

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE  
REVISED STATUTES

OF THE  
STATE OF MAINE

PASSED AUGUST 5, 1930, AND TAKING  
EFFECT NOVEMBER 10, 1930



By the Authority of the Legislature

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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.

## CHAPTER 26.

### Nuisances.

**Sec. 1. Common nuisances; jurisdiction 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 tipping 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 and the superior 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. 18, § 79; c. 137, § 27; 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. 505; 126 Me. 153, 330, 340, 484.

**Sec. 2. Penalty.** R. S. c. 23, § 2. 1917, c. 155, § 2. 1929, c. 90. Whoever keeps or maintains such nuisance shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars and in addition thereto by imprisonment for not less than sixty days nor more than eleven months, 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 eleven months.

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, § 26; 56 Me. 323; 68 Me. 545; \*97 Me. 307, 311, 317; 108 Me. 531.

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**Sec. 4. Liability of owner.** R. S. c. 23, § 4. 1917, c. 155, § 3. 1929, c. 90. 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 punished by a fine of not less than two hundred dollars nor more than one thousand dollars and in addition thereto by imprisonment for not less than sixty days nor more than eleven months, and in default of payment of said fine shall be imprisoned for an additional term of not less than sixty days nor more than eleven months.

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. 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. 7. 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. 35, § 12; 34 Me. 40; \*65 Me. 435; 85 Me. 281.

**Sec. 8. 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 superior 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 of not more than one hundred dollars for each month's continuance after such prohibition, to the use of

said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

85 Me. 281.

**Sec. 9. When buildings for manufacture of powder are nuisances.** R. S. c. 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. 35, § 20; 85 Me. 281.

**Sec. 10. Burning of bricks may be prohibited; penalty.** 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 more than two hundred dollars to the town; and if said bricks or brick-kiln are not removed before conviction, the court may issue a warrant for the removal thereof, or stay it as hereinafter provided.

85 Me. 281.

**Sec. 11. Mills and dams on streams, and fences and buildings fronting on public ways, sometimes not nuisances.** R. S. c. 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 six, 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 eight 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. 12. 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, shall be punished by a fine of not more than one hundred dollars; and the court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as hereinafter provided.

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

**Sec. 13. Bushes, trees, and stumps to be removed from area to be flowed by dam to be erected on public water.** 1929, c. 181, § 1. Whoever hereafter erects a dam on any of the public waters of this state, shall within three years after a head of water is held and flowage created thereby, remove from the flowed area all trees, bushes and stumps, that he can legally remove therefrom, to such an extent that the tops of all trees, bushes and stumps left thereon shall be at least five feet below the surface of the mean low water level maintained during the period beginning June first and ending December first next following of each year and shall within said three years period remove such growth as he can legally remove from the edge of the flowed area to such an extent that no dri-ki and debris shall form to be carried away by the water; and for

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the purpose of protecting the right of the public in the navigation of the waters over said flowed area the owner of such dam shall, after the creation of flowage thereby, have the right to cut and remove from the flowed area all trees, bushes and stumps remaining thereon, and the damage to the owner thereof caused by such removal shall be ascertained in the same manner as is provided for the ascertainment of the damages caused by the flowage.

**Sec. 14. Any dam erected in violation of § 13 to be deemed a nuisance; penalty.** 1929, c. 181, § 2. Any dam erected hereafter which is maintained in violation of the preceding section shall constitute a public nuisance, and be subject to the provisions of section twelve of this chapter.

**Sec. 15. Dams erected for log driving purposes solely not included.** 1929, c. 181, § 3. Sections thirteen and fourteen shall not apply to dams which are created solely for log driving purposes where the water is stored for not exceeding three months of each year, nor shall the same be interpreted in any instance to require the removal of stumps below the swell of the roots.

**Sec. 16. 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. 17. 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. 18. Penalty.** R. S. c. 23, § 15. Whoever violates any provision of sections sixteen and seventeen 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 twelve of this chapter.

**Sec. 19. 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. 20. 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 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. 21. 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. 22. 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. 23. Jurisdiction 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. 24. 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. 25. 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 superior 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 or the superior court in equity may enjoin the erection of such building and engine.

See c. 27, § 62.

**Sec. 26. 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. 27. 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, § 91; 65 Me. 435; \*75 Me. 378; 80 Me. 490.

**Sec. 28. Steam boilers to be provided with fusible safety plugs; exceptions.** R. S. c. 23, § 25. 1929, c. 257. No person or corporation shall manufacture, sell, use or cause to be used, except as hereinafter provided, any steam boiler in the state of Maine unless said boiler is provided with a fusible plug constructed as provided in the following section.

Fusible plugs, if used, shall be filled with tin with a melting point between four hundred and five hundred degrees Fahrenheit, and shall be renewed once each year. The following provisions shall not apply to steam boilers carrying a pressure in excess of two hundred and twenty-five pounds per square inch gauge.

The least diameter of fusible metal shall be not less than one-half inch, except for maximum allowable working pressures of over one hundred and seventy-five pounds per square inch, or when it is necessary to place a fusible plug in a tube, in which case the least diameter of fusible metal shall be not less than

three-eighths of an inch. If a fusible plug is inserted in a tube, the tube wall shall be not less than twenty-two hundredths of an inch thick, or sufficient to give four threads.

