

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



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SEC. 81. The original and appellate jurisdiction in all criminal matters in said counties of Cumberland and Kennebec, and all powers incident thereto, originally exercised by the supreme judicial court, but heretofore conferred upon and exercised by said superior courts, are continued.

CHAP. 77.

Criminal jurisdiction.
1868, c.216, § 1.
1878, c.10, § 15.
56 Me., 491.
60 Me., 507.

SEC. 82. All exceptions or questions arising in any way during the trial of criminal cases in either of said superior courts, shall be transferred to the law docket of the supreme judicial court for the district, and have day therein, and if said exceptions are sustained, or a new trial is ordered, the cause shall be remanded to such superior court for trial. Motions for a new trial in criminal cases tried in either of the superior courts, shall be heard and finally determined by the justice thereof.

Exceptions in criminal cases, when to be heard.
1868, c.216, § 4.
1878, c.10, § 18.

See § 51.

SEC. 83. The jurisdiction of the supreme judicial court for the trial of civil and criminal cases in the counties of Cumberland and Kennebec, is limited in conformity to the foregoing provisions.

Jurisdiction of S. J. C. limited.
1868, c. 151, § 13.
1868, c.216, § 5.
1878, c. 10, § § 13, 15.

CHAPTER 78.

COUNTY COMMISSIONERS.

THEIR ELECTION AND TENURE OF OFFICE.

- SEC. 1. Board consists of a chairman and two other resident citizens elected or appointed. Chairman shall be designated January first.
2. Vacancies by expiration of term, shall be filled by election; tenure of office.
3. Vacancies occurring otherwise, are filled by appointment.
4. Mode of election.
5. Mode of determining who is elected; when they enter on discharge of duties. Provisions applicable to the election of other officers. Copy may be substituted for defective return.

THEIR REGULAR SESSIONS AND CLERK.

- SEC. 6. Regular sessions; times and places thereof.
7. Clerk of the courts is clerk of commissioners. When he may appoint clerk pro tempore. His oath and duty.

THEIR POWERS AND DUTIES.

- SEC. 8. Two are a quorum. Adjournments, when no quorum attends.
9. Officers shall execute precepts of the board.
10. Are financial agents of the county; and manage its business and property.
11. Shall provide and keep in repair court-houses, jails, and fire-proof rooms for the records and papers of the county offices.
12. May provide jail workshops, and raise \$5,000 therefor.
13. May furnish materials and implements, establish rules for government of prisoners employed, and contract for their labor.
14. Must notify towns of intention to remove site of county buildings; towns shall decide by vote thereon.
15. Shall examine jail at each session.
16. Commissioners and sheriff shall publish report of jails, each December.

- CHAP. 78.** SEC. 17. Their power to obtain loans, restricted.
 18. Warrants of distress, when and how to be issued.
 19. Action of debt on a judgment of the board.
 20. No commissioner shall be agent to expend money, raised by his board.

THEIR COMPENSATION.

- SEC. 21. Compensation for services and travel, fixed.
 22. Accounts of services and travel, how to be kept and settled. Copy shall be published in newspaper and returned to secretary of state.
 23. Penalty for over-charging, and how collected.

CUMBERLAND COUNTY.

- SEC. 24. Commissioners of Cumberland, shall publish annual financial report.

THEIR ELECTION AND TENURE OF OFFICE.

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

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

Vacancies in office of county commissioner, how filled.
 1880, c. 239, § 32.
 —full term of election, six years.

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

Vacancies happening otherwise, are filled by appointment.
 R. S., c. 78, § 3.
 1880, c. 239, § 33.
 R. S., c. 78, § 3.
 50 Me., 603.
 61 Me., 603.
 Mode of election.
 R. S., c. 78, § 4.
 1880, c. 239, § 34.
 R. S., c. 78, § 4.
 64 Me., 592, 594.

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

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

Mode of determining who are elected.
 1880, c. 230.
 1880, c. 239, § 35.
 1880, c. 230.
 26 Me., 498.
 54 Me., 603, 605.

