

MAINE STATE LEGISLATURE

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THIS IS THE SECOND FILE.]

CHAPTER 22.

DEPARTMENT OF HEALTH AND WELFARE.

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Services for Crippled Children

Sec. 248. Purposes of §§ 248-250. 1937, c. 139, § 1. The department, through its bureau of health, is authorized to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it. The purpose of such included program shall be to develop, extend, and improve services for locating such children and for providing for medical, surgical, corrective, and other services and care, and for facilities for diagnosis, hospitalization, and aftercare. Provided, however, that nothing in sections 248 to 250, inclusive, shall be construed as authorizing any public official, agent, or representative, in carrying out the provisions of said sections, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order.

Sec. 249. Acceptance of provisions of federal law. 1937, c. 139, § 2. The department is authorized to:

I. Apply for federal aid under the provisions of Title V of the Federal Social Security Act (Public No. 271, 74th Congress);

II. Cooperate with the federal government through the children's bureau in matters of mutual concern pertaining to services for crippled children, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;

III. Make such report in such form and containing such information as the secretary of labor may require, and comply with such provisions as said secretary may find necessary to assure the correctness and verification of such reports.

Sec. 250. Federal grants. 1937, c. 139, § 3. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of services for crippled children and administration thereof, as contemplated by Title V of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Maternal and Child Health Services

Sec. 251. Purposes of §§ 251-253. 1937, c. 141, § 1. The department, through its bureau of health, is authorized to administer a program to extend and improve its services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress. Provided, however, that nothing in sections 251 to 253, inclusive, shall be construed as authorizing any public official, agent, or representative, in carrying out the provisions of said sections, to take charge of any child over the objections of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order.

Sec. 252. Acceptance of provisions of federal law. 1937, c. 141, § 2. The department is authorized to:

I. Apply for federal aid under the provisions of Title V of the Federal Social Security Act (Public No. 271, 74th Congress);

II. Cooperate with the federal government through the children's bureau in matters of mutual concern pertaining to maternal and child health services, including such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;

III. Make such reports in such form and containing such information as the secretary of labor may require, and comply with such provisions as said secretary may find necessary to assure the correctness and verification of such reports.

Sec. 253. Federal grants. 1937, c. 141, § 3. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of maternal and child health services and administration thereof, as contemplated by Title V of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Maternity Hospitals

Sec. 254. Persons maintaining maternity hospitals to have license. R. S. c. 22, § 108. 1931, c. 225, § 8. 1933, c. 1, § 160. No person, firm, corporation, or association shall conduct or maintain a maternity hospital without having in full force a written license therefor from the department, provided that nothing in this section shall apply to any institution which is or shall come under the supervision of the department under the provisions of law.

The term "maternity hospital" as used in this section shall be held to mean a house or other place maintained or conducted by any one who advertises himself or holds himself out as having or conducting a maternity hospital as herein defined, or a house or any other place in which any person receives, cares for, or treats within a period of 6 months more than 1 woman during pregnancy or during or after delivery except women related to him by blood or marriage; provided, however, that nothing herein shall be construed to prevent a nurse from practicing her profession in the home of the patient or in any hospital which is otherwise under the supervision of the department other than a maternity hospital.

Solicitation of Charitable Funds

Sec. 255. License for solicitation of charitable funds. R. S. c. 157, § 5. 1933, c. 1, § 189. No person, firm, corporation, or association shall solicit funds for charitable or benevolent purposes outside of the municipality where such person resides or where such firm, corporation, or association has its place of business, without having in full force a written license therefor from the department; provided that this section shall not apply to any person or organization already under the supervision of the former department of public welfare on the 3rd day of July, 1915, by virtue of the provisions of law then in force. No license shall be granted for a term exceeding 1 year. It shall state the name of the licensee, his residence or place of business, and for what purpose the funds are to be solicited. The department shall grant such license whenever it shall be shown to its satisfaction that the person or organization requesting the license is reputable and responsible and has suitable facilities for applying the funds to the purpose for which they are to be solicited, and that the records of such funds and the purpose for which they are used will be properly and accurately kept. Such license shall be furnished to the licensee without fee or charge, and may be revoked by the department whenever in its discretion it seems for the best interest of the public to do so.

