917, c. 219, § 20. 1927, c. 114. 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. It shall be unlawful for the

occupants of any one boat, motor boat, canoe, raft or other vessel or conveyance to troll with more than two lines at any time in Rangeley lake, Kennebago lake, Cupsuptic lake, Mooselucmeguntic lake, or Upper or Lower Richardson lakes, said lakes being the Rangeley chain of lakes, so-called, and situated partly in the county of Franklin and partly in the county of Oxford.

Sec. 21. Penalty for violation of §§ 18, 19, 20. 1917, c. 219, § 21. Whoever violates any provision of the three 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. Sale of certain fish prohibited; penalty; exceptions. 1917, c. 219, § 22. 1919, c. 68. 1925, c. 161. 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. Provided, however, that white perch taken by means of hook and line in Grand lake, the outlet of which is Grand Lake stream, Junior lake, Compass lake and Dobsis lake, and Crawford lake, in the counties of Washington and Penobscot, and all other lakes and ponds whose outlets empty into any of the above named lakes, and black bass taken by means of hook and line in Round pond and in Pennamaquam lake, in Charlotte, in the county of Washington, may be sold and transported, within or without this state, in such quantities and under such rules and regulations as the commissioner of inland fisheries and game may establish.

Sec. 23. Fishing for gain or hire prohibited; exceptions; penalty. 1917, c. 219, § 23. 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 tidewaters, 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. Certain implements and devices prohibited; penalty. 1917, c. 219, § 24. 1921, c. 218, § 2. Whoever uses any dynamite or any other explosive or poisonous or stupefying substance at any time for the purpose of destroying any kind of fish or whoever takes, kills or destroys any kind of fish at any time with any dynamite or other explosive or poisonous or stupefying substance, shall pay a fine of not less than one hundred dollars and costs for each offense or shall be imprisoned two months in the county jail.

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 five set lines to a person during November and December when fishing for pickerel), or takes any kind of fish, except suckers, eels, hornpouts, yellow perch, white fish, and cusk, 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 any of the above named prohibited implements, de-

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vices, or substances are found in use or possession they are forfeit and contraband and any person finding them in use may destroy them.

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Sec. 25. Jack lights and other devices prohibited; penalty. 1917, c. 219, § 25. 1919, c. 196, § 3. 1927, c. 185. No person shall expose or offer for sale, sell, or purchase in this state any jacklight or light fitted for use in the hunting of game in the night time. No person shall have in possession at any time when he is upon the wild lands, waters, or highways, or in the woods or fields of the state, or in any camp, lodge, or place of resort for hunters or fishermen, or in its immediate vicinity, any jacklight or light fitted for use in the hunting of game in the night time, or any swivel, pivot, or set gun; nor shall any person have in possession at any time any spear, trawl, or net (except such as are authorized for the taking of suckers, eels, hornpouts, and yellow perch, as provided in section twenty-seven) 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. Whoever violates any provision of this section shall be subject to a fine of one hundred dollars and costs for each offense and, in addition thereto, imprisonment for sixty days, and when any such implements or devices are found in possession in violation of any provision of this section they are forfeit and contraband, and shall be seized by any person authorized to enforce the inland fish and game laws. Nothing in this section shall be construed as affecting or restricting the possession and sale of flashlights.

See § 51.

Sec. 26. Relating to the taking of smelts, minnows, and other bait fish, white fish, cusk, and suckers; penalty. 1917, c. 219, § 26; c. 244. 1919, c. 196, § 4. 1921, c. 218, § 3. 1923, c. 32; c. 132. 1925, c. 86, § 1. 1927, c. 140. 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, with single hook and line, in the day time, in Sebago lake, for sale within the state, during January, February, and March of each year, but they shall not be taken with a dip-net in any of the tributaries to Sebago lake except for food purposes in the family of the person taking the same or to be sold only for bait for fishing within this state; and provided, further, that no family shall take or have in possession in any one day, more than one peck of said smelts by means of a dip-net in said waters, and then only under permit issued by the department of inland fisheries and game on application duly approved by an inland fish and game warden or deputy inland fish and game warden; and provided, further, that it shall be unlawful to take smelts at any time in Swan lake, or in any of the tributaries to said lake, in the county of Waldo, in any manner except with single hook and line; and provided, further, that it shall be unlawful to take any smelts at any time during the spawning season from either of the three tributaries flowing into the head of Bryant pond, or Lake Christopher, so-called, in the town of Woodstock, in the county of Oxford. Provided, further, that it shall be lawful to take minnows and other fish usually used for bait for fishing, in all the inland waters of the state, 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 with single hook and line at any time, in all the inland waters of the state, but they shall not be

taken at night with set lines; and provided, further, that white fish and cusk may be taken, by means of nets, for food purposes only in the family of the person taking the same, in such waters as the commissioner of inland fisheries and game may deem advisable, and under such conditions, rules, and regulations as he may establish; and provided, further, that it shall be lawful to catch cusk at any time in waters open to ice fishing with not more than five set lines to each family when fishing through the ice and when under the immediate personal supervision of the person fishing; and provided, further, that it shall be lawful to take suckers with spears, in all the inland waters of the state, during April and May of each year. Provided, further, that the commissioner of inland fisheries and game may grant special permits to take white perch in the inland waters of the state for the purpose of science, propagation, or dissemination, or for the purpose of ridding any inland waters of white perch, whenever, after investigation, he deems it advisable. Whoever violates any provision of this section shall pay a fine of fifty dollars and costs for each offense.

Sec. 27. Relating to the taking of eels, suckers, horn pouts, yellow perch, and alewives; permits for same; penalty. 1917, cc. 219, § 27; 244. 1919, c. 196, § 5. 1921, c. 218, § 4. 1923, c. 68. The commissioner of inland fisheries and game may grant permits to take suckers, eels, hornpouts, and yellow perch, by means of eel pots, traps, spears, or nets, in inland waters frequented by these fish, under such terms, rules and regulations as he may establish, but no exclusive territory permits shall be granted for the taking of any of said fish in any inland waters.

Provided, further, that said commissioner may grant permits to take alewives in the inland waters of the state under such rules and regulations as he may establish.

It shall be unlawful for any person to take, catch, kill, destroy, have in possession, offer for transportation, or transport any alewives, suckers, eels, hornpouts, or yellow perch in violation of any provision of this section, under a penalty of thirty dollars and costs for each offense.

Sec. 28. Weight of salmon, trout, togue, white perch, and black bass, to be transported, limited; regulations; penalty. 1917, c. 219, § 28. 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 weighing 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; provided, further, that this section shall not apply to white perch and black bass excepted from the general law and transported as provided in section twenty-two.

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Sec. 29. Owner to accompany fish; exceptions; penalty. 1917, c. 219, § 29; c. 244. 1919, c. 196, § 6. 1923, c. 123. 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, provided the same is shipped in his own name, or to any hospital in this state, without accompanying the shipment, by purchasing of an agent duly appointed therefor by the commissioner of inland fisheries and game a transportation 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 send more than one shipment of fish under a transportation tag, as provided in this section, once in five days; provided, however, that ten pounds of fish or one fish taken legally in Moosehead lake or in any other waters in Piscataquis county may be sent as herein provided under a transportation tag whenever the same are legally in possession of the shipper during the open season on said fish; provided, further, that ten pounds of fish or one fish taken legally in Rangeley lake, Mooselucmeguntic lake, Cupsuptic lake, Upper Richardson lake, so-called, or Lower Richardson lake, so-called, said lakes being the Rangeley chain of lakes, so-called, may be sent as herein provided under a transportation tag only once in one year. Provided, further, that this section shall not apply to white perch and black bass excepted from the general law and transported as provided in section twenty-two. 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. Stocking of lakes and streams without permission of commissioner prohibited; penalty. 1917, c. 219, § 30. 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 commissioner of inland fisheries and game, shall pay a fine of not less than fifty, nor more than five hundred dollars.

Sec. 31. Tolling by means of "advance baiting" prohibited; penalty. 1917, c. 219, § 31. 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.

Sec. 32. Deposit of slabs, edgings, sawdust, in streams, etc. prohibited; special provisions in various localities; penalty. 1917, c. 219, § 32. 1919, c. 21; c. 174. 1921, c. 178. 1923, c. 15. 1925, c. 174. 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, brooks, and streams, to wit: in Androscoggin county, the Little Androscoggin river and any of its tributaries; in Aroostook county, the Aroostook river or any of its tributaries; the Prestile stream or any of its tributaries; Fish river and all of its tributaries, 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 Sebago, 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 Mc-

Graw, 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 Weston Brook in Manchester; 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; Carrabasset river, in Kingfield and New Portland, in the counties of Franklin and Somerset; 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 Stow; 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; Alder stream and its tributaries; Piscataquis river; the south branch of the Piscataquis river and its tributaries in Abbot and in Kingsbury Plantation; Thorn brook and its tributaries in the towns of Abbot and Blanchard and in Kingsbury plantation; Higgins stream and its tributaries in the counties of Somerset and Piscataquis; Main stream, a tributary to Great Moose lake, in Hartland and Harmony, said Main stream being situated in the counties of Penobscot, Piscataquis and Somerset, or in any of the tributaries to said Main stream; Jimmie brook in the town of Cambridge, in Somerset county; in Waldo county, Half Moon or Sandy stream and its tributaries; the tributaries to Seven Tree pond; the tributaries to Unity pond; the outlet of said Unity pond, which outlet is situated in the towns of Burnham and Unity; St. George's river, in Montville and Searsmont; Passagassawaukeag river, or any of its tributaries, in the county of Waldo; Medomak stream, in Liberty; the Sheepscot river or any of its tributaries, which waters are situated in the towns of Palermo, Liberty, Montville and Freedom, in the county of Waldo; in Washington county, Baskagegan 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 nor more than one hundred dollars and costs for each offense.

Provided, further, that the commissioner of inland fisheries and game and the forest commissioner shall have authority, upon petition of twenty-five citizens of this state, and after due notice and public hearing in the locality of the waters to be affected, at which hearing all parties interested may be heard, to promulgate rules and regulations prohibiting the pollution of any of the brooks, streams, or rivers in this state with slabs, edgings, sawdust, chips, bark, mill waste, shavings, or any fibrous material created in the manufacture of lumber. A copy of any regulations promulgated by virtue of this section shall be filed in the office of the clerk of courts, in the county in which the waters are situated, and shall be published three times in a newspaper printed in the county wherein

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the waters are situated. Whoever violates any provision of any rules and regulations of the commissioner of inland fisheries and game and the forest commissioner promulgated by virtue of this section, shall be subject to a fine of not less than five nor more than one hundred dollars and costs for each offense.

Sec. 33. Cultivation of useful fish by individuals. 1917, c. 219, § 33. 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 commissioner of inland fisheries and game.

Sec. 34. Penalty for fishing in private ponds without permission of owners. 1917, c. 219, § 34. 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 commissioner of inland fisheries and game, under a penalty of not less than ten, nor more than one hundred dollars, for each offense, 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. Jurisdiction of commissioner. 1917, c. 219, § 35. 1923, c. 213. 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. All sea salmon, shad, alewives, and smelts that migrate from the ocean into fresh water shall be under the concurrent jurisdiction of the sea and shore fisheries and the inland fish and game commission wherever found.

See c. 49, § 6.

Hunting and Trapping.

Sec. 36. Close time on caribou; penalty. 1917, c. 219, § 36. 1919, c. 196, § 7. 1923, c. 81. Whoever, at any time, hunts, pursues, or kills any caribou, or has in possession any part or parts thereof, whenever or wherever taken, caught, or killed, shall pay a fine of two hundred dollars and costs for each offense, or be imprisoned not exceeding four months, or shall be subject to both such fine and imprisonment.