SEC. 5. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. No such

correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, may personally, and by or with counsel, examine said returns in presence of the governor and council, or either of them, or any member of the council. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of state, be sworn, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected. To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes intentionally cast for him, although his name upon the ballot is misspelled or written with only the initial or initials of his christian name or names; and they may hear testimony upon oath, in relation to such votes, in order to get at the intention of the electors, and shall decide accordingly. This section shall be applied in determining the election of all county officers, and, so far as it relates to the examination and correction of returns, and to ascertaining for whom votes were intentionally cast, it shall be applied in determining the election of representatives to congress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

CHAP. 78.

64 Me., 590,
598.
70 Me., 561,
571, 587.
71 Me., 370,
384.

—how to be notified of their election.

—when they shall enter upon official duties.

—highest number of votes, how ascertained.

—governor and council may hear testimony.

—to the election of what officers, applicable.

—in cases of defective return, attested copy of record may be substituted.

70 Me., 561, 587.

THEIR REGULAR SESSIONS AND CLERK.

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

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

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

—Androscoggin.

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

—Aroostook.

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

1871, c. 213.

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

—Cumberland.

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

1883, c. 181, § 1.

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

—Franklin.

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

R.S., c. 78, § 6.

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

—Hancock.

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

—Kennebec.

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

—Knox.

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

R.S., c. 78, § 6.

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

—Lincoln.

—Oxford.

1881, c. 81.

—Penobscot.

1871, c. 193.

—Piscataquis.

R.S., c. 78, § 6.

—Sagadahoc.

CHAP. 78. Somerset, on the first Tuesdays of March and August, and the second Tuesday of December:—

—Somerset.

—Waldo.
1883, c. 114.

—Washington.
1881, c. 30, § 1.

—York.
R.S., c. 78, § 6.

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

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

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

York, at Alfred, on the second Tuesdays of April and October.

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

THEIR POWERS AND DUTIES.

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

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

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

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

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

SEC. 13. They may, at the expense of their several counties, provide suitable materials and implements sufficient to keep at work all persons committed as aforesaid to either of such jails, and may from time to time establish needful rules for employing, reforming and governing the persons so committed, for preserving such materials and implements, and

Two are a quorum.
1877, c. 157.

—adjournment.

Officers to execute precepts.
R.S., c. 78, § 9.
Commissioners financial agents of county, and to do what law prescribes.
R.S., c. 78, § 10.
See c. 18.

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

May provide workshops, &c., for employment of prisoners in jail.
1873, c. 133, § 1.
—may raise money to make requisite alterations in jails.
1873, c. 133, § 6.

Furnish materials and implements, therefor.
1873, c. 133, § 2.
—may establish rules.
See c. 140, § 40.

(a) 53 Me., 218; 60 Me., 363; 69 Me., 364, 375.

for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed, and may make all necessary contracts in behalf of their several counties. CHAP. 78.
—and make contracts.

SEC. 14. They shall not remove a county building in the shire town, or erect a new one instead of it more than half a mile from the former location, without first giving notice of their intentions and of the place where they propose to locate it, to the municipal officers of each town in the county; who shall present the same to the town at its next annual meeting for choice of state or town officers, and receive, sort and count the votes, for and against the proposal; and they and the clerks shall certify and return such votes to the clerk of said commissioners, who shall examine them and act according to the decision of a majority. Shall notify towns of intention to remove site of county buildings; and towns shall decide by vote thereon.
R.S., c. 78, § 12.

SEC. 15. At the commencement of each session required by law, they shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness, and for their accommodation; and may authorize the employment for the benefit of the county, of prisoners committed for crime, in some suitable manner not inconsistent with their security and the discipline of the prison. Shall examine jails at each session, and may authorize employment of prisoners.
R.S., c. 78, § 13.

SEC. 16. The county commissioners and sheriff of each county, shall jointly or separately, in December annually, make a report of the prisons under their charge, embracing therein the moral, intellectual and financial condition thereof, which report shall be published in some newspaper published in said county. Report of county commissioners and sheriff.
1873, c. 133, § 14.

