

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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CHAP. 80.

CHAPTER 80.

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

SHERIFFS AND THEIR DEPUTIES.

- SEC. 1. Sheriffs, how elected or appointed. Their oath and bond.
2. Bond must be approved by county commissioners, and filed with treasurer of state.
3. Sufficiency of bonds shall be examined annually by county commissioners and certified to treasurer of state.
4. If adjudged insufficient, new bond must be given.
5. Forfeiture, if sheriff neglects to give bond; office vacant, if neglect is continued. Proceedings, in such cases.
6. New bond may be required by governor and council in certain cases.
7. May be required, on request of sureties to be discharged. Proceedings.
8. Sheriff shall notify coroners of the county of his election or appointment; may appoint deputies; sheriff is answerable for their acts.
9. Shall obey orders and directions of governor for enforcement of the laws.
10. Sheriff and deputies shall serve precepts. Fees shall be paid in advance.
11. Writ against a deputy may be served by any other deputy of same sheriff.
12. Sheriffs and deputies may, and deputies shall serve processes in their hands, on ceasing to hold office, neglects or misdoings of deputy in such case, are a breach of sheriff's bond.
13. Actions against sheriff or deputy for neglect or misdoing, survive the sheriff, and may be sued against his executor or administrator.
14. Person injured by neglect or misdoing of sheriff, may sue on bond, for ascertained damages, in name of treasurer of state, at his own expense. Writ to be indorsed by person suing, or his attorney, who alone are responsible for costs. Judgment how rendered, if for or against treasurer.
15. Proceedings, in action on sheriff's bond. Declaration may be filed with clerk of courts, who shall issue summons to defendant, specifying cause of action. Indorser is liable for costs.
16. Property of defendant may be attached on such summons as on mesne process. Service of summons. Rights of person filing declaration. Defendant held to answer. Judgment rendered as in an original action.
17. Damages assessed on rendition of judgment. Executions, how issued.
18. Copy of sheriff's bond shall be delivered by treasurer of state to any one paying for it. Copy is competent evidence, unless its execution is disputed.
19. Sheriff is not liable to civil arrest. Execution issues against his property only. If not satisfied within forty days, sheriff vacates his office, and clerk may issue alias against property and body.
20. Fees not to be paid by deputies to sheriff on justice executions, nor more than twelve per cent. in any case, although bond provides otherwise.
21. Deputy sheriff shall keep account of fees for travel and service and return same to sheriff under oath, by December twenty-first, annually.
22. Sheriff shall make return, under oath, to county treasurer, each December, stating in detail emoluments accruing to himself and deputies for the year.
23. What sums may be retained by sheriffs in their respective counties.

JAILS AND JAILERS.

- SEC. 24. Sheriff shall have charge of the jail, and keep it himself or appoint a jailer, for whom he is answerable. Keeper shall appoint assistants.
25. When a vacancy occurs in office of sheriff, jailer shall continue in charge until new sheriff is qualified; his misdoings, are a breach of his principal's bond. Governor and council may appoint jailer, who shall give bond, as required of sheriff.
26. If office of jailer becomes vacant while office of sheriff is vacant, county commissioners may appoint jailer; his bond and tenure.

- SEC. 27. Jail must be kept clean and healthy, by sheriff.
28. Jailer and family must reside in house provided by county commissioners; forfeiture, for neglect to do so.
29. Sheriff or jailer may make contracts for work, with consent of commissioners, who shall audit all accounts.
30. Jailer shall furnish Bible and other books and instruction to prisoners, and exclude immoral or irreligious books.
31. Prisoners shall be paid for labor performed before sentence.
32. Deduction from sentence, for good conduct; rate and proportion.
33. Sheriff shall keep in a bound book, a calendar containing names and particular description of all persons committed, by what authority and for what cause; also time of discharge or escape.
34. Jailer shall return to supreme or superior court, at each criminal session, a list of prisoners in custody, certifying causes of commitment, and by whom committed, and shall have calendar in court for inspection.
35. Official papers in relation to commitment or discharge of prisoners shall be filed and kept with calendar and delivered to successor. Penalty for neglect.
36. Sheriff is answerable for delivery of prisoners to his successor, and shall continue to have charge of jail for that purpose.
37. When jail is insecure, any justice of the supreme court may order the transfer of prisoners.
38. Sheriff is liable to person committing, if prisoner escapes through negligence of jailer or insufficiency of jail.
39. When escape happens through insufficiency of jail, amount paid by sheriff shall be repaid by county; proceedings.
40. In action of sheriff against county, commissioners may appoint agent to defend; execution may be levied on property of any inhabitant; his remedy.
41. Prisoners for debt shall be kept separate from those charged with crime, and minors separate from notorious offenders.
42. Penalty, if prison keeper violates the preceding section, or furnishes intoxicating liquors to prisoners.
43. Liability of prison keeper, if criminal escapes through his negligence. Liability of sheriff, if debtor escapes.
44. Duty of jail keepers to receive and keep prisoners committed by authority of the United States.
45. When a person dies in jail, his body shall be delivered to his friends, disposed of for anatomical purposes, or buried at the expense of the town where he had a settlement.
46. Fines shall be applied to the building or repair of jails.

