

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAP. 25. thereof; and whoever sets fire to a pile of combustible stuff, or is concerned in making or causing a bonfire in any street, lane or other part of the town within ten rods of any building, each shall forfeit eight dollars, or be imprisoned not more than one month for each offence.

Bonfires in streets and towns prohibited.
R. S. c. 25, § 12.

SEC. 13. The fines provided for in this chapter shall be recovered with costs; the one-half of any fine for the use of the town where the offence shall have been committed, and the other half to the use of any person, who shall sue for the same.

Fines, how recovered and appropriated.
R. S. c. 25, § 13.

SEC. 14. Masters shall be liable to pay the several fines mentioned in this chapter for the offences of their servants or apprentices, if legally bound to them, at the election of the prosecutor; and parents shall be liable at the like election for the offences of the minor children, unless such children are bound to other persons as servants or apprentices.

Masters and parents liable for minors.
R. S. c. 25, § 14.

CHAPTER 26.

ENGINE MEN, FIRES, AND THE PREVENTION OF FIRES.

ENGINE MEN AND FIRES.

- SEC. 1.** Cities and towns may prescribe rules for care and management of fire engines and apparatus, for employment of men and appointment of officers.
2. Officers have power of fire wards. Towns liable for their acts and powers. Privileges and duties of men employed.
3. Engine men excused from serving as jurors; tenure of office; annual meeting to choose officers, make rules and regulations, and affix penalties.
4. Engine companies to meet once a month, and promptly endeavor to extinguish any fire that may occur in their town.
5. Discharge of negligent engine men, and selection of engine men for other duties at fires.
6. Election of fire wards, notice to same, and penalty for not entering acceptance or refusal of office in three days.
7. Duty of fire wards, and in the absence of other civil and military officers to direct proceedings at fires.
8. Powers of fire wards to require aid, appoint guards and suppress tumults; and penalty for refusing to obey them.
9. Officers appointed under special laws to have the same powers as fire wards; towns subject to same liability for damages; firemen to have same privileges and duty as other firemen, but their election not hereby controlled.
10. Compensation to owner of building demolished, whereby fire is stopped. Exception. Person dissatisfied may apply to county commissioners. Their powers.
11. Parties may appeal from decision of county commissioners to supreme judicial court on question of damages.

SEC. 12. Parties appealing to file bonds.

13. Such appeal, when cognizable.

14. Appellant to produce copy of record, &c. Proceedings in case of failure.

15. Plunder at fires declared larceny.

PREVENTION OF FIRES.

SEC. 16. Penalty for occupying tenement for sail maker, rigger, or livery stable, except as municipal officers direct.

17. Municipal officers, on complaint and proof, to direct defective chimneys, stove pipes, and other fire apparatus to be removed or repaired, under a penalty.

18. Penalty for lighting or smoking pipe or cigar in mills, factories, shops, ship-yards, bridges and stables, provided a notice is kept up at each entrance. Penalty for destroying such notice.

19. Penalty for kindling fire on land without consent of owner; also, in case fire shall spread and do damage to others.

20. Penalty for kindling fire, with intent to injure another, when the property of another is thereby injured.

21. Lawful fires, on one's own land, to be kindled at suitable time and in careful manner. Liability for all damages if not so done.

22. Lumber drivers may kindle fires, but with the utmost caution. Penalty if they kindle them otherwise.

23. Common law remedy not taken away, except in case provided for in preceding section, but party can only pursue one remedy.

24. Municipal officers to make regulations respecting gunpowder, explosive oils and fluids. Penalty for keeping the same in violation thereof, and forfeiture and seizure of same.

25. Persons injured by explosion of powder, kept contrary to law, may recover damages.

26. Power of municipal officers, with a warrant, to search for illegal gunpowder.

27. Regulations not to be in force till published.

28. Penalties, how recovered and appropriated.

INQUESTS IN CASES OF SUSPECTED INCENDIARISM.