Provided, however, that the commissioner of inland fisheries and game upon application from any person who has legally killed a caribou beyond the limits of this state may issue a special importation license permitting the importation of such caribou or part thereof for consumption or mounting within this state under such rules and regulations as the commissioner may establish. Provided, however, that any caribou or part thereof imported by virtue of this section shall not be sold or offered for sale at any time and provided, further, that said commissioner shall appoint the customs officials or other persons along the Maine boundary to issue the importation licenses above named.

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Sec. 37. Close time on moose; penalty. 1917, c. 219, §§ 36, 37. 1919, c. 131. 1921, c. 105. 1925, c. 83. 1927, c. 232. Whoever at any time hunts, pursues,

or kills any cow moose, or calf moose, or has in possession any part, or parts, thereof, whenever or wherever taken, caught, or killed, shall pay a fine of not less than two hundred dollars nor more than three hundred dollars, and costs, for each offense, or be imprisoned for sixty days, or shall be subject to both said fine and imprisonment; 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.

No person shall, at any time, hunt, pursue, catch or kill any bull moose in the county of Androscoggin, Cumberland, York, Sagadahoc, Kennebec, Knox, Oxford or Franklin, under a penalty of not less than two hundred dollars nor more than three hundred dollars, and costs, for each offense, or imprisonment for sixty days, or both said fine and imprisonment; nor shall any person, under the same penalty, have in possession at any time any bull moose, or part or parts thereof, taken in either of said counties.

No person shall, at any time, hunt, pursue, catch or kill any bull moose in the county of Aroostook, Penobscot, Piscataquis, Somerset, Lincoln, Waldo, Washington or Hancock, *except from the twenty-first day of November to the twenty-sixth day of November, both days inclusive, in the year nineteen hundred and twenty-seven, nor shall any person between the twenty-first day of November and the twenty-sixth day of November, both days inclusive, in the year nineteen hundred and twenty-seven, take, catch or kill more than one bull moose, or have in possession more than one bull moose, or part or parts thereof, whenever or wherever taken, caught, or killed,* under a penalty of not less than two hundred dollars, nor more than three hundred dollars, and costs, for each offense, or imprisonment for sixty days, or both said fine and imprisonment. No person shall, under the same penalty, at any time have in possession any bull moose, or part or parts thereof, in closed season, whenever or wherever taken, caught, or killed, except a person who has lawfully killed 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 closed season.

No person or corporation shall carry or transport from place to place any bull moose, or part thereof, in close season, nor in open season, unless open to view, tagged and plainly labeled with the owner's name and residence, and accompanied by him while being transported, and identified by him at such places as the commissioner of inland fisheries and game shall have designated by publication in the daily newspapers in the state, under a penalty of not less than two hundred dollars, nor more than three hundred dollars, and costs, for each offense, or imprisonment for sixty days, or both said fine and imprisonment, for each bull moose, or part thereof, transported or carried in violation of any provision of this section; any person not the actual owner of such bull moose, 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 such bull moose, or part thereof, that is being transported or carried in violation of any provision of this section was illegally killed.

No person shall, under the same penalty, sell, or give away any bull moose, or part thereof, to be transported or carried beyond the limits of this state, nor shall any person, under the same penalty, buy or accept as a gift, any bull moose, or part thereof, to so transport the same; nor shall any resident of this state, under the same penalty, carry or transport, in any manner, beyond the limits of this state, any bull moose or part thereof.

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Provided, however, that a resident of the state of Maine who has lawfully killed a bull moose may send the same to his home, or to any hospital in the state, without accompanying the same, by purchasing of the commissioner of inland fisheries and game, or of a duly appointed agent, a transportation tag, and said tag shall be attached to the bull moose, or part thereof, being transported, paying therefor a fee of five dollars.

Provided, further, that any non-resident who has lawfully killed a bull moose may send the same to his home by presenting to the agent of a transportation company his moose hunting license duly issued to him under the provisions of sections seventy-five and seventy-seven, whereupon the agent, after satisfying himself that the person presenting said moose is the person described in the license, shall detach from said license the two moose coupons and shall attach the eyeletted one to the moose, or part thereof, offered for shipment, and said coupon shall remain attached to said moose, or part thereof, while it is being transported in this state; the other moose coupon shall be duly filled out by said transportation agent and forwarded forthwith to the commissioner of inland fisheries and game at Augusta, Maine.

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, under a penalty of not less than two hundred dollars, nor more than three hundred dollars, and costs, for each offense, and forfeiture to the state of the moose, or part thereof, being transported in violation of this requirement.

Provided, however, that the commissioner of inland fisheries and game, upon application from any person who has legally killed a moose beyond the limits of this state, may issue a special importation license permitting the importation of such moose, or part thereof, for consumption or mounting within this state, under such rules and regulations as said commissioner may establish; provided, however, that no moose, or part thereof, imported by virtue of this section shall be sold or offered for sale at any time, and provided, further, that said commissioner shall appoint the customs officers or other persons at convenient points along the Maine boundary as agents to issue the importation licenses above named.

*119 Me. 257.

Sec. 38. Closed season on deer in certain counties. 1917, c. 219, § 38. 1919, c. 37. 1921, c. 117. 1923, c. 212. 1925, c. 195. 1927, c. 183. There shall be an annual closed season on deer in the counties of Aroostook, Franklin, Oxford, Penobscot, Piscataquis, and Somerset, from December first of each year to October fifteenth of the following year, both days inclusive; and 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, and in the counties of Hancock and Washington from December sixteenth of each year to October thirty-first of the following year, both days inclusive, (except that on the Island of Mount Desert, and in the town of Deer Isle, and in the town of Stonington, in the county of Hancock, and on Cross Island and on Scotch Island, in the county of Washington, and in Isle au Haut, in the county of Knox, and on Swan Island, in the county of Sagadahoc, and on Kineo Point, and Katahdin Park Game Preserve in the county of Piscataquis, and all other places in the state where hunting is prohibited by law, no deer shall be pursued or killed at any time) during which said closed seasons, except as hereinafter provided, it shall be unlawful to hunt, chase, catch, or kill any deer or have in possession

any parts or part thereof, whenever or wherever taken, caught, or killed; and no person shall during the open seasons above named, except as hereinafter provided, take, catch, kill, or have in possession, whenever or wherever taken, caught or killed, more than one deer, or part or parts thereof. A person lawfully killing a deer in open season, shall have a reasonable time in which to transport the same to his home and may have the same in possession at his home in closed season.

88 Me. 385.

Sec. 39. Use of dogs, jack-lights, traps, swivels, pivots, or set guns prohibited; penalty. 1917, c. 219, § 39. 1919, c. 196, § 8. No person shall at any time hunt, catch, take, kill, or destroy, with a dog, jacklight, artificial light, snare, trap, swivel, pivot, or set gun, any deer, caribou, or moose, under a penalty of one hundred dollars and costs for each offense and imprisonment for sixty days.

Sec. 40. Penalty for allowing dog to chase moose, caribou, or deer; penalty. 1917, c. 219, § 40. 1919, c. 196, § 9. 1925, c. 111. 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 in writing from the commissioner of inland fisheries and game or from any inland fish and game warden or deputy inland fish and game warden that such dog is liable to chase moose, caribou, or deer, or shall permit any dog in his custody after such notice to run at large in the forest or wild lands in this state without being accompanied by the owner or keeper, shall pay a fine of not less than fifty, nor more than one hundred dollars and costs for each offense. If a dog is found chasing moose, caribou, or deer after the owner or possessor thereof has been notified, as provided in this section, that such dog is liable to chase moose, caribou or deer, it shall be prima facie evidence that said owner or possessor of such dog has permitted said dog to hunt or chase moose, caribou or deer in violation of this section.

Sec. 41. Sale of deer outside state prohibited; transportation limited; penalty. 1917, c. 219, § 41. 1919, c. 196, § 10. No person shall sell or give away any deer or part thereof to be transported or carried beyond the limits of this state; nor shall any person buy or accept as a gift any deer or part thereof to so transport the same; nor shall any resident of this state at any time carry or transport in any manner beyond the limits of this state any deer or part thereof. Whoever violates any provision of this section shall pay a fine of not less than fifty, nor more than one hundred dollars and costs for each offense.

83 Me. 236.

Sec. 42. Transportation of deer within state. 1917, c. 219, § 42. 1919, c. 196, § 11. Any citizen of the state who has lawfully killed a deer may send the same to his home, provided the same is shipped in his own name, or to any hospital in the state, without accompanying the same, by purchasing of an agent appointed therefor by the commissioner of inland fisheries and game a tag, paying therefor two dollars, and said tag shall be attached to the deer, or part thereof, being transported.

The commissioner of inland fisheries and game may appoint agents in convenient localities who may sell these tags, under such rules and regulations as said commissioner may adopt.

Sec. 43. Lumber camps, use of deer as food prohibited; penalty. 1917, c. 219, § 43. 1919, c. 196, § 12. No owner or keeper of any camp, house, or other building, used partly or wholly in lumbering operations, or employee thereof,

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shall use, consume, or have in possession, at any time, at said camp, or serve to any employee thereof, any deer or moose or part thereof, under a penalty of not less than one hundred, nor more than two hundred dollars and costs for each deer or moose or part thereof so used, consumed, served or had in possession in violation hereof.

Sec. 44. Carcasses of deer to be open to view when in transit; evidence of sex to be preserved; penalty violation prima facie evidence of illegal killing. 1917, c. 219, § 44. 1919, c. 196, § 13. Except as herein provided no person or corporation shall carry or transport from place to place any 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 commissioner of inland fisheries and game shall have designated by publication in the daily newspapers of the state under a penalty of not less than fifty dollars nor more than one hundred dollars and costs for each deer or part thereof transported or carried in violation of any provision of this section, and any person not the actual owner of such 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 deer, or part thereof, that is being transported or carried in violation of this section was illegally killed.

Sec. 45. Authority of commissioner to declare special open season on beaver and muskrat; taking or transporting of beaver otherwise prohibited; penalty. 1917, c. 219, § 45. 1919, c. 196, § 14. 1927, c. 95. The commissioner of inland fisheries and game, upon written complaint of any water company required to furnish pure water to its customers, that beaver or muskrat are polluting its water supply, shall have authority to declare an open season for beaver or muskrat on such sections of land and waters as is necessary for the trapping or removal of the beaver or muskrat that are polluting said waters, by any person holding a beaver trapping license, without securing permission of the land owner or under rules and regulations, of the commissioner, or 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 and under such conditions as he may deem necessary to remove the beaver that are doing the damage complained of, during which open season it shall be lawful for any person holding a beaver trapping license issued in accordance with the provisions of section fifty to trap beaver thereon. No open season for beaver as contemplated by this section shall take effect until the commissioner 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 commissioner 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 commissioner of inland fisheries and game that the privileges of such open season are being abused in any place, said commissioner of inland fisheries and game may suspend the open season and declare it close season for beaver on such land for such time as he 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 commissioner 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 a fine of one hundred dollars and costs for each beaver taken, caught, or killed in violation of any provision of this section, or be imprisoned not exceeding sixty days, or be subject to both said fine and imprisonment. 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. It shall also be unlawful, under the same penalty, for any person, firm, or corporation, to sell, give away, buy, accept as a gift, offer for transportation, or transport any beaver skin or beaver skins unless each skin is marked with an official seal by the commissioner of inland fisheries and game or by an agent duly appointed by said commissioner to mark such skins.

