

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

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EFFECT NOVEMBER 10, 1930



By the Authority of the Legislature

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of said law term, the counsel for the prosecution shall enter the appeal with an attested copy of the judgment and decree, whereupon the same shall be affirmed by the law court.

See c. 91, § 74.

Sec. 42. Conduct of prosecution. R. S. c. 84, § 41. The prosecution shall be conducted by the county attorney for the county where the rule is returnable, unless the justice issuing the rule appoints some other suitable counsel to perform said duty. Compulsory process shall issue to compel the attendance of witnesses, and in case of decree of removal, judgment shall be rendered in behalf of the state against the respondent for full costs to be taxed by the court.

Sec. 43. Construction of foregoing. R. S. c. 84, § 42. The six preceding sections do not annul or restrict any authority hitherto possessed or exercised by the courts over attorneys.

Sec. 44. Penalty for falsely advertising or representing himself to be an attorney or counselor. R. S. c. 84, § 43. If any person who has not been admitted to practice law in this state, or whose name has been struck from the roll of attorneys, advertises as, or represents himself to be an attorney or counselor at law, he shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than three months.

Sec. 45. Management of causes by parties or counsel. R. S. c. 84, § 44. Parties may plead and manage their own causes in court or do so by the aid of such counsel, not exceeding two on a side, as they see fit to employ; or by any citizen of good moral character who produces in court a letter of attorney for that purpose; but no person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party, or be eligible for appointment as a trial justice, or justice of the peace.

33 Me. 358; 36 Me. 339; 72 Me. 411.

CHAPTER 94.

Sheriffs and Their Deputies. Jails. Constables.

Sections 1-30 Sheriffs and Their Deputies.

Sections 31-55 Jails and Jailers.

Sections 56-59 Constables and Police Officers.

Sections 60-67 Provisions Relating to Sheriffs and Constables.

Sheriffs and Their Deputies.

Sec. 1. Election or appointment; bond. R. S. c. 85, § 1. 1917, c. 10. 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, and they shall enter upon the discharge of official duty on the first day of January following. Every person elected or appointed sheriff for either of the counties of York, Cumberland, Kennebec, or Penobscot, before receiving his commission, shall give bond to the treasurer of state, with at least three sufficient sureties or with the bond of a surety company authorized to do business in this state as surety, in the sum of forty thousand dollars; and 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 neglect and misdoings of his deputies.

See Const. Art. ix, § 10; c. 8, § 55; c. 92, §§ 1-4; 11 Me. 245; 64 Me. 197.

Sec. 2. Approval of bond; filed with treasurer of state. R. S. c. 85, § 2. Every sheriff, having executed such bond, 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. Annual examination of bonds. R. S. c. 85, § 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.

See c. 93, § 19.

Sec. 4. If adjudged insufficient, new bond must be given. R. S. c. 85, § 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. Forfeiture for neglect to give bond. R. S. c. 85, § 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 courts 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. Governor may require new bond in certain cases. R. S. c. 85, § 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. New bonds required on application of sureties. R. S. c. 85, § 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 neglect or misdoings thereafter.

Sec. 8. May appoint deputies; to furnish clerk of each county a list thereof. R. S. c. 85, § 8. Every sheriff, elected or appointed, may appoint deputies, for whose official misconduct and neglect he is answerable. Their appointment and discharge shall be in writing, signed by him, and recorded in the office of the clerk of 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. He shall also furnish to the clerk of 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.

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; 111 Me. 442.

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Sec. 9. Special deputies; sheriffs may appoint in war time, or when war is imminent; personal liability. 1917, c. 274, § 1. Whenever a state of war shall exist or be imminent between the United States and any foreign country, sheriffs may appoint male citizens more than eighteen years of age not eligible for military service as special deputies who shall have and exercise all the powers of deputy sheriffs appointed under the general law except the service of civil process. Such special deputies shall be personally responsible for any unreasonable, improper, or illegal acts committed by them in the performance of their duties, but the sheriffs shall not be liable upon their bonds, or otherwise, for any neglect or misdoings of such deputies.