Old Age Assistance

Sec. 256. Department to administer old age assistance. P. & S. L. 1937, c. 105, Title II, § 1. 1937, c. 221. The department shall administer the carry-

ing out and enforcement of the provisions of law relating to old age assistance. It is empowered to employ, subject to the provisions of the personnel law, such assistants as may be necessary to carry out the provisions of sections 256 to 274, inclusive, and to coordinate their work with that of the other social welfare work of the department.

See § 270; c. 14, § 32, re state officers making reports if they handle federal funds.

Sec. 257. Administration. P. & S. L. 1937, c. 105, Title II, § 16. P. & S. L. 1939, c. 97. All moneys made available under the provisions of sections 256 to 274, inclusive, shall be expended under the direction of the department, and the department is empowered to direct the expenditure therefrom of such sums as may be necessary for the purposes of administration. All assistance granted under said sections shall be paid monthly by the state. The department shall make and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the department. The use of such records, papers, files, and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished.

See § 15.

Sec. 258. Acceptance of provisions of federal law. P. & S. L. 1937, c. 105, Title II, § 17. The department is authorized subject to the approval of the governor and council to:

I. Apply for federal assistance under the provisions of Title I of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of sections 256 to 274, inclusive, as may be required for such assistance.

II. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 259. Federal grants. P. & S. L. 1937, c. 105, Title II, § 18. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of old age assistance and administration thereof, as contemplated by Title I of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Sec. 260. Old Age Assistance provided for; recipient not deemed a pauper; applications. P. & S. L. 1937, c. 105, Title II, § 3. P. & S. L. 1939, c. 96, § 2. P. & S. L. 1941, c. 87, §§ 1, 2. P. & S. L. 1943, c. 27. Subject to the qualifications and restrictions contained in sections 256 to 274, inclusive, every person residing in this state shall be entitled to assistance in old age. The amount of assistance which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This assistance shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health,

but not exceeding \$40 per month. No person receiving assistance under the provisions of sections 256 to 274, inclusive, shall be deemed a pauper. Applications for old age assistance under the provisions of this section may be made to either the state or the municipal officers of the cities, towns, and plantations in which the applicant resides, in accordance with such regulations as the commissioner of the department shall prescribe. Said applications shall be made on blanks furnished by the department and forwarded by said municipal officers to said department.

Sec. 261. Requisites for assistance. P. & S. L. 1937, c. 105, Title II, § 4. P. & S. L. 1939, c. 116, § 1. Old age assistance shall be granted only to an applicant who:

- I. Is 65 years of age or more;
- II. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;
- III. Has resided in the state for 5 or more years within the 9 years immediately preceding application for assistance and has resided therein continuously for 1 year immediately preceding the application;
- IV. Is not an inmate of and is not being maintained by any municipal, state, or national institution; but an inmate of such an institution may file application for assistance under the provisions of sections 256 to 274, inclusive, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution;
- V. Has no spouse able to support him;
- VI. Has no child or children able to support him;
- VII. Is a citizen of the United States.

See c. 82, § 9, re pauper settlement limited.

Sec. 262. Right of appeal. P. & S. L. 1937, c. 105, Title II, § 15. P. & S. L. 1943, c. 69, § 2. Any person who is denied assistance, or who is not satisfied with the amount of assistance allotted to him, or is aggrieved by a decision of the department made under any provision of sections 256 to 274, inclusive, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 263. Assistance may be paid to a guardian or conservator. P. & S. L. 1937, c. 105, Title II, § 9. P. & S. L. 1939, c. 91. If an applicant for or a recipient of assistance is, on the testimony of reputable citizens, found by the department to be incapable of taking care of himself or his money, the department after due investigation may pay the same to a legally appointed guardian or conservator for his benefit.

Sec. 264. Inalienability of assistance. P. & S. L. 1937, c. 105, Title II, § 10. All rights to assistance shall be absolutely inalienable by any assignment, sale, execution, pledge, or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee, or creditor.

Sec. 265. Disqualification of applicant and recipient. P. & S. L. 1937, c. 105,

Title II, §§ 7, 11. P. & S. L. 1939, c. 90. Any applicant for or recipient of old age assistance, who divests himself directly or indirectly of any property without a reasonable consideration or for the purpose of qualifying for such assistance, shall forfeit all right to receive assistance under the provisions of sections 256 to 274, inclusive.

Any recipient of old age assistance who is convicted of a felony shall be disqualified from receiving old age assistance.

Sec. 266. Change of status of recipients; notification. P. & S. L. 1937, c. 105, Title II, § 6. If the recipient of old age assistance or his spouse becomes possessed of any property or any income in addition to the amount stated in his application, it shall be his duty immediately to notify the department of such fact.