SEC. 17. They may obtain loans of money for the use of their county, and cause notes or obligations, with coupons for lawful interest, to be issued for payment thereof at such times as they deem expedient; but such loans shall not exceed ten thousand dollars, without first obtaining the consent of the county, substantially as provided in section fourteen. Their power to obtain loans, restricted.
R.S., c. 78, § 14.

SEC. 18. Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within two years after judgment, and made returnable to the clerk's office within ninety days from their date. New warrants may be issued, within two years from the return day of the last preceding warrant, for sums remaining unsatisfied. No warrant shall be originally issued against a town until twenty days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages shall be included and collected by such warrants as in executions. Warrants of distress, when and how to be issued on judgments of the board.
R.S., c. 78, § 15.
64 Me., 331.

SEC. 19. A party, for whose benefit a judgment is rendered by them, may recover the amount in an action of debt founded on such judgment. Action of debt thereon.
R.S., c. 78, § 16.
37 Me., 36.
53 Me., 218.

SEC. 20. No commissioner shall be appointed to expend money assessed or raised for any purpose by the board of which he is a member. No commissioner to be agent to expend money.
R.S., c. 78, § 17.

THEIR COMPENSATION.

SEC. 21. Each commissioner of the counties of Cumberland and Aroostook shall receive two dollars and fifty cents a day and each commissioner for every other county two dollars a day while actually employed in the service of the county, including the time spent in travelling, for which every commissioner shall have eight cents a mile for the distance Pay of commissioners two dollars a day, and eight cents a mile travel.
1883, c. 242.
1879, c. 150, § 6.

CHAP. 78. actually travelled; but no commissioner shall have more than one travel during the same hearing or session, or for more than two adjournments of any regular term; nor for service or travel on more than one petition or case at the same time; nor anything for travel or attendance at the legislature connected with the annual county estimates; nor for any additional trouble or expense.

Accounts of services, how kept and settled; copy shall be published in newspaper, and returned to secretary of state. 1883, c.181, § 2.

SEC. 22. Each shall keep an accurate account of his time and travel, specifying the kind of service performed each day or part of a day, and the places from and to which he travelled each day, and he shall not be allowed for services not so specified. His account shall be audited and examined by the county attorney and clerk, to the truth of which he shall be sworn before one of them; they shall certify the amount allowed, and no further sum shall be paid. The clerk, except in Cumberland county, shall cause a copy of such account to be published in a newspaper printed in the county, if any, and return such printed copy to the secretary of state by the first day of January in each year.

Penalty for over-charging, and how collected. R.S., c.78, § 20.

SEC. 23. If a commissioner charges in his account any miles not actually travelled, or time not spent, he forfeits ten dollars for every such charge, to be recovered in an action of debt in the name of the county, half to the complainant and half to the county.

CUMBERLAND COUNTY.

Annual financial report shall be published. R.S., c.78, § 21.

SEC. 24. At the end of each year, the commissioners of Cumberland county shall make a statement of its financial condition, showing in detail, all moneys received into and paid out of its treasury, and such other facts and statistics, as may be necessary to exhibit the true state of its finances; and publish in pamphlet form, a reasonable number of copies for distribution among the citizens thereof.

CHAPTER 79.

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

CLERKS OF THE JUDICIAL COURTS.

- SEC. 1.** Clerks of courts, their election, tenure of office, and duties.
2. Shall be sworn and give bond to the State.
 3. Shall keep account of moneys received for services, and pay balance to county treasurer annually; other moneys shall be paid in thirty days, or bond shall be sued.
 4. Shall receive and give discharges for fines and costs voluntarily paid.
 5. Copies of law cases in which State is a party, furnished attorney general.
 6. Shall complete records of deceased clerk; valid, when approved by court.
 7. To record lists of justices; copies are evidence. Also discharges of soldiers and seamen; copies, when evidence. Fees.
 8. Penalty for taking more than legal fees.
 9. Clerk may appoint sworn deputy, to be paid by him, and for whom he is responsible. Deputy's oath and bond.