SEC. 29. Complaint how made in cases of suspected incendiarism. Duty of justice, of judge. Jury of inquest.

30. Organization and oath of jurors.

31. Witnesses, how summoned, fees, attendance how enforced. Oath of witnesses. Testimony to be reduced to writing.

32. Duty of jury after hearing. Papers to be filed with clerks of courts.

33. Fees of justice and expenses regulated.

ENGINE MEN AND FIRES.

SEC. 1. Any town, corporation or individuals providing fire engines, hose, ladders, or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances, or by-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether engine men or other persons, for the appointment of officers to govern them when on duty and take charge of such apparatus, and may prescribe their style, rank, powers and duties.

Towns may prescribe rules for care and management of fire engines and apparatus. R. S. c. 26, § 1. 1860, c. 145, § 1. For employment of men. For appointment of officers.

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Officers so chosen have power of fire wards. 1860, c. 145, § 2.

Towns liable for acts of. 1860, c. 145, § 2.

Powers, privileges and duties of men so employed.

Engine men excused from serving as jurors, &c. R. S. c. 26, § 2.

Duty of engine companies. R. S. c. 26, § 3.

Discharge of negligent engine men, and selection of engine men for other duties at fires. R. S. c. 26, § 4.

Election of fire wards, notice to same, and penalty for not accepting or refusing office. R. S. c. 26, § 5.

Duty of fire wards, and other officers at fires. R. S. c. 26, § 6. 40 Mc. 389.

SEC. 2. The engineers, or other officers chosen by any town under the provisions of any ordinance or by-law, shall exercise in addition to the powers thereby conferred, 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 shall be responsible for the acts of their said officers, as they are for the acts or orders of fire wards in similar cases; and such fire men and engine men, so employed, shall have all the powers and privileges, and be subject to all the duties and liabilities of engine men, as prescribed in this chapter.

SEC. 3. Such engine men shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as are approved by said municipal officers and not repugnant to the laws of the state, and affix penalties to be recovered by their clerk, not exceeding six dollars for any one offence.

SEC. 4. Companies of engine men shall meet once every month, and oftener if necessary, for the purpose of examining the state of their engines and the appendages thereof; and by night or by day without delay, under the direction of the fire wards of the town, they shall use their best endeavors to extinguish any fire therein, or in the immediate vicinity thereof, that comes to their knowledge.

SEC. 5. When any engine man or any member of a company organized under special laws is negligent in the discharge of his duties, in the opinion of the municipal officers, on proof thereof they shall discharge him from the company, and appoint some other person in his stead; and they may select from the engine men any number for each engine in said town, who shall, under the direction of the fire wards, attend fires therein with axes, fire hooks, fire sails, and ladders, and perform such further duty as said officers, from time to time, prescribe.

SEC. 6. Each town, at its annual meeting, may elect as many fire wards as are deemed necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused, the town shall elect another in his place.

SEC. 7. When a fire breaks out in any town, the fire wards shall immediately attend at the place with their badges of office; and when there, any three of them may direct any building to be pulled down or demolished, that they judge 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, shall, in the order they are named, CHAP. 26.
have the same power.

SEC. 8. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same and aid in pulling down or demolishing buildings and suppressing disorder and tumult; and generally direct all operations to prevent further destruction or damage; and any person refusing to obey their orders shall forfeit the sum of ten dollars.

Powers of fire wards at fires. Penalty for refusing to obey them.
R. S. c. 26, § 7.

SEC. 9. The chief engineer, engineers, fire wards, and other officers appointed for particular localities under the provisions of special laws, shall have the same power as to pulling down or demolishing any building to prevent the spreading of fires, and as to other things affecting the extinguishment thereof, as fire wards now have by law; and the town to which they belong shall be liable to pay such compensation for damages consequent upon their acts, as other towns are liable to pay 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 in the state; but nothing herein shall be construed to control the manner of their election.