Sec. 267. Report to department of increase in income. P. & S. L. 1939, c. 77, § 1. Every recipient of old age assistance shall forthwith notify the department upon the receipt and possession of any property or income in excess of the amount allowed by the provisions of sections 256 to 274, inclusive.

Sec. 268. Payment illegally received may be recovered. P. & S. L. 1939, c. 77, § 2. The department may recover from any child, children, or spouse of any beneficiary under the provisions of sections 256 to 274, inclusive, who is able to support the said beneficiary, but who fails to provide such support, in an action on the case for the amount expended by the department for the said support. This action shall be prosecuted by the attorney-general in the name of the state, and the amount recovered shall be credited to the old age assistance fund.

See § 271.

Sec. 269. Funeral expenses of person assisted. P. & S. L. 1937, c. 105, Title II, § 8. On the death of a recipient, reasonable funeral expenses not exceeding \$100 shall be paid by the state if the estate of the deceased is insufficient to pay the same.

Sec. 270. Entire assistance suspended, when. P. & S. L. 1937, c. 105, Title I, § 6. If at any time the grant available to the state of Maine under the provisions of the Social Security Act of the United States relating to old age assistance shall cease to be available to match funds provided by law and to be distributed under the provisions of sections 256 to 274, inclusive, the governor shall forthwith publicly so proclaim, and upon the date of such proclamation the provisions of said sections shall be suspended.

Sec. 271. Liability of relatives to support; procedure. 1941, c. 282, §§ 1, 2. The husband, wife, father, mother, grandparent, child, or grandchild of a recipient of public assistance of any nature from the state shall, if of sufficient ability, be responsible for the support of such persons.

The commissioner is authorized and empowered to bring proceedings in the name of the state of Maine in any court of competent jurisdiction to compel any person liable under the provisions of this section for support to contribute to the support of any person who is receiving public assistance. The court shall have power to determine what shall be a fair and reasonable amount for such support and maintenance to be paid by the party adjudged liable. The action may be brought in the same manner and form as that provided by section 20 of chapter 82.

Sec. 272. Claims against estate of person assisted. P. & S. L. 1937, c. 105, Title II, § 12. P. & S. L. 1939, c. 88. Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 256 to 274, inclusive. Such claim shall have priority over all unsecured claims against such estate, except:

- I. Administrative expenses, including probate fees and taxes;
- II. Expenses of the last sickness and burial expenses.

The attorney-general shall collect any claim which the state may have hereunder against such estate. Provided that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary and said spouse does not marry again. If the state participates in federal funds for the purposes of sections 256 to 274, inclusive, $\frac{1}{2}$ of the net amount collected from the estate of the beneficiary, with respect to old age assistance furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States.

Sec. 273. Fraudulent representations; penalty. P. & S. L. 1937, c. 105, Title II, § 13. Any person who by means of a wilfully false statement or representation, or by impersonation or other fraudulent devices, obtains or attempts to obtain, or aids or abets any person to obtain:

- I. Assistance to which he is not entitled;
- II. A larger assistance than that to which he is entitled;
- III. Payment of any forfeited instalment of assistance;

and any person who knowingly buys or aids or abets in buying or in any way disposing of the property of a recipient in such a way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 274. General penalty. P. & S. L. 1937, c. 105, Title II, § 14. Any person who violates any of the provisions of sections 256 to 274, inclusive, for which no penalty is specifically provided shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. If a recipient of assistance is convicted of an offense under the provisions of this section, the department may cancel the assistance.

Aid to the Blind

Sec. 275. Definitions. 1937, c. 210, § 2.

- I. The word "aid" means money payments to blind persons in need;
- II. The words "supplementary services" mean services other than money payments to blind persons in need, including payments toward the funeral expenses of such persons as provided in sections 275 to 293, inclusive.

Sec. 276. Requisites for aid. 1937, c. 210, § 3. Aid to the blind shall be granted to an applicant who:

- I. Has no vision or whose vision, with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential;
- II. Is over 16 years of age;
- III. Has resided in the state for 5 or more years within the 9 years immediately preceding application for aid and has resided therein continuously for 1 year immediately preceding the application;

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IV. Is not an inmate of any public institution; but an inmate of such an institution may file application for aid under the provisions of sections 275 to 293, inclusive, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution;

V. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health and has no relatives liable by law for his support and able to provide such support;

VI. Is not receiving old age assistance.

See c. 82, § 9, re pauper settlement limited.