Sec. 10. Notification of appointment; compensation. 1917, c. 274, § 2. Any sheriff appointing such special deputy sheriffs shall notify the clerk of courts and the county commissioners for the county in which such appointments are made giving the names of such deputies and the date of their appointments and such county commissioners shall fix and order paid from the treasury of the county to such deputies a reasonable compensation, not exceeding three dollars and fifty cents per day for the time actually employed together with actual and necessary expenses incurred in the performance of duty.

Sec. 11. Obey orders of governor. R. S. c. 85, § 9. Sheriffs shall obey all such orders relating to the enforcement of the laws as they from time to time receive from the governor.

Have powers of inland fish and game wardens, c. 38, § 14; may call for aid of militia, c. 18, § 9; see c. 137, § 28; 67 Me. 375; 123 Me. 362.

Sec. 12. County attorney to have authority while office of sheriff is vacant. 1929, c. 313, § 4. While the office of sheriff in any county is vacant, all of the duties pertaining to such office shall be assumed and performed by the county attorney of the same county who, in such cases, is vested with the same power and authority which the sheriff would have.

Sec. 13. Duty of sheriff and deputies to serve precepts; fees must be paid or secured. R. S. c. 85, § 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.

1 Me. 363; 42 Me. 426; 54 Me. 205.

Sec. 14. Service of writs and precepts in which the sheriff is a party. 1929, c. 313, § 3. All writs and precepts in which the sheriff of any county is a party, may, unless served or executed by a constable, be served or executed by the sheriff of any county adjoining that of which he is sheriff.

Sec. 15. Service upon deputy. R. S. c. 85, § 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.

75 Me. 296.

Sec. 16. Duty of sheriffs and deputies in serving processes on vacating office. R. S. c. 85, § 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 of-

fice, 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.

55 Me. 548.

Sec. 17. Actions survive against them. R. S. c. 85, § 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. 18. Person injured by misdoings of sheriff, may sue his bond, at his own expense; indorsement of writ; costs; judgment. R. S. c. 85, § 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 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.

46 Me. 498; 49 Me. 177; 51 Me. 515, 547; 56 Me. 216; 106 Me. 166.

Sec. 19. Actions on sheriff's bond; proceedings. R. S. c. 85, § 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 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. 20. Service; right of person filing declaration; answer. R. S. c. 85, § 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. 21. Damages assessed on rendition of judgment; issue of executions. R. S. c. 85, § 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 non-suited, except by order of court, without the consent of all parties interested as plaintiffs.

Sec. 22. Any person entitled to copy of bond; unless execution is disputed, it is evidence. R. S. c. 85, § 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. 23. Exemption from arrest in civil action; proceedings upon failure to pay execution; office vacated. R. S. c. 85, § 19. No sheriff shall be arrested

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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, as in other cases.

Sec. 24. Fees from deputies. R. S. c. 85, § 20. No sheriff shall receive from any of his deputies any of the fees earned by said deputies, or any percentage thereon.

Sec. 25. Legal fees to be collected and accounted for to county treasurer. R. S. c. 85, § 21. All fees chargeable under the statutes of the state for the performance of any of the duties prescribed in section forty-two of chapter one hundred twenty-five, shall be charged and collected by said sheriffs as now provided by law, and an accurate account thereof, and of those specified in the following section, kept and transmitted to the county treasurer on the last days of March, June, September, and December annually, and the amount deducted from the quarter's salary for the quarter then ending. If such fees are in excess of the amount of salary then due the sheriff, he shall pay said excess to the county treasurer. And no county treasurer shall pay any quarter's salary until said statement shall have been filed.

Sec. 26. Fees collected from other counties, etc., to be disposed of as in § 25. R. S. c. 85, § 22. For all prisoners committed from other counties or from any court of the United States, and for all other persons confined for debt and on other civil processes, the said sheriffs shall collect the same fees for their entire support as are now provided by law, or may be fixed by the county commissioners under the authority vested in them by statute and include the same in the statement provided for in the preceding section, and the same shall be deducted from the salary as herein prescribed. They shall not make any charge or collect any fees for the support of prisoners committed on criminal process from any court in the county in which said jail is situated.