Sec. 46. Fur-bearing animals; general and special provisions; exceptions; penalties. 1917, c. 219, § 46. 1919, c. 133. 1921, c. 218, § 5. 1923, cc. 214, 225. 1925, c. 87. 1927, c. 184. Whoever, from the fifteenth day of February to the thirty-first day of the following October, both days inclusive, hunts, traps, kills, pursues, or catches any fur-bearing animal (except bears, muskrat, beaver, bobcats, loupcevrier, or Canada lynx, weasels and foxes), or whoever, from the fifteenth day of February to the fifteenth day of the following October, both days inclusive, hunts, traps, kills, pursues, or catches any fox or foxes, in the county of Aroostook, Penobscot, Washington, Hancock, Piscataquis, Somerset, Franklin, or Oxford, or whoever from the fifteenth day of February to the thirty-first day of the following October, both days inclusive, hunts, traps, kills, pursues, or catches any fox or foxes, in the county of Androscoggin, Cumberland, York, Sagadahoc, Kennebec, Lincoln, Waldo, or Knox, or whoever, from the first day of May to the thirtieth day of the following November, both days inclusive, hunts, traps, kills, pursues, or catches any muskrat or muskrats in the county of Androscoggin, Cumberland, York, Sagadahoc, Kennebec, Lincoln, Waldo, or Knox, or whoever, from the fifteenth day of May to the thirty-first day of the following October, both days inclusive, hunts, traps, kills, pursues or catches any muskrat or muskrats in the county of Washington, Hancock, Aroostook, Penobscot, Piscataquis, Franklin, Somerset, or Oxford, or whoever has in possession at any time any fur-bearing animal or part or parts thereof taken in closed season 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, caught, or had in possession in violation hereof.

Provided, further, it shall be unlawful, under the same penalty, for any person to hunt, trap, or pursue any muskrat or muskrats on Cobbosseecontee stream, or on any tributary to said stream, from the outlet of Cobbosseecontee lake to the reservoir dam at the New Mills, so-called, in the city of Gardiner, which waters are situated partly in the county of Kennebec and partly in the county of Sagadahoc, except during the month of April of each year; provided, further, it shall be unlawful, under the same penalty, for any person to hunt, kill, trap, pursue, or catch any muskrat or muskrats at any time from the first day of May of each year to the fifteenth day of March of the following year, both days inclusive, in the Sebeccook river, in the county of Penobscot, or in the East Branch, so-called, of said river, or in the West Branch, so-called, of said river; provided, further, it shall be unlawful, under the same penalty, for any person to take, catch, trap, kill, or destroy any muskrat or muskrats at any time in Lower Kezar pond, in the town of Fryeburg in the county of Oxford, and in the town of Bridgton in the county of Cumberland, or in the outlet stream of said Lower Kezar pond, or in the Kezar Meadows, so-called, adjacent to said pond (which meadows are bounded by the outlet stream of said pond, by the

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Old Saco river, by the "Uplands," so-called, and by the "Upland" on the easterly side of said meadows) or in the east bog, so-called, or in the west bog, so-called, bounded by the "Uplands," and on the westerly side by a wire fence on land owned by E. C. Buzzell; except that it shall be lawful to take muskrats within said territory in the usual manner of trapping, in accordance with the general statutes of the state, during the months of March and April of each year; provided, further, it shall be unlawful, under the same penalty, for any person to hunt, trap, kill, pursue, or catch any muskrat or muskrats at any time in Songo river, a tributary to Sebago lake, which lake is situated in the county of Cumberland, or in Crooked river, also a tributary to said Sebago lake, up as far as Edes Falls bridge; provided (1925, c. 56), for a period of five years from the tenth day of July, 1925, it shall be unlawful, under the same penalty, for any person to hunt, trap, kill, pursue, or catch any muskrat, or muskrats, in Bryant Pond, or Lake Christopher, so-called, which waters are situated in the town of Woodstock, in the county of Oxford, and (1927, c. 47) for a period of two years from the eleventh day of July, 1927, it shall be unlawful under the same penalty for any person to hunt, trap, kill, pursue, or catch any muskrat or muskrats in the town of Bucksport or in the town of Orland, in the county of Hancock, and (1927, c. 130) for a period of three years from the fifteenth day of July, 1927, it shall be unlawful under the same penalty for any person to (hunt,) trap, (kill, pursue, or catch) any muskrat or muskrats in Ward stream, so-called, which stream is situated within the limits of the towns of Newburg, Hermon, and Hampden, in the county of Penobscot, or in any of the tributaries to said Ward stream within the limits of said towns; provided, further, it shall be unlawful, under the same penalty, for any person to have in possession at any time any muskrat or muskrats, or part or parts thereof, taken in closed season in any of the above named waters.

Provided, further, it shall be unlawful for any person to set a trap at any time within twenty-five feet of, or to molest or destroy, a muskrat house, under a penalty of ten dollars and costs for each offense.

Whoever at any time hunts, traps, kills, pursues, catches, or has in possession any beaver, or part or parts thereof, except as provided in the preceding section, or whoever, at any time, molests or destroys a beaver house, or sets a trap within twenty-five feet thereof, shall pay a fine of one hundred dollars and costs for each offense, or be imprisoned not exceeding sixty days, or be subject to both said fine and imprisonment.

Provided, however, that any person may lawfully kill any wild animal (other than beaver) or any wild bird found destroying his property.

Provided, further, that it shall be lawful to hunt, catch, pursue, and kill skunks and raccoons at night with dog or gun from the first day of October of each year to the fifteenth day of the following December, both days inclusive, in the counties of Androscoggin, Cumberland, Kennebec, Sagadahoc, York, Knox, Lincoln, Waldo, and Oxford.

Note. Sunday hunting prohibited, § 61. Closed season from sunset until one hour before sunrise, exceptions, § 62.

Sec. 47. Digging out fox dens forbidden; penalty. 1917, c. 219, § 47. 1919, c. 196, § 15. 1927, c. 53. No person shall at any time 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 twenty-five dollars and costs for each offense.

Sec. 48. Gray squirrels, closed season; penalty. 1917, c. 219, § 48. 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. Rabbits and wild hares, closed season; method of hunting; transportation restricted; penalty. 1917, c. 219, § 49. 1923, c. 53. 1925, c. 69. 1927, c. 112. There shall be an annual closed season on wild hares or rabbits in the counties of Androscoggin, Sagadahoc, and York during the months of March, April, May, June, July, August, and September of each year, and in the counties of Aroostook, Washington, Hancock, Penobscot, Piscataquis, Somerset, Franklin, Oxford, Kennebec, Knox, Lincoln, Waldo, and Cumberland during the months of April, May, June, July, August, and September of each year, during which respective closed seasons it shall be unlawful for any person to hunt, kill, catch, pursue or have any rabbits or parts thereof in possession, except alive.

No person shall set or use any snare or snares, trap, or traps, or any other device in the hunting, pursuing or killing of wild hares or rabbits, or hunt or kill the same in any manner except in the ordinary method of shooting with guns in the usual manner; provided, however, it shall be lawful to catch wild hares or rabbits in common box traps during the open seasons provided in this section. Provided, further, it shall be unlawful for any person or corporation to transport or offer for transportation at any time any dead wild hares or rabbits beyond the limits of the state of Maine. The provisions of this section shall not be construed to prohibit the holder of a non-resident hunting license, issued in accordance with the provisions of section seventy-five from transporting to his home dead wild hares or rabbits which he has legally killed by virtue of his said non-resident hunting license, upon presentation of said wild hares or rabbits and his hunting license to the agent of a transportation company or to an inspector appointed by the department of inland fisheries and game to inspect game shipments, and having an official transportation tag attached thereto, after being identified by said transportation agent or game inspector as the holder of said license. Provided, further, it shall be unlawful for any person to have in possession or transport at any time any wild hares or rabbits taken in closed season or by any method or with any device prohibited by this section. Whoever violates any provision of this section shall pay a fine of ten dollars and costs for each offense, and five dollars additional for each snare or trap or other illegal device set or used in violation of any provision of this section, and one dollar additional for each wild hare or rabbit taken, killed, caught, or had in possession in violation of any provision of this section.

Sec. 50. License to hunt or trap for fur-bearing animals; special license for unorganized townships; penalty. 1917, c. 219, § 50. 1919, c. 196, § 16. 1925, cc. 55, 70. 1927, c. 199. Whoever hunts, captures, or traps any fur-bearing animal, or animals, anywhere in the state, shall annually procure a license therefor from the commissioner of inland fisheries and game, paying therefor a fee of ten dollars for such hunting or trapping, provided, however, that the annual fee for such hunting or trapping within the limits of the cities, towns and plantations of the state shall be five dollars; provided, further, that whoever hunts, captures or traps any beaver on any land anywhere in the state opened to beaver

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trapping by said commissioner shall pay therefor a fee of twenty-five dollars annually. The provisions of this section shall not be construed as applying to minors under sixteen years of age who desire to hunt or trap fur-bearing animals except beaver (for which a twenty-five dollar trapping license is required) in any of the organized townships of the state, nor as affecting the right of a bona fide resident of this state, or his immediate family, to hunt or trap fur-bearing animals (except beaver) in accordance with the laws of the state, without such trapping license on land owned by him or on land leased by him and on which he is actually domiciled within the limits of an organized township, and which land is used exclusively for agricultural purposes.

Each person licensed under the provisions of this section shall, on or before the thirty-first day of December of each year, make such report to said commissioner as may be called for by him.

Whoever hunts, captures, or traps any fur-bearing animal, or animals, anywhere in the state, in violation of any provision of this section, or whoever fails to file the annual report required by this section, shall pay a fine of not less than ten dollars nor more than one hundred dollars and costs for each offense. Whoever has in possession at any time any fur-bearing animal, or part or parts thereof, taken in violation of any provision of this section shall be subject to the same penalty.

Provided, however, that whoever hunts, captures, or traps any beaver anywhere in the state, in violation of any provision of this section, shall pay a fine of not less than one hundred dollars and costs for each offense. Whoever has in possession at any time any beaver or part or parts thereof, taken in violation of any provision of this section, shall be subject to the same penalty.

Sec. 51. Traps to be labeled; prohibited devices; special provisions for bear traps; penalty. 1917, c. 219, § 51. 1919, c. 196, § 17; c. 249. 1921, c. 95; c. 218, § 6. No person shall at any time set a snare or a swivel, pivot or set gun or use or deposit any poisonous substance for any fur-bearing animal, under a penalty of one hundred dollars and costs for each offense, and by imprisonment for sixty days, and shall forfeit any such snare, swivel, pivot, or set gun, and any fur-bearing animal found in such snare, or killed by such swivel, pivot, or set gun or poisonous substance to any person finding the same; provided, further, that no person shall at any time, under a like penalty, advertise or give notice of the sale, or keeping for sale, of any such snare, swivel, pivot, or set gun, or poisonous substance for fur-bearing animals; 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, under a penalty 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 to the state the trap or traps and any wild animal found therein; provided, further, that no person shall set a bear trap at any time unless the same is enclosed in a hut, so-called, or by at least two strands of barbed wire, one four and one five feet from the ground, said wire to be securely held in position and to be not less than five yards at any point from the enclosed trap, under a penalty of fifty dollars and costs for each offense.

Note. See § 25.

Sec. 52. Traps to be visited; consent of landowner; penalty. 1917, c. 219, § 52. 1919, c. 196, § 18. 1923, c. 76. 1925, c. 67. 1927, c. 191. 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, except water-

sets, so-called, for mink and muskrat, and remove therefrom, or cause to be removed, any animal found caught therein. No person shall set a trap or traps on or within one mile of any cultivated land or pasture in any organized or incorporated place without first obtaining the written consent of the owner or occupant of the land on which said trap or traps are to be set, or set a trap outside his own land, except a water-set trap, so-called, within half a mile of the compact or built-up portion of any city or village. Whoever violates any provision of this section shall pay a fine of not less than ten dollars nor more than one hundred dollars and costs for each offense.

Bounties.