Sec. 277. Services for the blind. 1941, c. 276, § 1. The department shall provide, or cooperate with other public agencies in providing a program of services for the blind, including the prevention of blindness, the locating of blind persons, medical service for eye conditions, vocational guidance and training of the blind, the placement of blind persons in employment, assistance to the blind in marketing the products of their home industries, the instruction of the adult blind in their homes, and other social services to the blind.

The commissioner is authorized to establish within the department a division, to be known as the division of services for the blind, charged with the responsibility for carrying out the provisions of this section.

Sec. 278. Administration. 1937, c. 210, § 1. The department shall administer all funds appropriated for the purposes of sections 275 to 293, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable.

See § 15.

Sec. 279. Application for aid. 1937, c. 210, § 4. Application for aid under the provisions of sections 275 to 293, inclusive, shall be made to the department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the department. Such application shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which he may have at the time of the filing of the application, and such other information as may be required by the department.

Sec. 280. Investigation of applications. 1937, c. 210, § 5. Whenever the department receives an application for aid under the provisions of sections 275 to 293, inclusive, an investigation and record shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application.

Sec. 281. Examination. 1937, c. 210, § 7. Applicants for aid under the provisions of sections 275 to 293, inclusive, shall be examined by an ophthalmologist or a physician skilled in diseases of the eye; the expense of which may be paid by the state. The department is authorized to promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for aid under the provisions of said sections.

Sec. 282. Expenses for treatment. 1937, c. 210, § 15. 1941, c. 34. On the basis of the findings of the examination as provided in the preceding section, supplementary services may be provided by the department to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined in section 276. Such supple-

mentary services may be provided under the provisions of sections 275 to 293, inclusive, for the prevention of blindness for children under the age of 16 years. The supplementary services may include necessary traveling and other expenses to receive medical, surgical, clinical, or hospital treatment as may be approved by the department, or to pay for such treatment.

Sec. 283. Right of appeal. 1937, c. 210, § 13. Any blind person who is denied aid or who is not satisfied with the amount of aid allotted to him, or is aggrieved by a decision of the department made under any provision of sections 275 to 293, inclusive, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 284. Granting of aid. 1937, c. 210, § 8. Upon the completion of the investigation, the department shall decide whether or not the applicant is eligible for aid under the provisions of sections 275 to 293, inclusive, and determine the amount of such aid if any is allowed, and the date on which it shall begin. The department shall notify the applicant of its decision. Aid granted, if any, shall be paid monthly to the applicant.

Sec. 285. Amount of aid. 1937, c. 210, § 6. 1943, c. 54. The amount of aid which any such person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This aid shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding \$40 per month. No person receiving aid under the provisions of sections 275 to 293, inclusive, shall be deemed a pauper.

Sec. 286. Aid may be paid to a guardian or conservator. 1937, c. 210, § 9. When a person to whom aid is granted under the provisions of sections 275 to 293, inclusive, is a minor or is found to be incapable of taking care of himself or his money, the aid may be paid to a guardian or conservator for the benefit of the applicant.

Sec. 287. Inalienability of aid. 1937, c. 210, § 10. All rights to aid shall be absolutely inalienable by any assignment, sale, execution, pledge, or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee, or creditor.

Sec. 288. Disqualification of applicant. 1937, c. 210, § 11. Any applicant for aid to the blind who divests himself directly or indirectly of any property for the purpose of qualifying for such aid shall forfeit all right to receive aid to the blind under the provisions of sections 275 to 293, inclusive.

Sec. 289. Periodic reconsideration and changes in amount of aid. 1937, c. 210, § 14. All grants made under the provisions of sections 275 to 293, inclusive, shall be reconsidered by the department as frequently as it may deem necessary. After such further investigation as the department may deem necessary, the amount of aid may be changed or aid may be entirely withdrawn if the depart-

ment finds that the recipient's circumstances have changed sufficiently to warrant such action.

Sec. 290. Change of circumstances. 1937, c. 210, § 16. If at any time during the continuance of aid the recipient thereof becomes possessed of any property or income in excess of the amount stated in the application provided for in section 279, it shall be the duty of the recipient immediately to notify the department of the receipt or possession of such property or income and the department may, after investigation, either cancel the aid or change the amount thereof in accordance with the circumstances.