Each boiler may have one or more fusible plugs, located at the lowest permissible water level as follows:

a. In Horizontal-Return Tubular Boilers: in the rear head, not less than two inches above the upper row of tubes, the measurement to be taken from the line of upper surface of tubes to the center of the plug, and projecting through the sheet not less than one inch. When the distance between the uppermost line of tubes and the top of the steam space is thirteen inches or less, the bottom of the fusible plug may come at a lesser distance than two inches above the upper row of tubes, but in no case shall the plug be located below the level of the top of the uppermost row of tubes.

b. In Horizontal Flue Boilers: in the rear head, on a line with the highest part of the boiler exposed to the products of combustion, and projecting through the sheet not less than one inch.

c. In Traction, Portable or Stationary Boilers of the Locomotive Type or Star Water Tube Boilers: in the highest part of the crown sheet, and projecting through the sheet not less than one inch.

d. In Vertical Fire-Tube Boilers: in an outside tube, not less than one-third the length of the tube above the lower tube sheet.

e. In Vertical Fire-Tube Boilers, Corliss Type: in a tube, not less than one-third the length of the tube above the lower tube sheet.

f. In Vertical Submerged-Tube Boilers: in the upper tube sheet, and projecting through the sheet not less than one inch.

g. In Water-Tube Boilers, Horizontal Drums, Babcock & Wilcox Type: in the upper drum, not less than six inches above the bottom of the drum, over the first pass of the products of combustion, and projecting through the sheet not less than one inch.

h. In Stirling Boilers, Standard Type: in the front side of the middle drum, not less than four inches above the bottom of the drum, and projecting through the sheet not less than one inch.

i. In Stirling Boilers, Superheater Type: in the front drum, not less than six inches above the bottom of the drum, exposed to the products of combustion, and projecting through the sheet not less than one inch.

j. In Water-Tube Boilers, Heine Type: in the front course of the drum, not less than six inches above the bottom of the drum, and projecting through the sheet not less than one inch.

k. In Edge Moor Boilers, Standard Type: in the bottom of the steam and water drum, not less than six inches above the bottom of the drum, over the first pass of the products of combustion, and projecting through the sheet not less than one inch.

l. In Water-Tube Boilers, Almy Type: in a tube or fitting exposed to the products of combustion.

m. In Vertical Boilers, Climax or Hazelton Type: in a tube or center drum, not less than one-half the height of the shell, measuring from the lowest circumferential seam.

n. In Cahall Vertical Water-Tube Boilers: in the inner sheet of the top drum, not less than six inches above the upper tube sheet, and projecting through the sheet not less than one inch.

o. In Wickes Vertical Water-Tube Boilers: in the shell of the top drum and not less than six inches above the upper tube sheet, and projecting through the

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sheet not less than one inch, so located as to be at the front of the boiler and exposed to the first pass of the products of combustion.

p. In Scotch Marine Type Boilers: in the combustion chamber top, and projecting through the sheet not less than one inch.

q. In Dry-Back Scotch Type Boilers: in the rear head, not less than two inches above the upper row of tubes, and projecting through the sheet not less than one inch. When the distance between the uppermost line of tubes and the top of the steam space is thirteen inches or less, the bottom of the fusible plug may come at a lesser distance than two inches above the upper row of tubes, but in no case shall the plug be located below the level of the top of the uppermost row of tubes.

r. In Economic-Type Boilers: in the rear head not less than two inches above the upper row of tubes. When the distance between the uppermost line of tubes and the top of the steam space is thirteen inches or less, the bottom of the fusible plug may come at a lesser distance than two inches above the upper row of tubes, but in no case shall the plug be located below the level of the top of the uppermost row of tubes.

s. In Water-Tube Boilers, Worthington Type: in the front side of the steam and water drum, not less than four inches above the bottom of the drum, and projecting through the sheet not less than one inch.

t. Fire Engine Boilers are not usually supplied with fusible plugs. Unless special provision is made to keep the water above the firebox crown sheet other than by the natural level, the lowest permissible water level shall be at least three inches above the top of the firebox crown sheet.

u. For other types and new designs, fusible plugs shall be placed at the lowest permissible water level, subject to the direct radiant heat of the fire or in the direct path of the products of combustion, as near the primary combustion chamber as possible.

The foregoing provisions shall not apply to locomotive or other boilers under the jurisdiction of the United States, nor to boilers which are insured by standard steam boiler insurance companies, and are inspected by such companies at least once a year, nor to railroad corporations engaged in interstate commerce, nor to cast iron boilers carrying less than fifteen pounds pressure per square inch gauge.

**Sec. 29. 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 punished by a fine of not more than one thousand dollars.

**Sec. 30. Care of steam heating plants.** R. S. c. 23, § 27. Whenever any school building, church, or other public building is heated by a steam plant, located in, under, or near such building, such steam plant shall be in charge of a person qualified as provided in the following section.

**Sec. 31. 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-one 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. 32. 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 incompetent, 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. 33. Penalty.** R. S. c. 23, § 30. Whoever violates any provision of the three preceding sections shall be punished by fine of not more than fifty dollars, or by imprisonment for not more than ninety days, or both, in the discretion of the court.

Penalty for negligent management of steam boiler resulting in loss of life, c. 129, § 6.

**Sec. 34. 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 reasonable 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. 35. 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. 36. 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, § 136, ¶ 8; c. 35, § 34.

**Sec. 37. Town officers may order nuisance abated.** R. S. c. 23, § 34. If no application is made to a justice of the supreme judicial court, or the superior court, as is hereafter provided, the municipal officers of such town shall cause said nuisance to be abated, removed, or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand, or may be recovered of such person by an action for money paid.

**Sec. 38. Owner may apply to supreme judicial or superior court.** R. S. c. 23, § 35. Any owner aggrieved by such order may apply to a justice of the supreme judicial or superior 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. 39. 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. 40. Sections 36-39 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.