Sec. 53. Bounties on bobcat, loupcevier, Canada lynx; provisions; form of certificate, etc. 1917, c. 219, § 53. 1919, c. 196, § 19. A bounty of ten dollars for every bobcat, loupcevier, 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 commissioner 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, loupcevier, or Canada lynx, the skin of which I now exhibit to you, and I claim the bounty allowed by law for the 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 commissioner of inland fisheries and game a certificate which shall be in the following form:

TOWN TREASURER'S CERTIFICATE.

To the commissioner 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, loupcevier, 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, loupcevier,

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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, loupervier or Canada lynx described in this certificate and enclose the same herewith.

Dated at _____, this _____ day of _____, A. D. 19____.
 Claimant.

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 commissioner of inland fisheries and game showing that said commissioner has received the tail of the bobcat, loupervier, 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, loupervier, 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 commissioner of inland fisheries and game, shall be paid by the claimant the sum of twenty-five cents.

Sec. 54. Bounties on porcupines or hedgehogs. 1927, c. 249. A bounty of twenty-five cents for each and every porcupine, or hedgehog, so-called, killed in any town or unincorporated place, in the state, shall be paid by the treasurer of such town to the person killing it, except that in the Maine Forestry District such bounty shall be paid only in case such animal is killed between the fifteenth day of October and the first day of April in each year, both days inclusive. If the animal is killed in an unincorporated place, the bounty shall be paid by the treasurer of an adjoining town, if any, otherwise by the treasurer of the nearest town. No bounty shall be paid unless the claimant within ten days after he has killed such animal or has returned from the hunting, in which he killed it, exhibits to the town treasurer, the entire nose and feet thereof, in as perfect a state as when killed, except natural decay, and signs and makes oath to a certificate, in which he shall state that he killed such animal, and the time and place, showing it to be within the state; the treasurer shall thereupon entirely destroy said nose and feet by burning; then he shall pay the bounty and take the claimant's receipt therefor upon the same paper with such certificate. The town treasurer shall immediately make upon the same paper a certificate, under oath, addressed to the treasurer of state, that he first destroyed said nose and feet by burning, and then paid said bounty to the claimant. Said certificates and receipts shall annually, in December, be transmitted to the treasurer of state, and by him laid before the governor and council as early as convenient; and when allowed by them shall be paid by the treasurer of state to such towns. The certificate shall be in the following form:

CLAIMANT'S CERTIFICATE.

To the treasurer of I hereby certify that on the day of A. D. 19—, at in the state of Maine, I killed the porcupine or hedgehog, the nose and feet of

which I now exhibit to you; and I claim the bounty allowed by law for killing the same.

Dated at....., this.....day of.....
A. D. 19...

.....Claimant.
Subscribed and sworn to before me the day and year aforesaid.
..... Treasurer of

CLAIMANT'S RECEIPT.

On this day of A. D. 19..., I received of
..... treasurer of
.....dollars, being the bounty allowed by law for killing the porcupine
or hedgehog described in the above certificate.
.....Claimant.

TREASURER'S RECEIPT.

I hereby certify that as required by law, I first destroyed by burning the nose
and feet of the porcupine or hedgehog described in the foregoing certificate, and
then paid to said the bounty
for which I have taken his receipt as above.

Dated at day of
A. D. 19...
.....Treasurer of

Birds.

Sec. 55. Game birds, closed seasons. 1917, c. 219, §§ 54, 55. 1919, c. 62.
1921, c. 108. 1925, cc. 80, 132. 1927, c. 80. No person shall hunt, chase, catch,
kill, destroy, or have in possession at any time any eagle, Hungarian partridge,
or 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.

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: On partridge
and woodcock, abovenamed, from the first day of December of each year to the
thirtieth day of September of the following year, both days inclusive; during
which closed season it shall be unlawful for any person to hunt, chase, catch,
kill, destroy, or have in possession at any time any partridge or woodcock
except as hereinafter provided. On all varieties of ducks, brant, and geese and
on coots, gallinules, and jacksnipe, or Wilson snipe, from the first day of Janu-
ary of each year to the fifteenth day of the following September, both days
inclusive; on black-breasted and golden plover and greater and lesser yellowlegs
and rails (except coots and gallinules) from the first day of December of each
year to the fifteenth day of September of the following year, both days inclusive;
provided, however, that in the county of Sagadahoc the closed season on greater
and lesser yellowlegs shall be from the first day of December of each year to
the fifteenth day of August of the following year, 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; pro-
vided, further, that it shall be unlawful to hunt, chase, catch, kill, or destroy, or

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have in possession at any time, any curlew, wood duck, swans, or any shore birds except black-breasted and golden plover, Wilson or jacksnipe, woodcock, and greater or 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, six woodcock, ten ducks, five plover, and ten snipe; provided, further, that no person shall take, catch, kill, destroy, or have in possession in any one open season for partridge or ruffed grouse more than twenty-five of said birds; 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 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 six woodcock, as the property of one person. Provided, however, it shall be lawful for a citizen of this state who has purchased a transportation tag therefor of the commissioner 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 six 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 paragraph, 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. Whoever violates any of the provisions of this paragraph shall pay a fine of not less than ten and not more than fifty dollars and costs for each offense, and in addition thereto five dollars for each bird of the above-named varieties taken, caught, killed, had in possession or transported in violation hereof.

Sec. 56. Traps, nets, snares, etc. prohibited; penalty. 1917, c. 219, § 56. 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.

Note. See § 25.

Sec. 57. Wild birds protected; exceptions; term "game birds" defined. 1917, c. 219, § 57. 1919, c. 61. 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 limicolæ, 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 section fifty-five. Provided, however, that the commissioner of inland fisheries and game shall have authority upon complaint that protected wild birds, under extraordinary conditions, have become seriously injurious to agriculture or other interests in any particular community, after thorough investigation, to grant permits to kill such birds. 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. Use of power boats in hunting wild fowl prohibited; penalty. 1917, c. 219, § 58. 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 sail-boat or row-boat, in chasing, hunting or gunning any sea birds, duck, or water fowl in any inland or tidal waters of this state, under a penalty of not less than twenty-five, nor more than one hundred dollars and costs for each offense.

General Restrictions Relating to Hunting Birds and Animals.

Sec. 59. Hunting from automobiles; carrying firearms in automobiles; prohibited; penalty. 1917, c. 219, § 64. 1919, c. 180. It shall be unlawful for any person to hunt, chase, catch, kill, or destroy any wild bird or wild animal at any time from an automobile, or by aid or use of any light or lights carried thereon or attached thereto. It shall also be unlawful for any person to have in possession, at any time, any wild bird or wild animal, or part thereof, taken in violation of any provision of this section. No person shall have a rifle or shot-gun, either loaded or with a cartridge in the magazine thereof, in or on any motor vehicle while the same is upon any highway or in the fields or forests.

Whoever violates any provision of this section shall be subject to a penalty of not more than one hundred dollars and costs for each offense or imprisonment for not more than sixty days or both said fine and imprisonment in the discretion of the court.

119 Me. 535.

Sec. 60. Devices for deadening sound of explosion prohibited; penalty. 1917, c. 219, § 80. 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 per-

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formance 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.

Sunday and Night Hunting.

Sec. 61. Sunday hunting prohibited; penalty. 1917, c. 219, § 73. 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.

113 Me. 459.

Sec. 62. Night hunting prohibited; penalty. 1917, c. 219, § 74. 1919, c. 196, § 31. 1921, c. 89. 1923, c. 214, 225. There shall be a closed season on wild birds in this state from sunset to half an hour before 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 any wild bird or wild animal 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 any protected wild birds or wild animals 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; provided, further, that the provisions of this section shall not apply to the hunting of skunks at night from the fifteenth day of October to the last day of the following February, both days inclusive, and raccoons at night from the first day of October to the last day of the following February, both days inclusive, [or in certain counties as provided in section forty-six].

Game Preserves and Sanctuaries.

Sec. 63. Kineo Point. 1917, c. 219, § 76. No person shall at any time hunt, pursue, shoot at or kill any wild bird or wild animal on Kineo Point, in Kineo, in the county of Piscataquis. Whoever violates this section shall pay a fine of not less than ten nor more than forty dollars and costs, for each offense.

Sec. 64. Bartlett's Island; Prout's Neck; Richmond Island; Cape Elizabeth. 1917, c. 219, § 77. 1925, c. 15. 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: On Bartlett's island in Hancock county; or on the one hundred and twelve acres of land, more or less, comprising Prout's Neck, so-called, in the town of Scarborough, in the county of Cumberland; or on Richmond's Island, so-called, in the town of Cape Elizabeth, in said county of Cumberland; or on the tract of land comprising sixteen hundred acres, more or less, situated in said town of Cape Elizabeth, and bounded as follows: Southerly by the sea, westerly by the Spurwink river, northerly by the Spurwink road, so-called, leading from Spurwink bridge to Bowery beach,

easterly by a certain private road or way which runs in a southerly direction from the aforesaid Spurwink road to said Bowery beach, being the road which runs in front of the dwelling house of one Charles L. Jordan and along the easterly boundary of land of said Charles L. Jordan and along the westerly boundary of land of the Great Pond Club, but not including any portion of said Bowery beach. It shall also be unlawful for any person to have in possession at any time any wild bird or wild animal, or part thereof, taken in violation of any provision of this section.

Provided, however, that the provisions of this section shall not prohibit any person residing within the limits of either of the above described reservations or preserves 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 the above described territory in accordance with the general laws of the state. Whoever violates any provision of this section shall be subject to a penalty of not less than ten, nor more than forty dollars and costs, for each offense.

Sec. 65. Swan Island; Back Bay, Portland. 1917, c. 219, § 78. No person shall at any time hunt, chase, catch, kill or destroy any wild bird or any wild animal within the following described territory situated on the southerly point of Swan Island, in the county of Sagadahoc: All of the territory situated southerly of the land formerly owned by Robert Reed to highwater mark on the shores thereof; nor shall any person at any time, hunt, chase, catch, kill or destroy any water fowl or any other wild bird 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 or any 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 forty dollars and costs, for each offense.

Sec. 66. Megunticook Lake, and vicinity. 1917, c. 219, § 79. 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. Provided, however, that the Camden Rifle Club may establish and maintain a rifle range for target practice within the limits above mentioned, said practice to be held under the regulations of the United States War Department as established by the national board for the promotion of rifle practice in the United States. 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. 67. Dry Pond. 1925, c. 88. For a period of four years from September first, nineteen hundred and twenty-five, it shall be unlawful for any person to hunt, pursue, shoot at or kill any wild bird or wild animal at any time on Dry Pond or from the shores of said pond, which pond is situated in the town of Gray, in the county of Cumberland. It shall also be unlawful for any person to have in possession at any time any wild bird or wild animal taken in violation of any provision of these regulations. Whoever violates any provision of this

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section shall be subject to a penalty of not less than five nor more than fifty dollars and costs for each offense, or imprisoned for thirty days, or both said fine and imprisonment.

Sec. 68. Grassy Pond, Glencove, Rockport. 1927, c. 8. For a period of four years from the first day of August, nineteen hundred and twenty-seven, it shall be unlawful for any person to hunt, pursue, shoot at, or kill, any wild bird or wild animal at any time on Grassy Pond, or from the shores of said pond, which pond is situated in the towns of Rockport and Hope, in the county of Knox. For a period of four years from the first day of August, nineteen hundred and twenty-seven it shall also be unlawful for any person to hunt, pursue, shoot at, or kill, any wild bird or wild animal at any time in Glencove, so called, in Penobscot Bay, which cove is situated in the town of Rockport, in the county of Knox, and which cove is bounded as follows, to wit: on the north, west and south by the main land, on the east by a line extending from Smith's Point to Ram Island and from Ram Island to the easterly point of Pine Hill in said Rockport. It shall also be unlawful for any person to have in possession at any time, any wild bird or wild animal taken in violation of any provision of this section. Whoever violates any provision of this section shall be subject to a penalty of not less than five dollars nor more than fifty dollars and costs for each offense or imprisonment for thirty days or both said fine and imprisonment.