Sec. 27. Special deputies in Cumberland county; compensation. R. S. c. 85, § 23. 1929, c. 187. The sheriff of Cumberland county shall appoint three deputy sheriffs, who shall serve at the pleasure of said sheriff, and whose special duty shall be to enforce the provisions of chapter one hundred thirty-seven, in said county, and who shall receive as compensation therefor, the sum of five dollars a day, to be paid from the county treasury, together with such incidental expenses as may be necessary for the proper enforcement of said chapter; bills for which shall be audited as provided in section one of chapter one hundred forty-eight.

Sec. 28. Fees of deputy sheriffs to be charged up to county. R. S. c. 85, § 24. The sheriff of said county, and his deputies appointed under the provisions of the preceding section, shall receive no fees for said service except as herein provided, but shall charge up all fees now allowed to sheriffs and their deputies

for the enforcement of the provisions of chapter one hundred thirty-seven, to the county of Cumberland and account for them as provided in the following section.

Sec. 29. Itemized account of fees to be rendered. R. S. c. 85, § 25. The sheriff of Cumberland county, on the last secular days of June and December of each year, shall render to the treasurer of said county an itemized account of all fees charged up to said county by him, and by his deputies appointed as provided in section twenty-seven, for the enforcement of the provisions of said chapter one hundred thirty-seven, in said county, which said fees shall revert to the county of Cumberland.

Sec. 30. Restrictions upon payment of compensation for enforcement of liquor law. R. S. c. 85, § 26. No deputy sheriff, unless appointed under the provisions of section twenty-seven, shall receive any compensation for the enforcement of the provisions of said chapter one hundred thirty-seven, in the city of Portland, unless such compensation shall be allowed by the county commissioners of said county.

Jails and Jailers.

Sec. 31. Sheriff has custody of jail and prisoners, and is answerable for jailer. R. S. c. 85, § 27. 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 employees 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, except when otherwise provided by law.

*116 Me. 408.

Sec. 32. Upon vacancy in office of sheriff, jailer to continue unless governor appoints a jailer. R. S. c. 85, § 28. 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 give bond, in the manner required of a sheriff for the faithful discharge of his duties.

Sec. 33. When offices of jailer and sheriff are vacant, county commissioners may appoint. R. S. c. 85, § 29. 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. 34. Jail must be kept clean and healthy. R. S. c. 85, § 30. 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.

See c. 152, § 17; 116 Me. 408.

Sec. 35. Jailer must live in jail, if suitable. R. S. c. 85, § 31. 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 more than three hundred dollars, to be recovered for the county by indictment.

116 Me. 408.

Sec. 36. Jailer to furnish a Bible and other books and instruction to prisoners. R. S. c. 85, § 32. 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 on 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.

116 Me. 408.

Sec. 37. Pay for labor of prisoners before sentence. R. S. c. 85, § 33. 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.

See c. 92, §§ 12, 13.

Sec. 38. Commissioners to furnish supplies for jails; not to be interested parties; bills and accounts to be audited. R. S. c. 85, § 34. The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, fuel, bedding, and clothing for the jails and the prisoners therein to be furnished and purchased under their direction and at the expense of the counties. No county commissioner shall be interested directly or indirectly in the purchase of any such supplies or in any contract therefor made by the board of which and while he is a member thereof, and all contracts made in violation hereof are void. A suitable person shall be employed to prepare the food of the prisoners in each county at the expense of the county, and the service of the food to the prisoners shall be under the general direction of the jailer, master, or keeper. The person employed to prepare the food of the prisoners shall be appointed by the sheriff in each county subject to the approval of the county commissioners. The county commissioners may at any time direct specific rations or articles of food, clothing, soap, fuel, or other necessaries to be furnished and served to the prisoners. The bills and accounts for supplies furnished and the items of expense incurred in preparing and serving the same shall be audited quarterly by some competent person appointed by one of the justices of the superior court and paid by the county treasurer. For services in auditing said account said justice shall allow reasonable compensation to be paid from the county treasury.