CORONERS.

- SEC. 47. Coroners' appointment and bond.
48. Provisions of sections three, four, seven, and fourteen to eighteen, inclusive, apply to coroners as well as to sheriffs.
49. Powers of coroner to serve precepts.

CONSTABLES AND POLICE OFFICERS.

- SEC. 50. Powers of constables to serve precepts. Constables shall give bond to town; forfeiture for serving precept before giving bond.
51. Remedy for misconduct of a constable is the same as on sheriff's bond.
52. Constables of Bristol may serve on Muscongus and Harbor islands.
53. Police officers of cities have power of constables in certain matters.

PROVISIONS RELATING TO SHERIFFS, CORONERS, AND CONSTABLES.

- SEC. 54. Constable may serve certain warrants in any town in his county. Sheriff, deputy, coroner or constable may serve certain warrants, and convey prisoner, in any county.
55. Officers may serve precepts for work-jails in several counties.
56. Aid may be required by sheriff, deputy, coroner or constable. Penalty for neglect or refusal to aid.
57. Service of precept being commenced, and officer becoming disqualified, it may be completed by another officer.
58. Copy of writ on which attachment has been made, shall be delivered to defendant by officer, plaintiff, or attorney, on tender of fee. Penalty for neglect.

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- SEC. 59. Penalty for neglect of officer to pay, on demand, money collected.
60. No officer shall appear as attorney or draw any paper relating to a suit, for any other person; such acts are void. No employe of jailer shall act as magistrate or attorney, and such acts are void.
61. In actions against officers where principal defendant is out of the state, service how to be made.

SHERIFFS AND THEIR DEPUTIES.

Sheriffs;
election,
appointment
of.
R.S., c. 80, § 1.
[See Consti-
tution,
art. ix, § 10.]
See c. 78,
§§ 4, 5.

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

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

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

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

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

—office
vacant, if
neglect is
continued.

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

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

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

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

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

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

SEC. 6. When the treasurer of state certifies to the governor and council that moneys due to the State on warrants, or any other sums or balances are in the hands of a sheriff, and furnishes the names of his sureties, and it appears to them that the sureties are insufficient, or have

removed from the state, they may require him to give a new bond, with sufficient sureties, within sixty days after he is notified, to be filed as aforesaid, and if he neglects it, his office becomes vacant.

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

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

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

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

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

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

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

SEC. 14. Any person, injured by the neglect or misdoings of a sheriff, who has first ascertained the amount of his damages by judgment in a suit against him, his executors or administrators, or by a decree of the

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

Shall notify coroners; may appoint deputies, and must furnish clerk of each county a list thereof. R.S., c. 80, § 8.

Obey orders of governor. 1872, c. 62, § 1. See c. 27, § 60. Duty of sheriff and deputies to serve precepts; their fees must be paid or secured. R.S., c. 80, § 9. 1 Me., 363. 42 Me., 426. 54 Me., 205.

Writ against deputy how served. 1879, c. 82. Duty of sheriffs and deputies in serving processes, on vacating office. R.S., c. 80, § 10. 55 Me., 548.

Actions survive against them. R.S., c. 80, § 11.

Person injured by misdoings of sheriff, may sue his bond.