Sec. 69. West Bath. 1925, c. 92. For a period of six years from the tenth day of July, nineteen hundred twenty-five, no person shall at any time hunt, trap, catch, pursue, shoot at, or kill any wild animal, or bird, (except bobcats, Canada lynx, foxes, rabbits, minks, skunks, or ducks), within the following described territory situated in the town of West Bath in the county of Sagadahoc: Beginning on the east bank of the New Meadows river at a point due west of the northwest corner of the cottage dwelling of Samuel R. Percy at Sabino, so-called; thence running easterly to the Sabino road; thence easterly by said Sabino road to Prince's corner, so-called; thence southerly by the Campbell's pond road and Brigham's cove road to Brigham's cove in Winnegance bay; thence southerly, westerly and northerly by the shore of said Winnegance bay and said New Meadows river to the point of beginning. The territory herein above described shall be known, and in any proceedings under this section may be designated as the West Bath Game Preserve. It shall also be unlawful for any person to have in possession at any time within the period aforesaid any wild animal, alive or dead, or any wild bird taken or killed in violation of any provision of this section.

Whoever violates any provision of this section shall be subject to a penalty of not less than ten nor more than one hundred dollars and costs for each offense, or to imprisonment for thirty days, or to both said fine and imprisonment.

Sec. 70. Merrymeeting Bay; use of boats and decoys limited. 1921, c. 179. 1927, c. 201. A game sanctuary shall be established in Merrymeeting Bay bounded as follows: On the north by a line drawn from a marker at the head of Butler's Point and running in a westerly direction to the north end of Big Brick Island, thence southerly along the eastern shores of Big and Little Brick Island to the south end of Little Brick Island, thence southeasterly to a marker on the shore of Black Water Cove and thence northerly along the shore back to the original starting point.

Within this sanctuary it shall be unlawful at any time to shoot, shoot at, molest or pursue game or game birds of any description, providing, however, that boats may pass through without incurring any penalty.

Not more than twelve live decoys shall be allowed in any one flock in the waters of Merrymeeting Bay and its tributaries. Only one flock at the same

time may be placed in the water by one boat, or blind. No flock of decoys shall be placed nearer than fifty yards to a flock already set or being set.

No boat shall be allowed in the waters of Merrymeeting Bay and its tributaries for hunting purposes earlier than one and one-half hours before sunrise, nor shall any duck decoys be allowed to remain in said waters between the hours of sunset and one hour before sunrise.

Whoever violates this section shall pay a fine of not less than ten dollars nor more than forty dollars for each offense and nothing in this section shall be construed as changing the closed season on wild birds from sunset to half an hour before sunrise the following morning.

Sec. 71. Poland, hunting for pheasants prohibited. 1927, c. 25. It shall be unlawful for any person to hunt, take, catch, kill, or destroy any pheasant or pheasants at any time in the town of Poland, in the county of Androscoggin.

It shall also be unlawful for any person to have in possession at any time any pheasant or pheasants taken in said town of Poland.

Whoever violates any provision of this section shall be subject to a penalty of not less than ten dollars nor more than fifty dollars and costs for each offense, and, in addition thereto, five dollars for each pheasant taken, caught, killed, destroyed, or had in possession in violation of any provision of this section.

Sec. 72. Verona; hunting with dogs prohibited. 1927, c. 178. It shall be unlawful for any person, for a period of five years from the fifteenth day of July, nineteen hundred twenty-seven, to hunt with a dog any wild bird or any wild animal within the limits of the town of Verona, in the county of Hancock.

Whoever violates any provision of this section shall be subject to a penalty of not less than fifty dollars nor more than one hundred dollars and costs for each offense.

Sec. 73. Augusta, East side of river; Ganeston Park, Augusta and Hallowell; Fairfield; Katahdin Park; Salmon Pond, Guilford; Bangor; Mt. Bigelow Game Preserve, Franklin and Somerset Counties; Knox County Game Preserve; Naragansett Game Preserve, Gorham; Wells and Kennebunk; Bragdon Wild Life Sanctuary, Kennebunk. 1921, c. 9. 1923, c. 118. 1921, c. 22. 1923, c. 17. 1927, c. 170. 1923, c. 35. 1927, c. 91. 1925, c. 35. 1927, c. 2. 1927, c. 31. 1927, c. 111. 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 territories:

Augusta; that territory situated in the city of Augusta, in the county of Kennebec: Bounded on the north by the south line of Lot No. forty-two, Range three, east of the Kennebec River, on the east by the east line of said Range three, on the south by the North Belfast road and the south line of Lot No. thirty-six, of said Range three, and on the west by the west line of said Range three, consisting of about six hundred acres.

Ganeston Park; the following described territory, known as Ganeston Park, containing about four hundred and seventy-five acres of land situate in the cities of Augusta and Hallowell, in the county of Kennebec, and bounded as follows: Beginning in the south line of Western Avenue, in said Augusta, at a stone bound marking the northwest corner of land of William H. Gannett; thence running easterly in the south line of said Western Avenue two thousand and ninety feet to a stone bound; thence southerly in east line of said Gannett's land three hundred and ninety-eight feet to a stone bound; thence westerly in south lines of said Gannett's land about ninety-one feet to a stone bound; thence southerly, in east line of said Gannett's land about two hundred and sixteen feet to a stone bound; thence easterly in north line of said Gannett's land, four hundred and sixty-two feet to a stone bound; thence southerly in east line of

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said Gannett's land, about three hundred and eighty-seven feet to a stone bound; thence easterly in north line of said Gannett's land fifteen hundred eighty-seven and one-half feet to a stone bound; thence southerly in east line of said Gannett's land, about six hundred and fifty-five feet to a stone bound; thence easterly in north line of said Gannett's land fifty feet to a stone bound; thence southerly in east line of said Gannett's land, about one hundred and forty-seven feet to a stone bound; thence easterly in north line of said Gannett's land two hundred and ninety-seven feet to a stone bound; thence northerly in the course of the west line of Page street one hundred forty-six and seven-tenths feet; thence easterly in north line of said Gannett's land forty feet to the east line of said Page street; thence southerly in east line of said Gannett's land two hundred and forty feet to a stone bound; thence easterly in north line of said Gannett's land one hundred and eleven feet to a stone bound in the west line of Sewall street; thence southerly in the west line of said Sewall street, three thousand four hundred forty-two and one-half feet to the southerly line of the city of Augusta; thence westerly in the south boundary line of said city of Augusta twenty-three hundred and nine feet to a stone bound; thence northerly in west line of said Gannett's land ninety and three-quarters feet to a stone bound; thence westerly in south line of said Gannett's land sixteen hundred and sixty feet to a stone bound; thence northerly in west line of said Gannett's land about six hundred and sixty-seven feet to a stone bound; thence westerly in south line of said Gannett's land about nineteen hundred and fifty-eight feet to a stone bound in the east line of the Whitten road, so-called; thence northerly in the east line of said Whitten road about three hundred and twenty feet to a stone bound; thence easterly in the south line of the state rifle range lot about two thousand and fifty-five feet to a stone bound; thence northerly in the east line of said rifle range lot about two hundred and ninety-seven feet to a stone bound; thence westerly in the north line of said rifle range lot about twenty-one hundred and forty-eight feet to a stone bound in the east line of said Whitten road; thence northerly in the east line of said Whitten road eight hundred and sixty-eight feet to a stone bound; thence easterly in north line of said Gannett's land eighteen hundred and ten feet to a stone bound; thence northerly in west line of said Gannett's land thirty-two hundred and thirty-seven feet to the first mentioned stone bound in the south line of said Western Avenue marking the northwest corner of said Gannett's land.

Fairfield; the following described territory situated in the town of Fairfield, in the county of Somerset: Good Will Farm, so-called; the Girls' Farm, so-called, of Good Will Farm; land of G. W. Hinckley; land of John Connor; land of J. Russell Barrett, which land is bounded as follows: On the north by land of Edwin Hicks and N. E. Bessey; on the east by the Kennebec River; on the south by land of Fred Tobey, Frank Moore, H. B. Hamm and C. B. Tuttle, also by the Fairfield Town Farm; on the west by land of L. P. Gifford, Alonzo Hoxie, Edwin Marcou and also by Martin Stream; said territory being Good Will Farm proper, so-called, the Girls' Farm, so-called, and land of G. W. Hinckley, John Connor and J. Russell Barrett, adjacent to the above named farms.

Katahdin Park Game Preserve; the following described tract or territory situated in the county of Piscataquis, the same being in unorganized townships, to wit:

Townships three and four in the ninth range, W. E. L. S., and parts of townships three and four, in the tenth range, W. E. L. S., and a part of township four, range eleven, W. E. L. S., bounded as follows:

Commencing at the northeast corner of township four, range nine, on the

easterly line of the county of Piscataquis; thence southerly on the easterly line of the county of Piscataquis twelve miles, more or less, to the southeast corner of township three, range nine; thence westerly on the southerly line of township three, range nine, and township three, range ten, eleven miles, more or less, to Sourdnahunk stream; thence northerly up said stream and the easterly shore of Sourdnahunk lake twelve miles, more or less, to the north line of township four, range ten; thence easterly by the northerly line of township four, range ten, and township four, range nine, twelve miles, more or less, to point of beginning, including ninety thousand acres, more or less.

Salmon Pond: That territory lying within a distance of one-quarter of a mile of Salmon Pond, which pond is situated in the town of Guilford, in the county of Piscataquis, said pond being the source of water supply for the Dover-Foxcroft Water District.

Bangor: the following described territory situated in the city of Bangor in the county of Penobscot: Bounded on the south by the southerly line of said city of Bangor; on the east by the Penobscot river and Kenduskeag stream; on the north by Hammond street, so-called, in said city of Bangor; and on the west by the westerly boundary line of said city.

Mount Bigelow Game Preserve: the following described tract or territory situated in Franklin and Somerset counties, to wit: All that part of Jerusalem Township, Crockertown, Township Four, Range Three, Coplin Plantation, and southeast corner of Eustis, in Franklin county, and Bigelow Plantation, and Dead River Plantation, in the county of Somerset, which is within the following bounds: Commencing at Carrabasset station, or corner, in said Jerusalem Township, at the junction of the highway now numbered one hundred and forty-three with the highway leading northeasterly to highway numbered one hundred and forty-four near the southeast corner of Dead River Plantation; thence by said highway leading northeasterly from Carrabasset corner, to the said highway numbered one hundred and forty-four; thence northwesterly, westerly and southwesterly by said highway one hundred and forty-four to its junction with said highway one hundred and forty-three at Stratton Village; thence southeasterly by said highway one hundred and forty-three to point of beginning; containing forty-five thousand acres, more or less.

Knox County Game Preserve: (For a period of four years from July 10, 1925) the following described territory, situated in the city of Rockland and towns of Thomaston, Warren and Rockport, in the county of Knox, known as the Burnt Land or Bog, which territory is bounded and described as follows: Beginning at Willis Corner, so-called, on the Beechwood's road; thence westerly by the Warren Highland road to the Oyster River bridge; thence north following the course of the Oyster river to the Warren, West Rockport road; thence by said road and the Beechwood's road, easterly and southerly to Willis Corner at the point of beginning, containing approximately six thousand five hundred acres.

Narragansett Game Sanctuary: the following described territory situated in the town of Gorham, in the county of Cumberland: Bounded on the north by the right of way of the W. N. & P. division of the Boston & Maine railroad; on the east by the Black Brook Road or Scarboro Road, so-called, in said town of Gorham; on the south by the Stroudwater River; and on the west by South Street or South Gorham Road, so-called, in said town of Gorham, containing three thousand six hundred acres, more or less.