Sec. 291. Funeral expenses of person aided. 1937, c. 210, § 12. On the death of a recipient, reasonable funeral expenses not exceeding \$100 shall be paid by the state if the estate of the deceased is insufficient to pay the same.

Sec. 292. Acceptance of provisions of federal law. 1937, c. 210, § 17. The department is authorized to:

I. Apply for federal aid under the provisions of Title X of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of sections 275 to 293, inclusive, as may be required for such aid;

II. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 293. Federal grants. 1937, c. 210, § 18. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to the blind and administration thereof, as contemplated by Title X of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Sec. 294. Blind children may be sent to Perkins Institution; no distinction made on account of wealth or poverty; expenses paid by state. R. S. c. 19, § 194. 1931, c. 216, Art. III, § 2, ¶ 16; Art. VII, § 1. Upon the request of the parents or guardians, the department may send such blind children as it may deem fit subjects for education, for a term not exceeding 10 years, and thereafter in the discretion of the department, in the case of any pupil, to the Perkins Institution and Massachusetts School for the Blind at Watertown, Massachusetts; provided, however, that when the authorities in charge of said Perkins Institution and Massachusetts School for the Blind shall refuse for any reason to admit such blind children to said institution, then the department may send such children so refused to any institution for the blind wherever located. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution, shall be paid by the state; provided, however, that nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.

Pensions to Certain Veterans and Their Dependents

Sec. 295. Pensions to certain soldiers and sailors or their dependents. R. S. c. 158, § 1. 1933, c. 1, § 214. 1935, c. 116, §§ 1, 5. Any person who has served in the army or navy of the United States in the war of 1861, on the quota of Maine, and any person not on the quota of Maine, who has served in the army or navy of the United States in said war, and at time of making application for pension shall have been a resident of the state at least 5 years; also any person who has served in the army or navy of the United States in the war with Spain, on the quota of Maine, and any person whether or not on the quota of Maine, who has served in the army or navy of the United States in the war with Spain or the Philippine insurrection at any time prior to the 4th day of July, 1902, and at time of making application for pension shall have been a resident of the state at least 5 years, and who is unable from his own resources and the United States pension, if any, to obtain a livelihood for himself and those dependent upon him, shall be entitled to a pension from the state not exceeding \$12 a month, provided, he has been honorably discharged from said service. No such pension shall be paid by this state to persons residing in other states.

Sec. 296. Pension to widow, orphan children, and dependent relatives. R. S. c. 158, § 2. 1933, c. 1, § 215. 1935, c. 116, §§ 2, 5. The widow during her widowhood, or the son, daughter, parent, or sister of any soldier or seaman deceased, who was dependent upon him at the time of his decease, is entitled to the same pension as is provided in the preceding section and under similar conditions; provided that not more than \$12 a month shall be paid the dependents of any such soldier or seaman. Any son, daughter, parent, or sister of any soldier or seaman deceased, who was receiving a pension on July 10th, 1925, shall not be rendered ineligible by reason of anything herein contained.

Sec. 297. Department shall have jurisdiction. R. S. c. 158, §§ 3, 4. 1933, c. 1, § 216. 1935, c. 116, §§ 3, 5. The department shall determine whether or not any applicant is entitled to a pension under the provisions of the 2 preceding sections.

Sec. 298. Pensions to be paid quarterly; payment of special legislative pensions. R. S. c. 158, § 5. 1933, c. 1, § 217. 1935, c. 116, §§ 4, 5. 1943, c. 211. Pensions granted under the provisions of sections 295 to 298, inclusive, shall be paid quarterly from the state treasury.

All special legislative pensions granted prior to January 1, 1941, and charged to the appropriation for support of dependent soldiers and sailors shall be paid from the appropriation for special legislative pensions.

Support of Dependents of Veterans of World War I and World War II

Sec. 299. Definitions. 1943, c. 89, § 1.

I. The term "wife" wherever used in sections 299 to 306, inclusive, shall be construed to mean the legally married wife of the veteran, not divorced, or the unmarried widow of the veteran, not previously divorced.

II. The term "child" shall be construed to mean a child under the age of 16, or over age 16 and under age 18 if found by the department to be regularly attending school, or over 16 and not attending school if, prior to reaching age 16 the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and shall include a legitimate or legally adopted child of the veteran, or a stepchild if a member of the veteran's household either at time of application, or in the event of the veteran's death, at time of death, and

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who continues a member of the household, or an illegitimate child, provided that the veteran has been judicially ordered or decreed by the court to contribute to the child's support, or has been judicially decreed to be the putative father, or has acknowledged under oath in writing that he is the father of such child.