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

(b) See c. 27, § 60; 67 Me., 375.

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in name of state treasurer, at his own expense; writ must be indorsed; costs.
 R.S., c. 80, § 12.
 —how judgment shall be rendered.
 46 Me., 498.
 49 Me., 177.
 51 Me., 515, 547.
 56 Me., 216.
 Actions on sheriff's bond, proceedings.
 R.S., c. 80, § 13.

Service; right of person filing declaration: defendant shall answer.
 R.S., c. 80, § 14.

Damages assessed on rendition of judgment.
 R.S., c. 80, § 15.
 —execution, how to issue.

—costs.

Any person is entitled to a copy of the bond; unless execution is disputed, it is evidence.
 R.S., c. 80, § 16.

Sheriff not liable to arrest in civil action; executions issue against his property; but he may disclose; failing to pay or disclose, he vacates his office.
 R.S., c. 80, § 17.

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

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

SEC. 16. The property of the defendant may be attached on such summons as on mesne process, and it shall be served on the defendant as an original summons; and thereupon such person has all the rights of a plaintiff in the suit; and the defendant shall answer to said declaration, and judgment may be rendered thereon as if it were filed in an action originally instituted for the same cause.

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

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

SEC. 19. No sheriff shall be arrested upon any writ or execution in a civil action; but when a judgment is rendered against him in his private or official capacity, the execution thereon shall issue against his property, but not against his body; yet he may, after notice that such execution has issued, unless upon a judgment for his own official delinquency, cite the creditor and make disclosure of the actual state of his affairs in the manner provided for poor debtors arrested upon execution; and if the execution is returned unsatisfied, and he has not made such disclosure, or if the judgment was rendered for his own official delinquency, the creditor may file an attested copy of such execution and return, with the governor and council, and serve on such sheriff a

copy of such copy, attested by the secretary of state, with a notice under his hand of the day on which such first copy was filed; and if such sheriff does not, within forty days after such service, pay the creditor his full debt with reasonable costs for copies and service thereof, he thereby vacates his office. But when he ceases to be sheriff, the clerk may issue alias executions against his property and body, if he has not before disclosed under this section.

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

SEC. 21. Each deputy sheriff shall keep a true account, with the items, of all fees for travel and service, and other emoluments accruing to him by virtue of his office, and by the twenty-first day of December annually, return, under oath, to the sheriff, a true copy of such account up to December first.

SEC. 22. Each sheriff, by the thirtieth day of December annually, from the accounts so returned to him by his deputies, shall state a true account of the amount of such fees for travel, services and other emoluments, specifying the different classes of items accruing to his deputies, and of the amount of such fees and other emoluments accruing to himself from his deputies within the preceding year, and make a true return thereof under oath, to the treasurer of his county, and pay to him, for the county, the residue, after deducting the sum allowed him in the following section.

SEC. 23. The sheriffs of the counties of York, Cumberland, Lincoln, Penobscot and Kennebec, are allowed seven hundred dollars each; of Oxford and Somerset, five hundred dollars each; of Androscoggin, Hancock, Knox, Sagadahoc, Waldo and Washington, four hundred dollars each; of Piscataquis, three hundred and fifty dollars; of Franklin, three hundred dollars, and of Aroostook, one hundred and twenty-five dollars.

JAILS AND JAILERS.

SEC. 24. The sheriff has the custody and charge of the jail in his county, and of all prisoners therein, and shall keep it himself, or by his deputy, as jailer, master or keeper, for whom he is responsible. The jailer, master or keeper shall appoint all subordinate assistants and employes for whom he is responsible, and the pay of whom, including the jailer, shall be fixed by the county commissioners, and paid by their several counties.

SEC. 25. When a vacancy occurs in the office of sheriff, the jailer lawfully acting, continues in office, and shall retain charge of the jail, and of all prisoners therein, or committed thereto, and his official neglects and misdoings are a breach of his principal's official bond, until a new sheriff is qualified, or the governor and council remove such jailer and appoint another, which they may do; and the jailer so appointed shall

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—alias execution against his body in such case.

Fees of sheriff from deputies.
R.S., c.80, § 18.

Deputy to keep account of fees, and return to sheriff.
R.S., c.80, § 19.