Wells and Kennebunk: the following described tract, or territory, situated in the towns of Wells and Kennebunk, in the county of York, to wit:

A certain tract of land consisting of two thousand five hundred acres, more

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or less, bounded and described as follows: On the east by the Atlantic Ocean; on the south by the Drake Island Road, so-called; on the west by the Atlantic Shore Highway, so-called; on the north by the Mousam River.

Bragdon Wild Life Sanctuary: the following described territory, situated in the town of Kennebunk, in the county of York:

Beginning on the westerly side of the state highway leading from Kennebunk to Wells, at its junction with Branch brook, so-called; thence up said Branch brook about three miles to the Eastern Railroad, so-called; thence by said railroad easterly to the Mousam river; thence southeasterly by said river to the above named state highway; thence by said state highway to the point of beginning, containing four thousand acres, more or less.

It shall also be unlawful for any person to have in possession at any time any wild animal or any game or wild bird or part thereof taken in violation of any provision of this section.

Provided, however, that the provisions of this section shall not be construed to prohibit: the trapping of wild animals in accordance with the general laws of the state in the East Augusta, Ganeston Park, and Bangor Game Preserves; nor the trapping of fur-bearing animals in accordance with the general laws of the state in the Fairfield Game Preserve and the Bragdon Wild Life Sanctuary and Narragansett Game Sanctuary; nor the shooting at or destroying any wild bird (except ruffed grouse or Hungarian partridge) or any wild animal (except beaver) when found destroying his property by a person residing within the limits of the Fairfield Game Preserve; nor the shooting at or destroying any wild bird or any wild animal when found destroying his property by a person residing within the limits of the Narragansett Game Sanctuary; nor the killing of a predatory animal found destroying his property by a person within the limits of the Wells and Kennebunk Game Preserve; nor the hunting of foxes and rabbits in the Knox County Game Preserve during the open season on the same as now or hereinafter provided by law, but no person shall kill in any one day more than two rabbits within the limits of said sanctuary.

Whoever violates any provision of this section shall be subject to a penalty of not less than ten nor more than three hundred dollars and costs for each offense or imprisonment for sixty days, or both said fine and imprisonment.

The commissioner of inland fisheries and game is empowered to enlarge the territory of the East Augusta, Ganeston Park, Narragansett, and Wells and Kennebunk Game Preserves upon the written consent of the owners of the additional land to be included.

Sec. 74. Camping on game preserves with firearms in possession, prohibited; penalty. 1927, c. 186. It shall be unlawful for any hunter or hunters having firearms in possession to camp at any time within the limits of any game preserve or sanctuary, established either by legislative enactment, or by rules and regulations of the department of inland fisheries and game promulgated in accordance with law. Whoever violates any provision of this section shall be subject to a penalty of not less than fifty dollars, nor more than one hundred dollars, and costs, for each offense, or imprisonment for sixty days, or both said fine and imprisonment.

Licenses.

Sec. 75. Non-resident hunting licenses. 1917, c. 219, § 59. 1919, c. 196, § 20. 1921, c. 218, § 7. 1923, c. 215. 1927, c. 240, § 1. Persons not bona fide residents of this state, and actually domiciled herein, 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 commissioner 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, except moose, during their respective open seasons, and in the manner provided by law, in October, November and December, and such licenses shall be known as the non-resident deer hunting licenses. *But to hunt bull moose, during the open season and in the manner provided by law, a license fee of twenty-five dollars shall be paid annually and the license issued on payment of such fee shall be known as the non-resident moose hunting license, and said license shall be provided with two moose coupons lettered "AA" and "BB", respectively, which shall permit the transportation to the home of the holder of said license, under the provisions of sections thirty-seven and seventy-seven, of the carcass of one bull moose, or part thereof, which the holder of said license has legally killed.*

Provided, further, that 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 fifteenth of each year a license fee of five dollars shall be paid annually, and the license issued upon payment of such fee shall be known as the non-resident bird hunting license. 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 their 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 (*or a twenty-five dollar license in Waldo county if bull moose are to be hunted*) shall be required of non-residents in said counties. Provided, further, that a person who has procured a bird hunting license, so-called, may exchange said bird hunting license for a deer hunting license, so-called, upon payment of an additional fee of ten dollars, or may exchange said bird hunting license for a moose hunting license, so-called, upon payment of an additional fee of twenty dollars, and provided, further, that a person who has procured a deer hunting license, so-called, may exchange said deer hunting license for a moose hunting license, so-called, upon payment of an additional fee of ten dollars. A bird hunting 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 six woodcock that he has himself lawfully killed under such rules and regulations to be established by the commissioner as may be required to carry out the true intent of this chapter and not inconsistent herewith.

Note. There is at present no open season on moose. Licenses to hunt and trap furbearing animals, § 50.

Sec. 76. Transportation of game by licenses. 1917, c. 219, § 60. 1919, c. 196, § 21. 1925, c. 195. 1927, c. 240, § 2. Each deer hunting license, so-called, shall be provided with a coupon, which shall permit the transportation of the carcass of one deer or part thereof, and shall be divided into two sections lettered "A" and "B" respectively, and shall be called the deer coupon.

The holder of a non-resident deer hunting license shall be entitled to offer for transportation and have transported, within or without the 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 the deer coupon attached to his said license, by presenting to the agent of any transportation company, his license, with the coupon attached to the license at the time when he shall offer the deer or part thereof for shipment.

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The agent shall detach section "A" from the "deer" coupon of the license, cancel the same by writing or stamping thereon the date and the place of shipment and his name, and shall forward the same forthwith to the commissioner 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.

Sec. 77. Transportation for non-residents, further provisions. 1917, c. 219, § 61. 1919, c. 196, § 22. 1921, c. 105. 1925, c. 83. 1927, cc. 232, 240, § 3. No person shall transport any deer or bull moose, 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 the carcass of a bull moose, 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 commissioner of inland fisheries and game at Augusta, Maine, as therein provided, the sections of coupons by him detached; provided, however, 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, once in thirty days.

Provided, further, that no non-resident shall transport, or have transported, by any motor vehicle or other conveyance, any wild animal or wild bird, or part thereof, unless the same is tagged with the proper tag or tags detached from the owner's hunting license and unless said tag or tags bear the written approval of an inland fish and game warden or deputy inland fish and game warden or of the commissioner of inland fisheries and game. If any wild bird or wild animal, or part thereof, is found in possession of any person in violation of any provision of this paragraph, the same is subject to seizure and may be seized by any officer authorized to enforce the inland fish and game laws.

Sec. 78. Possession of firearms prima facie evidence of violation; licenses not transferable; responsibility of guides; penalty. 1917, c. 219, § 62. The possession of any firearm in the fields or forests or on the waters or ice of the state by any person who is not a bona fide resident of the state and actually domiciled therein, unless the person having such firearm in possession has in his possession a license, as provided by section fifty-nine of this chapter, duly issued to him and covering the period such firearm is found in his possession shall be prima facie evidence of hunting in violation of section fifty-nine of this chapter. 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. 79. Non-resident not to enter upon wild lands, and camp and kindle fires while hunting, without guide; penalty; exceptions. 1917, c. 219, § 63. 1919, c. 196, § 23. 1923, c. 119. 1927, c. 207. Non-residents of the state shall not enter upon any unorganized or unincorporated township 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, or engage in hunting in such unorganized territory during said months without being in charge of a registered guide, and no registered guide shall, at the same time, guide or be employed by more than five non-residents in hunting. Any such non-resident who enters upon any unorganized or unincorporated township 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, or hunts in any unorganized territory in the state during the months above named without being in charge of a registered guide, in violation of any provision 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. The provisions of this section shall not apply to non-resident fishermen who camp within the limits of public camp sites maintained by the Maine forest service, or who build camp fires in the fireplaces provided by the Maine forest service on such camp sites.

Sec. 80. Non-resident fishing licenses. 1917, c. 66, § 1. 1921, cc. 23, 57, 200, 201, 202. 1927, c. 180. Persons not bona fide residents of the state, and not actually domiciled therein, except children under fourteen years of age, shall not fish for, take, catch, or kill any kind of fish at any time in any of the inland waters of the state, or have the same or any part thereof in possession, without first having procured a license therefor as hereinafter provided. Such licenses shall be of such form and style as may be prescribed by commissioner of inland fisheries and game, and shall be issued by town clerks and other agents appointed by said commissioner, under such regulations as may be established by said commissioner, upon application in writing on blanks to be furnished by said commissioner and payment of a fee of three dollars and fifteen cents.

Provided, further, that the commissioner of inland fisheries and game may, upon payment of a fee of two dollars and fifteen cents by a non-resident of this state for a special ice fishing license, issue to such applicant a special license authorizing him to fish through the ice for landlocked salmon, trout, togue, black bass, and white perch in waters open to ice fishing, in accordance with the general law of the state, such license to expire with the calendar year in which issued.

Sec. 81. Authority of licensee to transport fish. 1917, c. 66, § 2. All licenses issued by virtue of section eighty shall expire with the calendar year in which issued and shall entitle the purchaser thereof to take fish in the inland waters of this state and transport the same during the period covered by said license in accordance with the laws of the state. The purchaser of a license to fish by virtue of section eighty may offer for transportation and have transported in accordance with the provisions of this chapter fish which he has legally in possession by exhibiting his license to the agent of a transportation company,

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who shall endorse upon the back thereof, in ink, the name of the station from which said shipment is made, the date of shipment, the destination and weight of each kind of fish shipped, and such shipment shall have affixed thereto a tag plainly marked with the name and address of the shipper, the license number and the kind and weight of such fish. If a license is presented with a consignment of fish and the endorsement on such license shows that the holder of the license is not authorized by law to offer such fish for shipment, such agent shall refuse to accept the same for shipment.

Sec. 82. Violation of fish and game laws; cause for revocation of license. 1917, c. 66, § 3. The commissioners of inland fisheries and game may temporarily revoke any license issued by virtue of section eighty when the holder thereof is charged with having violated any of the inland fish and game laws of this state, and if the holder is convicted of a violation of the inland fish and game laws of this state his license may be fully revoked and another license shall not be issued to such person until after a year from the time of revocation except upon written consent of the commissioners of inland fisheries and game.

Sec. 83. Must have license on person when fishing, or having fish in possession. 1917, c. 66, § 4. No person to whom a license has been issued as provided in section eighty, shall fish for, take, catch, kill, have in possession, transport, or offer for transportation any inland fish unless at the time of such fishing for, taking, catching, killing, having in possession, transporting, or offering for transportation inland fish such person has such license on his person. Such person shall exhibit such license, on demand, to any officer authorized to enforce the inland fish and game laws.

Sec. 84. Town clerks and agents to make monthly report and remittance to commissioner. 1917, c. 66, § 5. Every town clerk or agent appointed to issue licenses as provided in section eighty shall on the first Monday of each month forward to the commissioner of inland fisheries and game the amount received, if any, for such licenses issued during the preceding month, less a recording fee of fifteen cents for each license issued, together with the application for and stub of each license issued. Any town clerk or agent appointed to issue licenses by virtue of section eighty who shall neglect or refuse to issue such licenses under regulations established by the commissioner of inland fisheries and game, or who shall neglect or refuse to remit for licenses issued by virtue of said section eighty within a period of thirty days from the first Monday of each month shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and costs for each offense.

Sec. 85. Disposition of license fees. 1917, c. 66, § 6. 1919, c. 119. All license fees collected by virtue of section eighty shall be paid by the commissioner of inland fisheries and game to the state treasurer, and shall be credited to the appropriation for the operation of fish hatcheries and feeding stations for fish, for the protection of fish, game, and birds, and for printing the report of the commissioner of inland fisheries and game, and other expenses incident to the administration of the department of inland fisheries and game, and shall be expended by said commissioner for the propagation and protection of inland fish in this state, and said commissioner is hereby authorized to receive and expend said moneys in the manner and for the purposes as herein specified; provided, however, that if any license fees are not expended during the year in which they are collected the unexpended balance shall not lapse but shall be available for the purposes herein specified until expended.