Officers appointed under special laws have the same powers as fire wards.
R. S. c. 26, § 8.

SEC. 10. If the pulling down or demolishing 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 shall be entitled to a reasonable compensation therefor from the town; and if such town fails to make such compensation to his satisfaction, he may apply to the county commissioners at their next session; and after due notice to the parties, they may confirm the doings of the town in estimating the amount of compensation, or in raising the money and paying the same, or alter them, as they judge proper, award costs to the prevailing party, and issue their warrant of distress to carry their judgment into effect.

Compensation for building demolished. Exception.

Persons dissatisfied may apply to county commissioners.
R. S. c. 26, § 9.

SEC. 11. Parties interested may appear, jointly or severally, at the time of hearing before the county commissioners on such application, and may appeal from their decision at any time within ten days after it is made known, to the supreme judicial court in the county, whereupon all further proceedings are to be stayed until a decision is made in the appellate court.

County commissioners, hearing before, on application for pay for buildings demolished.

Parties may appeal to S. J. C. 1862, c. 89, § 1. Parties appealing to file bond. 1862, c. 89, § 2. Condition of.

SEC. 12. A party within ten days after claiming his appeal, not a town, shall file in the office of the clerk of the courts his bond to the adverse party for such sum and with such sureties as the commissioners approve, conditioned to prosecute his appeal with effect, and pay all intervening costs and damages, and such costs as the supreme court taxes against him.

SEC. 13. Such appeal is cognizable at the term of the supreme Such appeal

CHAP. 26. court held next after the expiration of ten days after such appeal is made; and said court may reverse or affirm, in whole or in part, the decision appealed from, allow costs to the prevailing party, and take any action therein that law and justice require.

when cognizable.
1862, c. 89, § 3.

Appellant to produce copy of record, &c.

Proceedings in case of failure.
1862, c. 89, § 4.

SEC. 14. The appellant shall, at the appellate court, produce a copy of the record and all other papers filed in the cause, except depositions or other written evidence or documents, the original of which shall be produced; and if he fails to produce such papers and enter and prosecute his appeal, the supreme court, on complaint of the adverse party, may affirm the former decision, assess costs for the complainant, and take such further order thereon as law and justice require.

Plundering at fires declared larceny.
R. S. c. 26, § 10.

SEC. 15. If any person 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, he shall be deemed guilty of larceny and punished accordingly.

PREVENTION OF FIRES.

Penalty for occupying tenement for sail-maker, rigger or livery stable, except as municipal officers direct.
R. S. c. 26, § 11.

Municipal officers to direct defective chimneys to be removed or repaired under a penalty.
R. S. c. 26, § 12.

SEC. 16. No person shall occupy any tenement in any maritime town for the business of a sail maker, rigger, or keeper of a livery stable, except where the municipal officers direct; and any person who offends against this section, shall forfeit ten dollars a month during the continuance of such occupancy, with costs.

SEC. 17. When a chimney, stove, stove pipe, oven, furnace, boiler, or appurtenances thereto are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the municipal officers, on complaint of any fire ward, or other citizen, being satisfied by examination or other proof that such complaint is well founded, shall give written notice to the owner or occupier of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he shall forfeit not less than ten, nor more than one hundred dollars.

Penalty for lighting or smoking pipe or cigar in mills, &c.
R. S. c. 26, § 13.

SEC. 18. No person shall enter any mill, factory, machine shop, ship yard, covered bridge, stable or other building, having with him 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 is kept up in a conspicuous position over or near each principal entrance to such building or place, that no smoking is allowed therein; and if any person defaces, removes, or destroys any such notice, he shall forfeit ten dollars.

Penalty for kindling fire on land without consent of owner, &c.
R. S. c. 26, § 14.