Sheriffs to make return of emoluments to county treasurer, annually.
R.S., c.80, § 20.

What sums may be retained by sheriffs.
R.S., c.80, § 21.

Sheriff has custody of jail and prisoners, and is answerable for jailer.
1873, c.133, § 3.
—may appoint assistants.

When vacancy in office of sheriff, jailer shall continue; unless governor appoints a jailer.
R.S., c.80, § 23.

CHAP. 80. give bond, in the manner required of a sheriff for the faithful discharge of his duties.

When office of jailer and sheriff are vacant, county commissioners may appoint jailer.

R.S., c. 80, § 24.

Jail must be kept clean and healthy.

R.S., c. 80, § 25.

Jailer must live in jail, if suitable.

R.S., c. 80, § 26.

—forfeiture for neglect.

Sheriff or jailer may make contracts for work, with consent of commissioners, who shall audit all receipts and expenses.

1873, c. 133, § 4.
See c. 140, § 40.

Jailer shall furnish a Bible and other books and instruction to prisoners.

1873, c. 133, § 5.

—shall receive moral and religious books by loan, gift, and exclude opposite.

Pay for labor of prisoners, before sentence.

1873, c. 133, § 11.

Deduction from sentence for good conduct.

1873, c. 11.
71 Me., 241.

—rate and proportion.

SEC. 26. If the office of jailer becomes vacant, while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do, and continue in office, if his appointment is confirmed at their next meeting, during the vacancy in the office of sheriff, or until he is removed, and a new jailer appointed.

SEC. 27. The sheriff shall see that the jail in his county is kept as clean and healthy as may be; cause the walls to be whitewashed in April or May annually, and as often as the county commissioners order, at the expense of the county; and pay strict attention to the personal cleanliness of the prisoners.

SEC. 28. Every keeper of a jail shall reside constantly, with his family, if he has any, in the house provided for him, if in the opinion of the county commissioners, it is good and sufficient; and if he neglects so to do, he forfeits not exceeding three hundred dollars, to be recovered for the county by indictment.

SEC. 29. The sheriff, by himself or his deputy, keeping the jail, with consent of the commissioners, may in behalf of his county make necessary and proper contracts, for the carrying on of manufacturing or other industry, with like effect as when made by the commissioners. The business shall at all times be open to the inspection of said commissioners, who shall examine the workings of their several jails at least once in every three months, audit all receipts and expenses thereof, and order all payments necessary from their several county treasuries.

SEC. 30. The jailer, at the expense of the county, shall furnish to each prisoner who is able to read, a copy of the Bible, and to all, on Sundays, such religious instruction as he may be able to obtain without expense, and to such as may be benefited thereby, instruction in reading, writing and arithmetic, one hour every evening, except Sunday. It shall be his further duty to receive for their use, from whatever source, by loan or contribution, any books or literature of a moral or religious tone, and to exclude those of opposite tendencies.

SEC. 31. Any person charged with crime, or awaiting sentence, who, while confined in any jail where provision for labor has been made, chooses to labor, as provided for persons under sentence, shall receive therefor such sum as, in the judgment of the commissioners of said county, he has earned.

SEC. 32. The keeper of each jail shall keep a record of the conduct of each convict, and for every month during which it thereby appears that he has faithfully observed all the rules and requirements of the prison, he is entitled to a deduction from his sentence according to and not exceeding the following rate and proportion: for a convict under sentence for six months and less than one year, two days for each month of good conduct; for one year and over, three days per month; and for every day that any convict is punished for disobedience of said rules, a record thereof shall be made, and two days deducted therefor from any commutations to which he is entitled.

SEC. 33. Every sheriff shall keep, in a suitable bound book, a true and exact calendar, containing, distinctly and fairly registered, the names of all prisoners committed to the jail under his charge, their places of abode, additions, time of their commitment, for what cause, and by what authority; and a particular description of the persons of those committed for offences; and he shall register in said book the name and description, the time when, and the authority by which any prisoner was discharged; and the time and manner of any prisoner's escape.

SEC. 34. Every jailer, at the opening of every criminal term of the supreme judicial or superior court for his county, shall return a list of prisoners in his custody, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed; and shall have the calendar of prisoners in court for its inspection; and for neglecting so to do, the court may impose a reasonable fine.