Sec. 86. Possession of fishing gear prima facie evidence of violation. 1917, c. 66, § 7. The possession of any fishing tackle in the fields or forests or on

the waters or ice of the state by any non-resident required to be licensed by virtue of section eighty, unless the person having such fishing tackle in possession has in his possession a fishing license, as therein provided, duly issued to him and covering the period the fishing tackle is found in his possession, shall be prima facie evidence of fishing in violation of sections eighty, eighty-one, eighty-three, and eighty-six.

Sec. 87. Penalty for violation of §§ 80, 81, 83, 86. 1917, c. 66, § 8. Whoever violates any provision of sections eighty, eighty-one, eighty-three or eighty-six of this chapter, or furnishes to another person or permits another person to have or use any license issued to him, or changes or alters the same in any manner, or has or uses any license issued to another person, or knowingly guides any non-resident for inland fishing has not a license for fishing as provided in section eighty, shall pay a fine of not less than ten or more than thirty dollars and costs for each offense and one dollar additional for each fish taken, caught, killed, had in possession, or transported in violation of any provision of this act.

Sec. 88. Not applicable to §§ 80 to 87, inclusive. 1917, c. 66, § 9. The provisions of sections eighty to eighty-seven inclusive shall not apply to the taking or transportation of fish under the provisions of section twenty-seven of this chapter.

Sec. 89. Unnaturalized aliens, licenses. 1917, c. 219, § 65. 1919, c. 196, § 24. It shall be unlawful for any unnaturalized, foreign-born person who is not a tax payer 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, or part or parts thereof, within the limits of this state, or to fish for, take, catch, or kill any kind of fish at any time in any of the inland waters of this state, or to have any inland fish in possession, unless he is annually licensed so to do as hereinafter provided. The commissioner 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 him, 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, in accordance with law, game birds, game or other wild animals on any lands on which such hunting or killing is not forbidden by law, or by written or printed notices posted thereon by the owner, lessee, or occupant thereof. But to fish for, take, catch, or kill any kind of fish at any time in any of the inland waters of this state an annual fee of two dollars and fifteen cents shall be paid to said commissioner. Such licenses shall authorize the hunting or killing and having in possession of game birds, game, or other wild animals or the taking, catching, killing, and having in possession of inland fish only in their respective open seasons and in the manner provided by law; such licenses shall not be transferable and shall be exhibited upon demand to the commissioner of inland fisheries and game, or to any inland fish and game warden or deputy inland fish and game warden, or to any sheriff, constable, police officer, or other officer qualified to serve process.

Sec. 90. Unnaturalized aliens not have firearms or fishing tackle in possession in woods without license. 1917, c. 219, § 66. 1919, c. 196, § 25. 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 or on any inland waters of the state, any firearm or firearms or fishing tackle unless he is licensed as herein provided and all firearms and

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fishing tackle 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 or fishing tackle seized by virtue of this section shall forthwith be forwarded to the commissioner of inland fisheries and game, at Augusta, by the person seizing the same, and upon conviction of the person or persons from whom they were seized said firearms or fishing tackle shall be sold, and the proceeds from such sale paid to the commissioner of inland fisheries and game and by him to the state treasurer, to be credited to the appropriation for the maintenance of the department of inland fisheries and game. Whoever violates any provision of this or the preceding section shall pay a fine of twenty-five dollars and costs for each offense.

Sec. 91. Resident hunting and fishing; registration; certificates. 1919, c. 173, § 1. 1923, c. 121, § 1. No resident of this state shall hunt in any manner, at any time, or pursue, take, catch, kill, destroy, or have in possession, within the limits of this state, any wild animals or wild birds, or fish for, take, catch, or kill any fish of any kind in any of the inland waters of this state, or have the same in possession, without having first procured a certificate of registration therefor as hereinafter provided, and then only during the respective seasons when it shall be lawful, and subject to all other provisions of the revised statutes and acts amendatory thereof and in addition thereto; provided, that nothing in this section shall be construed as affecting in any way the provisions of the statutes relating to trespass, *nor shall the possession of such certificate grant or confer any privilege not enjoyed prior to the passage of this act*, nor shall the provisions of this act be construed as applying to unprotected wild birds or as affecting the right of a bona fide resident of this state, or his immediate family, to hunt, or fish in unclosed waters in accordance with the laws of this state without such license on land owned by him or on land leased by him and on which he is actually domiciled, and which land is used exclusively for agricultural purposes.

The words "resident of this state" wherever used in sections ninety-one to one hundred three inclusive shall be construed to mean any person not subject to the provisions of sections eighty-nine and ninety who has been a bona fide resident of this state and actually domiciled here for a period of three months next prior to his application for registration as provided for in this act.

Note. Licenses to hunt and trap fur-bearing animals, § 50.

Sec. 92. Issuing of certificates; fees; form of certificate. 1919, c. 173, § 2. 1923, c. 121, § 2. Any resident of this state may make written application to the clerk of the city, town, or plantation in which such resident resides, and such city, town, or plantation clerk, after having satisfied himself that the applicant is a bona fide resident of said city, town, or plantation, and upon the payment by such applicant of a fee of twenty-five cents, ten cents of which shall be retained by said clerk as recording fee, shall issue to such applicant a certificate in the form prescribed and upon blanks furnished by the commissioner of inland fisheries and game, which certificate shall bear the name, age, occupation, place of residence, and an identifying description of the holder of such certificate, and shall authorize the person so registered to hunt and kill such wild birds and wild animals as may be legally hunted, and to fish for, take, catch, or kill fish in the inland waters of the state, in their respective open seasons and in the manner provided by law, on any lands or waters on which hunting or killing or fishing is not forbidden by law.

Such certificate shall authorize the hunting or killing of game and game birds,

and the taking, catching, and killing of fish in the inland waters of this state, only under such restrictions and for such purposes as are imposed or authorized by law.

Sec. 93. Validity; certificate to be exhibited; not applicable to minors under 16 years. 1919, c. 173, § 3. 1923, c. 121, § 3. 1925, c. 70, § 3. Each certificate issued under the provisions of section ninety-two shall be valid so long as the registrant remains a citizen of this state; such certificate shall not be transferable, and shall not be valid unless the signature of the person to whom it was issued is written thereon in ink.

Every person holding a certificate of registration by virtue of section ninety-two shall, at all times, while hunting or fishing, have such certificate on his person, and shall exhibit the same for inspection to any person authorized to enforce the inland fish and game laws, or any fire warden. Failure to produce such certificate upon such request shall be prima facie evidence of a violation of this act.

No such certificate shall be granted to any person under sixteen years of age unless the written consent of parents or guardian is attached to the application for such certificate, but any resident under sixteen years of age may fish in waters open to fishing without such certificate.

Sec. 94. Transportation of fish and game, without certificate prohibited. 1919, c. 173, § 4. 1923, c. 121, § 4. It shall be unlawful for any resident of this state to offer for transportation, in accordance with the provisions of sections forty-one, forty-two, forty-four and fifty-five, to any person, company or corporation or to any agent, servant, or employee thereof, or to transport any fish, game, or game birds or any other wild animals or wild birds, unless he shall have in his possession at the time a certificate of registration, as herein provided, duly issued to him under the provisions of section ninety-two.

Sec. 95. Transportation companies not to receive fish or game unless certificate exhibited. 1919, c. 174, § 5. 1923, c. 121, § 5. It shall be unlawful for any person, company, or corporation or for any agent, servant, or employee thereof to accept for transportation, from a resident of this state, any game or game birds, or any other wild animals or wild birds, or any fish taken in any inland waters in this state, without first ascertaining the fact that the person offering such game, game birds, or other wild animals or birds or fish, is in possession of a certificate duly issued to him covering the period when such shipment is offered for transportation.

Sec. 96. Residents of unorganized territory to obtain certificate at nearest organized township. 1919, c. 173, § 6. Any resident of this state who is actually domiciled in any unorganized place may make written application to the clerk of the nearest town or organized plantation, and such town or plantation clerk, after having satisfied himself that such applicant is a bona fide resident of the unorganized place set forth in said application and upon the payment of a fee of twenty-five cents, shall issue to such applicant a certificate of registration in the form prescribed in section ninety-two, which certificate shall be subject to the same conditions and restrictions as certificates issued in accordance with said section ninety-two.

Sec. 97. Municipal clerks to remit fees monthly; penalty. 1919, c. 173, § 7. 1923, c. 121, § 6. Every city, town and plantation clerk shall keep a record of all such certificates issued by him, which record shall be open to inspection by any person authorized to enforce the inland fish and game laws, and such clerk shall, on the first Monday in every month, forward to the commissioner of inland fisheries and game the amount received, if any, for such certificates issued

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during the preceding month, less the recording fee of ten cents, together with the application and stub of each certificate issued.

Any city, town or plantation clerk who shall neglect or refuse to carry out the provisions of this section or to remit for certificates issued by virtue of sections ninety-two and ninety-six within a period of thirty days from the first Monday of each month shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and costs for each offense.

Sec. 98. Fees to be credited to department. 1919, c. 173, § 8. All registration fees collected by virtue of sections ninety-two and ninety-six shall be paid by the commissioner of inland fisheries and game to the state treasurer and credited to the appropriation for the operation of fish hatcheries and feeding stations for fish, for the protection of fish, game, and birds, for printing the report of the commissioner of inland fisheries and game and other expenses incident to the administration of the department of inland fisheries and game.

Sec. 99. Possession of firearms or fishing tackle in forests or on waters of state without certificate prima facie evidence of violation of law. 1919, c. 173, § 9. 1923, c. 121, § 7. The possession of any firearm or fishing tackle in the fields or forests or on the waters or ice of the state by a resident of this state, unless the person having such firearm or fishing tackle in possession has in his possession a certificate of registration as herein provided, duly issued to him and covering the period such firearm or fishing tackle is found in his possession, or gives satisfactory evidence of the issuance of such certificate, shall be prima facie evidence of hunting or fishing in violation of sections ninety-one to ninety-six inclusive.

Sec. 100. Penalties. 1919, c. 173, § 10. 1923, c. 121, § 8. Any person who violates any of the provisions of sections ninety-one to ninety-six inclusive of this chapter, or who permits another person to have or use a certificate issued to him, or who shall change or alter the same in any manner, or who has or uses any certificate issued to another person, or who shall guide a resident of this state while hunting or fishing who has not a certificate as provided therein, shall be punished by a fine of not less than five dollars nor more than twenty-five dollars and costs of prosecution for each offense.

Sec. 101. Certificate to be revoked for violation of fish and game laws. 1919, c. 173, § 11. If the holder of a certificate issued by virtue of sections ninety-two or ninety-six violates any of the [fish and] game laws said certificate may be revoked by the commissioner of inland fisheries and game at his discretion, and no new certificate shall be issued for a period of six months thereafter to such person.

Sec. 102. Certificate not to give holder rights otherwise prohibited. 1919, c. 173, § 12. 1923, c. 121, § 9. Nothing contained in sections ninety-one to one hundred three inclusive shall authorize the hunting, pursuing, taking, catching, killing, destroying, having in possession, or transporting any wild animals or wild birds, or any inland fish, or parts thereof, contrary to the laws now in force or hereafter enacted.

Sec. 103. Persons in possession of hunters' registration certificate not required to take out new certificate. 1923, c. 121, § 10. Any person who has in his possession a hunter's registration certificate issued prior to July 6, 1923, in accordance with the provisions of chapter one hundred seventy-three of the public laws of nineteen hundred nineteen shall be construed as being equipped with the combination hunting and fishing certificate required by sections ninety-one to one hundred two inclusive.