Sec. 39. Commissioners of Cumberland may annually advertise for proposals for supplies. R. S. c. 85, § 35. The county commissioners of the county of Cumberland may each year, as soon after the first day of January as may be, make an estimate of the amount of food, fuel, clothing, and supplies as far as practicable, which will be required by the county jail and for the support of the prisoners therein for the current year, and advertise for sealed proposals for furnishing the same according to specifications furnished by them, in the daily papers of the city of Portland, three days successively, at least fourteen days before the time limited for the reception of such proposals at which time they shall examine all such proposals and award the contract to the lowest responsible bidder; and the county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract, and account for the same in the manner provided for in the preceding section.

Sec. 40. Deduction from sentence for good conduct; care of convicts, sick at expiration of sentence. R. S. c. 85, § 36. 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 jail, 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 a 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. Whenever a convict at the expiration of his sentence, is sick and unable to be removed from jail, he shall be cared for by the jailer, at the expense of the county, until the county commissioners deem it safe for him to be removed.

71 Me. 241; *116 Me. 408.

Sec. 41. Assistance to discharged prisoners. R. S. c. 85, § 37. The sheriff, or his deputy, keeping the jail, may, at the expense of the county, give a prisoner about to be discharged from jail a sum of money not exceeding two dollars, and wearing apparel to the value of not exceeding ten dollars, and may also furnish to such discharged prisoner a railroad ticket, non-transferable, to any place, to which the fare does not exceed eight dollars. All sums so expended by the sheriff or jailer shall be repaid to him from the county treasurer, after the account thereof has been audited and the amount found correct by the county commissioners.

116 Me. 408.

Sec. 42. Sheriff to keep record of persons committed. R. S. c. 85, § 38. 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 offenses; 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.

92 Me. 250.

Sec. 43. Jailer to return list of prisoners at each criminal session of court; penalty. R. S. c. 85, § 39. Every jailer, at the opening of every criminal term of the 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.

71 Me. 407; 116 Me. 408.

Sec. 44. Official papers, to be filed and kept with calendar, and delivered to successor; penalty. R. S. c. 85, § 40. All warrants, mittimus, 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; 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.

71 Me. 407.

Sec. 45. Sheriff is answerable for delivery of prisoners to successors. R. S. c. 85, § 41. 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.

116 Me. 408.

Sec. 46. Upon application, transfer of prisoners when jail is adjudged unfit or insecure. R. S. c. 85, § 42. Whenever complaint on oath is made to a justice of the superior court that any jail is unfit for occupation, or 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 such 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 where he may be more securely kept. And if by fire or other casualty any jail is destroyed or rendered unfit for use, any justice of the superior court may, upon being notified by the county attorney of the county where such jail was or is located, issue his order to the sheriff and his deputies and constables of said county to cause all prisoners who might be liable to imprisonment in said county, to be imprisoned in the jail of some adjoining county, said order to be printed in the newspapers of said county.

Plans for new jails to be submitted to state department of public welfare, c. 157, § 7.

Sec. 47. Liability of sheriff for escape of prisoners. R. S. c. 85, § 43. 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.

71 Me. 578; 116 Me. 408.

Sec. 48. If escape happens through insufficiency of jail, sum paid, reimbursed; proceedings. R. S. c. 85, § 44. 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.

116 Me. 408.

Sec. 49. Agent to defend county may be appointed by commissioners; execution, how levied. R. S. c. 85, § 45. The commissioners may appoint an agent, to appear and defend the suit; and if they have no meeting between the time of service 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.

Sec. 50. Treatment of prisoners for debt, and minors. R. S. c. 85, § 46. Every jail 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 jail admits.