SEC. 35. All warrants, mittimuses, processes, and other official papers, by which any prisoner is committed or liberated, or attested copies thereof, shall be regularly filed in order of time; and with the calendar aforesaid safely kept in a suitable box; and when he vacates his office, they shall be, by the sheriff, or his personal representative, delivered to his successor, on penalty of forfeiting two hundred dollars to the county.

SEC. 36. Every sheriff is answerable for the delivery to his successor of all prisoners in his custody at the time of his removal; and for that purpose, shall retain the keeping of the jail in his county, and the prisoners therein, until his successor enters on the duties of his office.

SEC. 37. Whenever complaint on oath is made to a justice of the supreme judicial court that any jail is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than three days' notice of such complaint to be given to the jailer or sheriff of the county to appear at the time and place fixed in said notice, and if on examination the matter complained of is found true, he may issue his warrant for the transfer of such prisoner at the expense of said county to any jail wherein he may be more securely kept.

SEC. 38. When a prisoner escapes through the insufficiency of the jail, or the negligence of the sheriff or jailer, the sheriff is chargeable to the creditor, or other person at whose suit he was committed, or to whose use any forfeiture was adjudged against such prisoner.

SEC. 39. When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to such party; and if they do not make such order within six months after the demand is laid before them, the sheriff may bring his action on the case against the inhabitants of such county, to be tried therein, or in an adjoining county; and an attested copy of the writ left with the county treasurer, thirty days before the sitting of the court to which it is returnable, is a sufficient service.

SEC. 40. The commissioners may appoint an agent, to appear and defend the suit; and if they have no meeting between the time of serv-

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Sheriff to keep record of persons committed, with a description of each, and other particulars. R.S., c. 80, § 27.

Jailer to return list of prisoners at each criminal session of supreme or superior court. R.S., c. 80, § 28. 71 Me., 407. —penalty.

Official papers, to be filed and kept with calendar, and delivered to successor. R.S., c. 80, § 29. 71 Me., 407. —penalty.

Sheriff is answerable for delivery of prisoners to successor. R.S., c. 80, § 30.

Any judge of the supreme court may order the transfer of a prisoner when he deems the jail insecure. 1871, c. 203.

Liability of sheriff for escape of prisoners. R.S., c. 80, § 31. 71 Me., 578.

If escape happens through insufficiency of jail, sum paid by sheriff shall be repaid by the county; proceedings. R.S., c. 80, § 32.

Agent to defend county may be ap-

CHAP. 80. ice and the return day thereof, it shall be continued to the next term, saving all advantages to the defendants ; and if judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied.

pointed by
commission-
ers.
R.S., c. 80, § 33.
—execution,
how levied.

Prisoners for
debt to be
kept separate
from felons,
and minors
apart from
old offenders.
R.S., c. 80, § 34.

SEC. 41. Every prison keeper shall keep prisoners committed for debt, separate from prisoners charged with felony or infamous crimes ; and shall keep all minors so committed, and all prisoners upon a first charge, before or after conviction, separate from notorious offenders, and those convicted more than once of felony or infamous crimes, so far as the construction or state of the prison admits.

Penalty for
violation of
preceding
section, or
for furnish-
ing intoxi-
cating liquor
to prisoners.
R.S., c. 80, § 35.

SEC. 42. If any prison keeper violates the preceding section, or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any offence, to have any intoxicating liquor, unless the physician authorized to attend the sick in such prison, in writing, certifies that such prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offence, twenty-five dollars, and for the second, fifty dollars, to be recovered for the county by indictment, or by any person suing therefor, to his own use ; and shall be removed from office, and incapable of holding the office of sheriff, deputy sheriff, or jailer, for five years ; and if he, or any other person, gives, sells or delivers to any person committed to jail on mesne process or execution, or to any other person for such prisoner's use, any intoxicating liquor, without the consent in writing of the overseers of the poor of the town where the jail is situated, he forfeits not less than five, nor more than ten dollars, half to said town and half to the prosecutor.

Liability of
keeper and
sheriff, if
prisoner
escapes.
R.S., c. 80, § 36.