SEC. 19. If any person kindles a fire by the use of fire arms in hunting or fishing, or by any other means, on land not his own, without consent of the owner, he shall forfeit ten dollars; and if such fire spreads and does any damage to the property of others, he shall forfeit a sum not less than ten, nor more than five hundred dollars and

costs, according to the aggravation of the offence ; and, in either case, shall stand committed till the fine and costs are paid. CHAP. 26.

SEC. 20. If any person with intent to injure another, kindles or causes to be kindled a fire on his own or another's land, and thereby the property of any other person is injured or destroyed, he shall be punished by a fine of not less than twenty, nor more than one thousand dollars, or by imprisonment not less than three months, nor more than three years, according to the aggravation of the offence.

Penalty for kindling fire, with intent to injure another, &c.
R. S. c. 26, § 15.

SEC. 21. 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 shall be liable, in an action on the case, to any person injured by his failure to comply with this provision.

Lawful fires to be kindled at suitable time, &c.
R. S. c. 26, § 16.
54 Me. 256.

SEC. 22. Persons engaged in driving lumber upon any waters, may kindle fires when necessary for the purposes in which they are engaged, but shall use the utmost caution to prevent them from spreading and doing damage, and if they fail so to do, they shall be subject to all the liabilities and penalties hereof, as if the privilege granted by this section had not been allowed.

Lumber drivers may kindle fires, but with utmost caution, &c.
R. S. c. 26, § 17.

SEC. 23. The common law right to an action for damages done by fires, is not hereby taken away or diminished, but it may be pursued notwithstanding the penalties herein set forth, but any person availing himself of the provisions of section twenty-one shall be 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 twenty-two ; but if any such fire spreads and does damage, the person who kindled it, and any person present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, shall be liable, in an action on the case, for the damage thereby sustained.

Common law remedy not taken away.
R. S. c. 26, § 18.

Exception.

SEC. 24. 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 explosive and illuminating substances which such officers shall adjudge dangerous to the lives or safety of citizens ; and no person shall keep any of said articles 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 offence ; and all such articles may be seized by any of said officers as forfeited ; and within twenty days after such seizure, be libeled according to law.

Municipal officers to make regulations respecting gunpowder, explosive oils, and substances.
R. S. c. 26, § 19.
1869, c. 41, § 1.
See c. 17, § 8 ;
c. 39, § 31.

Penalty for violation.

SEC. 25. A person injured by the explosion of such articles in possession of any person contrary to the regulations established as aforesaid may have an action for damages against such possessor, or against the owner thereof, if conusant of such neglect.

Persons injured by explosion may recover damages.
R. S. c. 26, § 20.

SEC. 26. Any municipal officer, with a lawful search warrant, Power of mu-

CHAP. 26. may enter any building or other place in his town to search for such articles supposed to be concealed there contrary to law.

municipal officers to search for gunpowder.
R. S. c. 26, § 21.

Regulations not to be in force till published.
R. S. c. 26, § 22.

Penalties, how recovered and appropriated.
R. S. c. 26, § 23.

SEC. 27. The rules and regulations, established in any town according to section twenty-four, shall not be in force till they have been published three weeks successively in a newspaper in the county, or by posting up attested copies of them in three public places in such town.

SEC. 28. The penalties provided for in this chapter may be recovered by complaint, indictment, or action of debt, in any court of competent jurisdiction, one-half to the use of the town where the offence is committed, and the other half to the use of the person prosecuting therefor.

INQUESTS IN CASES OF SUSPECTED INCENDIARISM.

Incendiarism suspected, complaint how made.
1860, c. 149, § 1.

Incendiarism, duty of justice or judge. Jury of inquest.
1860, c. 149, § 1.

How completed.

Organization of. Oath of what to present.
1860, c. 149, § 2.

Witnesses, how summoned.
1860, c. 149, § 3.
Fees.

Attendance, how enforced.

Testimony to be reduced to writing.
1860, c. 149, §§ 4, 5.