Sec. 104. Taxidermists, licenses; provisions; penalty. 1917, c. 219, § 67.

1919, c. 60. The commissioner of inland fisheries and game may, in his discretion, upon application, issue a license to any bona fide resident of the State of Maine as a taxidermist, who, in his judgment, is skilled in that art, of good reputation and friendly to the inland fish and game laws of the state; resident citizens shall pay an annual fee of five dollars and unnaturalized, foreign born residents shall pay an annual fee of twenty-five dollars, for such license; 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 commissioner. Such licenses may be revoked by said commissioner, at any time after notice and an opportunity for a hearing; each person so licensed shall, on or before the thirty-first day of December of each year, make a detailed report to said commissioner 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 commissioner in accordance 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. 105. Dealers in deer heads and skins; licenses. **1917, c. 219, § 68. 1919, c. 196, § 26.** The commissioner of inland fisheries and game may, in his discretion, 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 January, October, November and December. Provided, however, that deer heads so purchased may, when detached from the skins, be sold to licensed taxidermists. Such licensee shall keep a true and complete record, which shall be open to inspection by the commissioner 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, under oath, to the commissioner of inland fisheries and game on or before the thirty-first day of December of each year. The fee for such license shall be twenty-five dollars, to be paid to the said commissioner. 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 commissioner. 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 commissioner as herein provided, or whoever refuses to exhibit said record upon request to the commissioner of inland fisheries and game or to any person authorized to enforce the inland fish and game laws, or whoever, licensed as aforesaid, purchases any deer heads or deer skins during any month except January, October, November or December, or whoever transports any deer skins or deer heads purchased by virtue of this section in violation of any rules and regulations promulgated by said commissioner by virtue of this section, shall pay a fine of not less than fifty, nor more than one hundred dollars and costs for each offense and be imprisoned not exceeding sixty days and in addition thereto forfeit his license as such dealer for a period of five years.

Sec. 106. Dealers in fur, licenses; provisions; penalty. **1917, c. 219, § 69. 1919, c. 196, § 27.** The commissioner 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. Each

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licensee shall keep a record, which shall be open to inspection by the commissioner of inland fisheries and game or any officer authorized to enforce the inland fish and game laws, of all skins purchased, as aforesaid, in an appropriate book furnished him by the said commissioner, and shall send such record, under oath, to said commissioner on or before the thirty-first day of December of each year. The fee for a county license shall be two dollars and for a state license shall be twenty-five dollars to be paid to the said commissioner. 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 commissioner as herein provided, or whoever refuses to exhibit said book for inspection by the commissioner of inland fisheries and game or any person authorized to enforce the inland fish and game laws, shall pay a fine of fifty dollars and costs for each offense. All skins of fur-bearing animals bought in violation of any provision 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, to be credited to the appropriation for the maintenance of the department of inland fisheries and game.

Sec. 107. Marketmen, etc., licenses; provisions; penalty. 1917, c. 219, § 70. 1919, c. 196, § 28. 1927, c. 228. Any marketman or provision dealer having an established place of business in this state, may purchase and have in possession at his said place of business not more than two deer, *nor more than one bull moose*, lawfully killed or destroyed, or any part thereof, in any one year, and may sell the same at retail to his local customers, and may sell the heads of such deer *or bull moose* to any licensed taxidermist; provided, however, that said marketman or provision dealer shall annually procure a license of the commissioner of inland fisheries and game to buy and sell deer *or bull moose* 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, deputy inland fish and game wardens, and the commissioner of inland fisheries and game, the name and residence of each person of whom he purchases any deer *or bull moose*, 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 and costs 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 commissioner of inland fisheries and game a fee of five dollars annually; each marketman or provision dealer licensed as aforesaid shall, on or before the thirty-first day of each December, make, sign and send to the commissioner, under oath, a statement setting forth in detail the name and residence of each person of whom a deer, *or a bull moose*, or part thereof, has been purchased and the date of each purchase, during the time covered by his license; and whoever fails to make such report shall pay a fine of one hundred dollars and costs for each offense.

Sec. 108. Expiration of licenses issued under provisions of this chapter. 1917, c. 219, § 71. 1919, c. 196, § 29. All licenses or certificates issued by virtue of any provision of this chapter, or amendments thereof, shall expire with the calendar year in which issued.

Sec. 109. Suspension and revocation of such licenses; penalty for failure to return certificate; penalty for making false statement. 1917, c. 219, § 72. 1919, c. 196, § 30. 1925, c. 59. If the holder of any license, certificate, or permit issued by the department of inland fisheries and game, or authority thereof, or

by any clerk of a city, town, or plantation, on blanks furnished by the Commissioner of Inland Fisheries and Game, as provided by law, is charged with having violated or countenanced the violation of any inland fish or game law, the Commissioner may, at his discretion, temporarily suspend such license, certificate, or permit, and whenever the holder of such license, certificate or permit, as provided in this section, is convicted of any violation of any inland fish or game law, said Commissioner may, at his discretion, cancel such license, certificate, or permit and strike his name from the official record, but such license, certificate or permit may again be issued at the discretion of the Commissioner, after the expiration of six months. Any license, certificate or permit suspended or cancelled by virtue of this section shall be immediately returned to the Commissioner under a penalty of fifty dollars for refusal or neglect to comply with this requirement.

If any applicant for any kind of a license, certificate, or permit to be issued by the department of inland fisheries and game, or by any clerk of a city, town, or plantation, on blanks furnished by the Commissioner of Inland Fisheries and Game, as provided by law, makes a false statement in order to secure such license, certificate, or permit, he shall be subject to a penalty of fifty dollars and costs for each offense and in addition thereto be imprisoned not exceeding three months.

Introduction of Wild Birds and Animals.

Sec. 110. Introduction into state without permission, prohibited; penalty. 1917, c. 219, § 75. 1921, c. 218, § 8. Whoever introduces or imports any wild bird or wild animal, or dead body or part thereof, of any kind or species into the state, or whoever receives or has in possession such wild bird or wild animal, or dead body or part thereof, so introduced or imported, without written permission of the commissioner of inland fisheries and game, shall forfeit not less than fifty dollars nor more than five hundred dollars and costs, for each offense.

Search and Seizure.

Sec. 111. Seizure and forfeiture for violation of law; disposition of fish and game seized. 1917, c. 219, § 81. 1919, c. 196, § 32. 1921, c. 218, § 9. All birds, fish, game, or other wild or fur-bearing animals, or parts thereof, 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, or amendment thereof, shall be liable to seizure, and in case of conviction for such violation the court shall declare the same forfeited to the state, to be sold by the officer making such seizure for the benefit of the state. Any person whose birds, fish, game, or other wild or fur-bearing animals, or parts thereof, have been seized for violation of any game or fish law, shall have the same returned to him on giving to the officer a bond with sufficient sureties, who shall be 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 refuses to immediately give such bond and take the birds, fish, game, or other wild or fur-bearing animals, or parts thereof, so seized, he shall have no action against the officer for such seizure or for the loss of the birds, fish, game, or other wild or fur-bearing animals, or parts thereof, seized.

In case the warden making the seizure finds that the birds, fish, game, or other wild, or fur-bearing animals, or parts thereof, seized, will be unsuitable for food (or other use) at the day fixed for the hearing on such seizure, he shall dispose

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of the same for consumption in this state and shall hold the proceeds of such sale subject to order of the court for decision as to the right of the claimant to said birds, fish, game, or other wild, or fur-bearing animals, or parts thereof. If the magistrate finds the claimant is not entitled to said birds, fish, game, or other wild, or fur-bearing animals, or parts thereof, the officer making such seizure shall be ordered by the magistrate to forward the proceeds thereof to the commissioner of inland fisheries and game, at Augusta, and by him to be paid to the treasurer of state.

Sec. 112. Officer seizing fish or game to report to commissioners within ten days. 1917, c. 219, § 82. In all cases, the officer making any seizure or sale of birds, fish, game or other wild animals, or parts thereof, 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. 113. Search and seizure without warrant. 1917, c. 219, § 83. The commissioners of inland fisheries and game and every inland fish and game warden and deputy 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 birds, fish, game, or other wild animals, or parts thereof, taken or held in violation of this chapter are to be found, and seize such birds, fish, game, or other 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, or deputy 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 forty-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 and deputy inland fish and game wardens by them designated to exercise the right of search of railroad cars as herein provided, and no others shall, except those so designated, be authorized to exercise the powers herein mentioned as to search of railroad cars.

Jurisdiction of offenses. Court Proceedings, etc.

Sec. 114. Officer may arrest without process; penalty for abuse of power; penalty for non-payment of fine and costs on conviction of violation of fish and game laws. 1917, c. 219, § 84. 1919, c. 196, § 33. 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.

Whoever is convicted, in any court, or by any trial justice, of a violation of any inland fish or game law which is punishable by a fine and costs only, without imprisonment, shall be liable to not exceeding thirty days' imprisonment in a county jail for the non-payment of said fine and costs, or until the same are paid.

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Sec. 115. Jurisdiction. 1917, c. 219, § 85. 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. 116. Disposition of fines and penalties; penalty for failure to remit. 1917, c. 219, § 86. 1919, c. 142. 1921, c. 93. 1923, c. 190. 1925, c. 142. All fines and penalties recovered and money received or collected under any provision of this chapter, or amendment thereof, or for the sale of seized fish or game, or fur-bearing animals, or parts thereof, after deducting legal taxable costs, together with all fees collected under the provisions of sections eighty to eighty-seven inclusive and ninety-one to one hundred two inclusive, shall be paid within thirty days by the person receiving the same to the commissioner of inland fisheries and game, at Augusta, Maine, to be paid by him to the treasurer of state. If the fines and penalties so recovered and money so received or collected under any provision of this chapter, or amendment thereof, or the fees collected under the provisions of sections eighty to eighty-seven inclusive and ninety-one to one hundred two inclusive, after the deduction of legal, taxable costs, exceeds one hundred thousand dollars, any money exceeding that amount shall be credited to the appropriation for the operation of fish hatcheries and feeding stations for fish, for the protection of fish, game, and birds, and for printing the report of the commissioner of inland fisheries and game, and other expenses incident to the administration of the department of inland fisheries and game, and shall be expended by the said commissioner for the purposes for which the above named appropriation is made. Provided, further, that if any of such fees, fines, penalties, or other moneys are not expended during the year in which they are collected, the unexpended balance shall not lapse, but shall be available for the purposes herein specified until expended. 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, or any fees for licenses issued by authority of any inland fish or game law, and shall neglect for more than thirty days to pay the same to the commissioner 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 for each offense.

Sec. 117. Violations may be settled by commissioners; fines to be applied to department. 1917, c. 219, § 7. The provisions of section ninety-eight of chapter forty-nine, relating to the powers of the commissioners of sea and shore fisheries, are hereby extended to the commissioner of inland fisheries and game.

Sec. 118. Proceedings in case of violation by corporation. 1917, c. 219, § 88. 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

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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. 119. County attorneys to prosecute violations. 1917, c. 219, § 89. 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 commissioner 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 commissioner.

Sec. 120. Participant in violation may be compelled to testify. 1917, c. 219, § 90. In any prosecution under this chapter, any participant in a violation thereof, when so requested by the county attorney, commissioner 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. 121. Result of court cases to be reported to commissioner. 1917, c. 219, § 91. 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 commissioner of inland fisheries and game at Augusta.

Note. Notices on petitions to legislature for special legislation on fish and game. c. 2, § 54.

Fish and game wardens constituted state fire wardens. c. 11, 30.

Notices on shores of protected waters, c. 49, §§ 92, 93.

Penalty for falsely assuming to be an inland fish and game warden or commissioner of inland fisheries and game. c. 133, § 25.