SEC. 43. If any prison keeper, through negligence, suffers a prisoner charged with an offence to escape, he shall be fined according to the nature of the offence charged against the escaped prisoner ; but if a person committed for debt escapes from prison, and the sheriff or jail keeper, within three months thereafter, returns him thereto, the sheriff is liable only for the costs of any action commenced against him therefor.

Jailers to
receive
United States
prisoners.
R.S., c. 80, § 37.

SEC. 44. The keepers of the several jails shall receive and safely keep all prisoners committed under authority of the United States, until discharged, under the penalties provided for the safe keeping of prisoners under the laws of the State.

When person
dies in jail,
body to be
delivered to
friends,
dissected, or
buried at
expense of
town.
R.S., c. 80, § 38.
R.S., c. 13, § 2.

SEC. 45. When a person dies in jail, the jailer or sheriff shall deliver the body to his friends, if requested ; otherwise, he shall dispose of it for anatomical purposes as provided in chapter thirteen, unless the deceased at any time requested to be buried, in which case he shall bury the body in the common burying-ground, and the expenses thereof shall be paid by the town in which he had a settlement, if he had any in the state, and if not, by the State.

Fines to be
applied to
building and
repair of
jails.
R.S., c. 80, § 39.

SEC. 46. All fines imposed by this chapter, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offence is committed.

CORONERS.

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SEC. 47. Every coroner shall be appointed and hold his office, as provided in the constitution, be sworn, and give bond to the treasurer of state, with sufficient sureties to the satisfaction of the county commissioners of his county, for the faithful discharge of his duties; such bond shall be transmitted to said treasurer, like a sheriff's bond; but when it is approved by the certificate of two county commissioners, and filed with the clerk of his county, he may discharge his duties until the first day of their next stated session, and not afterwards, unless his bond is then approved by them.

SEC. 48. All the provisions of sections three, four, seven, and fourteen to eighteen, inclusive, apply to coroners as well as to sheriffs; and any coroner neglecting to give the new bond required by section four, thereby vacates his office.

SEC. 49. Every coroner shall serve and execute, within his county, all writs and precepts in which the sheriff thereof is a party, unless served by a constable, or while the office of sheriff therein is vacant, including those in which a town, plantation, parish, religious society, or school district, of which he is at the time a member, is a party or interested; and may lawfully serve, execute and return any process in his hands when his term of office expires, or when he is notified of the qualification of the sheriff of his county, after a vacancy.

CONSTABLES, AND POLICE OFFICERS.

SEC. 50. A constable may serve, execute and return, upon any person in his town, or in an adjoining plantation, any writ of forcible entry and detainer, or any precept in a personal action, when the damage claimed does not exceed one hundred dollars, including those in which a town, plantation, parish, religious society, or school district, of which he is a member, is a party or interested; but before he serves any process, he shall give bond to the inhabitants of his town in the sum of five hundred dollars, with two sureties, approved by the municipal officers thereof, who shall indorse their approval on said bond in their own hands, for the faithful performance of the duties of his office, as to all processes by him served or executed; and for every process that he serves before giving such bond, he forfeits not less than twenty, nor more than fifty dollars, to the prosecutor.

SEC. 51. Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action, and action on his bond, as in case of a sheriff's bond. (a)

SEC. 52. The constables of the town of Bristol may serve all precepts on Muscongus and Harbor islands, in the county of Lincoln, the same as in their own town, until said islands can legally elect constables.

SEC. 53. Police officers, appointed in any city, have the powers of constables in all matters criminal, or relating to the by-laws of their city.

PROVISIONS RELATING TO SHERIFFS, CORONERS, AND CONSTABLES.

SEC. 54. A warrant issued by a municipal or police court, or a trial justice, for an offence committed in his county, or under the law for the

Appointment and bond of coroners.
R.S., c. 80, § 40.
[See Constitution, art. v, part 1, § 8.]
72 Me., 556.

Certain sections apply to coroners.
R.S., c. 80, § 41.

Of coroner's powers to serve precepts.
R.S., c. 80, § 42.
1879, c. 82.
1 Me., 363.
21 Me., 482.
51 Me., 548.
54 Me., 205.
63 Me., 464.