Sec. 51. Penalty for violation of preceding section, or for furnishing intoxicating liquor to prisoners. R. S. c. 85, § 47. If any jail keeper violates the preceding section, or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in such jail, in writing certifies that such prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offense, 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 shall be incapable of holding the office of sheriff, deputy sheriff, or jailer, for five years.

See c. 137, § 27.

Sec. 52. Liability of keeper and sheriff, if prisoner escapes. R. S. c. 85, § 48. If any jail keeper, through negligence, suffers a prisoner charged with an offense to escape, he shall be fined according to the nature of the offense charged against the escaped prisoner; but if a person committed for debt escapes from jail, 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.

See c. 133, § 15; c. 92, § 14; 116 Me. 408.

Sec. 53. Jailers to receive United States prisoners. R. S. c. 85, § 49. 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.

Sec. 54. Disposal of body of person dying in jail. R. S. c. 85, § 50. 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 twenty-one, 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.

116 Me. 408.

Sec. 55. Fines to be applied to building and repair of jail. R. S. c. 85, § 51. All fines imposed by this chapter, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed.

Constables and Police Officers.

Sec. 56. Constables may serve precepts; bond; penalty for acting before giving bond. R. S. c. 85, § 55. 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 dollars, nor more than fifty dollars, to the prosecutor.

5 Me. 79; 11 Me. 334; 31 Me. 122, 496; 35 Me. 210; *48 Me. 255; 64 Me. 35; 68 Me. 201; *74 Me. 369; 82 Me. 97; 106 Me. 167.

Sec. 57. Remedy for misconduct of constable. R. S. c. 85, § 56. 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.

See § 18; 14 Me. 114; 29 Me. 462; 106 Me. 166.

Sec. 58. Constables of Bristol may serve on islands. R. S. c. 85, § 57. 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. 59. Power of police. R. S. c. 85, § 58. Police officers, appointed in any city, have the powers of constables in all matters criminal, or relating to the by-laws of their city.

See c. 5, § 156; c. 38, § 12. Duties of constables and police officers to enforce law as to dairy products, c. 42, § 6.

Provisions Relating to Sheriffs and Constables.

Sec. 60. Service of precepts by constables; right of pursuit. R. S. c. 85, § 59. A warrant issued by a municipal or police court or a trial justice, for an offense committed in his county, or under the laws for the 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, or a 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 to the jail of his county, he may convey him by the most convenient and suitable route, although it pass through other counties. But, except for the purpose of retaking a prisoner whom he has arrested and who has escaped, or for the purpose of taking a person before such a court or trial justice, or for the purpose of executing a mittimus given to him by such a court or trial justice, or for the purpose of pursuing a person who has gone into another town and for whose arrest a constable or a city marshal has a warrant, no constable of the several towns or city marshal of the several cities shall have any authority in criminal matters beyond the limits of the town or city in which he is elected or chosen.

87 Me. 215.

Sec. 61. Officers may serve precepts for work-jails in one or more counties. R. S. c. 85, § 60. 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. 62. Aid may be required by officer; penalty for refusal. R. S. c. 85, § 61. 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 dollars, nor more than fifty dollars; and if he does not forthwith pay such fine, the court may imprison him for not more than thirty days.

122 Me. 296.

Sec. 63. Execution of precepts commenced, when officer becomes disqualified. R. S. c. 85, § 62. 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 superior 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.

41 Me. 342.

Sec. 64. Copy of writ to be delivered to defendant on request; penalty for neglect. R. S. c. 85, § 63. 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. 65. Officer to pay money collected; penalty. R. S. c. 85, § 64. 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.

8 Me. 133; 18 Me. 63.

Sec. 66. No officer to be attorney or draw papers; no employee of jailer to act as magistrate or attorney. R. S. c. 85, § 65. No officer aforesaid shall appear before any court 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.

67 Me. 374.

Sec. 67. Service of writs in actions against officers for breach of duty, where principal defendant is out of state. R. S. c. 85, § 66. In actions against sheriffs, deputy sheriffs, 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.