SEC. 29. When any building or other property is destroyed by fire, and within ninety days thereafter a complaint on oath is made by the mayor of the city or the municipal officers of the town in which the fire occurred, to any justice of the peace authorized to act therein or any municipal or police judge therein, alleging that reasonable grounds exist for believing that such fire was not accidental in its origin, but was caused by design, such justice or judge shall forthwith issue his warrant to a constable of the town where such property was destroyed, requiring him to summon immediately, six good and lawful men of the county, to appear before such judge or justice, at the time and place expressed in the warrant, to inquire when, how and by what means said fire originated. And in case of the non-appearance of any person so summoned, the constable shall, by order of said judge or justice, return some person from the bystanders to complete said number.

SEC. 30. When the persons thus summoned, appear, or the number be made complete, the judge or justice shall call over their names, and then in view of the land on which such property was destroyed, he shall administer the following oath: You solemnly swear that you will diligently inquire and true presentment make, in behalf of this state, when, how, and by what means, the fire which has here occurred was caused; and that you will return a true inquest according to your best knowledge, and such evidence as shall be laid before you.

SEC. 31. The judge or justice shall issue subpoenas for witnesses, returnable forthwith, at such time and place as he therein directs. Such witnesses shall be allowed the same fees, and their attendance shall be enforced in the same manner, as if they had been served with a subpoena in behalf of the state to attend any court before such justice or judge. They shall be sworn and their testimony shall be reduced to writing by the presiding judge or justice, or some person by his direction, and by them subscribed.

SEC. 32. The jury after hearing the testimony and making all needful inquiries, shall draw up and deliver to such judge or justice, their inquisition under their hands, in which they shall find and certify, when, how, and by what means, such fire was caused. Said inquisition and testimony, thus subscribed, shall be filed by said judge or justice, with the clerk of the courts for said county, within one week thereafter.

CHAP. 27.
Duty of jury after hearing. 1860, c. 149, § 6.
Papers to be filed with clerk of courts.

SEC. 33. The fees of said judge or justice, and the expenses of said inquisition shall be the same as for coroner's inquests; and the amount thereof shall be added to the county tax of the town where the fire occurred, and be paid and collected as other county taxes.

Fees of justice, and expenses, regulated.
To be added to tax of town.
How collected. 1860, c. 149, § 7.

CHAPTER 27.

INNOLDERS, VICTUALERS, AND INTOXICATING LIQUORS.

INNOLDERS AND VICTUALERS.

- SEC. 1. Licenses to innholders and victualers, when and by whom granted. Licenses may be revoked.
2. Persons licensed, to give bond; form thereof.
 3. Licenses may be granted for a part of the year in certain cases.
 4. Fee for license, and record of all licences.
 5. Duty of innholders to provide entertainment.
 6. Innholders to provide means of escape from fire when required.
 7. Time allowed for providing such means and penalty for neglect.
 8. Duty of victualers.
 9. Innholders and victualers to keep up signs with their names and employments.
 10. Not to keep instruments of gaming, or allow any gaming on their premises.
Penalty for gaming on said premises.
 11. Reveling, disorderly conduct and drunkenness prohibited on such premises.
 12. Penalty for being a common innholder or victualer without a license.
 13. Duty of licensing board to prosecute for all violations hercof. Penalties, how recovered and appropriated.

STATE AGENCY FOR SALE OF INTOXICATING LIQUORS.

- SEC. 14. Commission for sale of pure unadulterated liquors, how appointed, term of office, commission allowed, conditions of bond. Liquors to be purchased by person appointed to fill vacancy.
15. Notice of appointment of commission to be given to municipal officers. Liquors to be purchased of commissioner.
 16. Penalty for purchasing liquors contrary to law or adulterating the same.
 17. Commissioner to keep a record of sales and make reports to the governor and council in December annually and also to towns quarterly.
 18. City, town, and plantation agents required to keep a record of sales. How it shall be kept and penalty for neglect.
 19. Credit of state not pledged for payment of liquors.
 20. Traveling liquor pedlars and dealers prohibited.