Constables may serve precepts.
R.S., c. 80, § 43.
5 Me., 79.
11 Me., 333.
31 Me., 122, 496.
35 Me., 210.
48 Me., 255.
64 Me., 35.
68 Me., 201.
74 Me., 369.
—to give bond.

—forfeiture for neglect.

Remedy for misconduct of constable.
R.S., c. 80, § 44.
See § 14.

Constables of Bristol may serve on islands.
R.S., c. 80, § 45.
Police have powers of constables.
R.S., c. 80, § 46.

Constables may serve certain

(a) 14 Me., 114; 29 Me., 462.

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warrants in any town in the county; officers may serve certain precepts in any county. R.S., c. 80, § 47.
—commitment of prisoners.

Officers may serve precepts for work-jails in one or more counties. 1873, c. 133, § 10.

Aid may be required by officer. R.S., c. 80, § 48.

—penalty for refusal.

Execution of precepts commenced, how completed, when officer becomes disqualified. 1874, c. 209, 41 Me., 342.

—returns, how made.

—may be amended.

Copy of writ on which attachment has been made, to be delivered to defendant on request; penalty for neglect. R.S., c. 80, § 50.

Officer to pay money collected; penalty. R.S., c. 80, § 51. 8 Me., 133. 18 Me., 63. No officer to

maintenance of bastard children, may be directed to and executed by a constable of any town therein; and if the accused has gone into another county before or after the warrant was issued, a sheriff or his deputy, coroner, or constable, having the warrant, may pursue and arrest him in any county, and carry him to the county where the act complained of was committed; and when such officer arrests a person to commit him to the jail of his county, he may convey him by the most convenient and suitable route, although it passes through other counties.

SEC. 55. An officer of any county qualified to serve precepts in criminal cases in the county where he resides, may serve any precept required by the laws providing for work-jails, whether such service is performed in whole or in part in one or more counties, and processes shall be issued and directed accordingly.

SEC. 56. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses so to do, forfeits to the county not less than three, nor more than fifty dollars; and if he does not forthwith pay such fine, the court may imprison him not exceeding thirty days.

SEC. 57. If any officer aforesaid, who has commenced the service or execution of a precept, becomes disqualified, it may be completed, with the same legal effect, by any other qualified officer; and if any officer aforesaid has made, in fact, any service, attachment or levy, by virtue of any process placed in his hands for service, and for any cause, has not made his return thereon, such return shall be made by a sheriff, any deputy, or other proper officer, under direction of a justice of the supreme judicial court, held in the county where said writ is returnable, the facts to be set forth by said officer in said return, to be proved to the satisfaction of said justice; or if a deputy sheriff dies after he has served and returned a precept, the sheriff, if alive, and if not, any deputy in commission at the time of such service, may be allowed by the court to amend such return as the officer who made it might, but the rights of third parties shall not be affected thereby.

SEC. 58. Every officer, plaintiff, or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof. And if he unreasonably refuses or neglects so to do for twenty-four hours, he forfeits five dollars, and five dollars additional for every subsequent twenty-four hours that he so refuses or neglects; to be recovered by the debtor to his own use, in an action of debt.

SEC. 59. Any officer aforesaid who unreasonably neglects or refuses, on demand, to pay money received by him on execution to the person entitled to it, shall pay five times the lawful interest thereon so long as he so retains it.

SEC. 60. No officer aforesaid shall appear before any court or

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

SEC. 61. In actions against sheriffs, deputy sheriffs, coroners and constables, for breach of official duty, where the principal defendant is out of the state, the writ may be served on such defendant by leaving a copy of the same with each of the sureties on his official bond fourteen days before the return day thereof, and the court in the county where the writ is returnable, either before or after entry, may order further notice to the defendant by publication of an abstract of the writ and order thereon, in some newspaper published in the county where the writ is returnable, or in the state paper, or in such other manner as the court directs; and if the order is complied with and proved, the defendant shall answer to the suit, and judgment in such case has the same effect as if personal service was made upon the principal defendant.

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be attorney,
or draw pa-
pers; no em-
ploye of jail-
er to act as
magistrate or
attorney.

R.S., c. 80, § 52.
67 Me., 374.

In actions
against
officers, for
breach of
duty, where
principal
defendant is
out of state,
writs, how
served.
1880, c. 226.