III. The term "parent" shall mean the father or mother of a veteran with whom the veteran lived during his minority and for whom he would be legally responsible under the laws of the state.

IV. The term "veteran" wherever used in sections 299 to 306, inclusive, shall be construed to mean any person who served or is serving in the armed forces of the United States on active duty during World War I or World War II, not dishonorably discharged.

V. The terms "World War I" and "World War II" shall be interpreted in accordance with the Acts of Congress as now or hereafter defined by the regulations of the federal departments charged with administering monetary and other benefits to veterans and their dependents.

Sec. 300. Eligibility for aid. 1943, c. 89, § 2. Aid shall be granted under the provisions of sections 299 to 306, inclusive, to the needy wife, child, and/or parent or parents, residing in the state, of a veteran, providing said veteran enlisted or was inducted while having a residence in the state of Maine, or who shall have been a resident of the state at least 5 years previous to date of application, and who is deceased or disabled, or providing, if the veteran is deceased and not enlisted or inducted while having a residence in the state, that the dependent or dependents applying shall have been resident of the state at least 5 years previous to date of application. Such aid shall not be forfeited by reason of temporary absence from the state. The department shall endeavor to give preference to applications in which the death or disability of the veteran is due to service or in which the department might presume that death or disability might be due to service. The department shall require satisfactory proof as to the disability of a veteran and its effect on his ability to provide for himself and dependents. During the period that such aid is being paid, the recipient thereof shall not acquire or lose a settlement or be in the process of acquiring or losing a settlement and no person receiving such aid under the provisions of sections 299 to 306, inclusive, shall be considered a pauper.

Sec. 301. Application. 1943, c. 89, § 3. Application for aid under the provisions of sections 299 to 306, inclusive, shall be made to the department on forms provided for this purpose by the department, and may be made by the dependent of the veteran, or any person who is recognized by the department as entitled to act therefor.

Sec. 302. Amount of aid. 1943, c. 89, § 4. The department shall determine the character and amount of aid which shall be granted with due regard to the resources of the veteran and his dependents and the necessary expenditures and conditions existing in each case, and which shall be sufficient, when added to all other income and support available, to provide such dependents with a reasonable subsistence compatible with decency and health.

Sec. 303. All funds administered by the department. 1943, c. 89, § 5. The department shall administer all funds appropriated for the purpose of sections 299 to 306, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable.

Sec. 304. Right of appeal. 1943, c. 89, § 6. Any person who is denied or who is not satisfied with the amount of aid allotted to him by the department, shall have the right of appeal to the commissioner who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 305. Payment of relief. 1943, c. 89, § 8. Relief granted under the provisions of sections 299 to 306, inclusive, as approved by the department and audited by the state controller shall be paid by the treasurer of state, and may, in the discretion of the department, be paid to any persons whom it may designate for the benefit of such dependents.

Sec. 306. False or fraudulent statement; penalty. 1943, c. 89, § 7. Whoever knowingly shall make a false statement, oral or written, relating to a material fact in support of application for aid under the provisions of sections 299 to 306, inclusive, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months. Whoever, being entitled to the benefits of the provisions of said sections, fraudulently applies for or receives assistance for a period of time following a termination of his right to receive the same, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Indian Tribes

Sec. 307. Indian defined. 1943, c. 243. An Indian is defined for all purposes as being a person who is in whole or to the extent of at least $\frac{1}{4}$ part of Indian blood.

Sec. 308. Department to have general supervision, to keep records; controller to file and audit accounts. R. S. c. 17, § 1. 1933, c. 1, § 241. The department shall have general supervision over the Indian tribes and shall keep in its office all records pertaining to the tribes except such matters as pertain to the filing and auditing of accounts, which shall be kept in the office of the state controller.

Sec. 309. Agents, appointment, and tenure; vacancies. R. S. c. 17, §§ 2, 3. 1933, c. 1, §§ 242, 243. Agents for the Penobscot and Passamaquoddy tribes of Indians shall be appointed by the governor, with the advice and consent of the council, and hold their office during the pleasure of the governor and council. Vacancies shall be filled by the governor with the advice and consent of the council, but there shall never be more than 3 agents for each tribe.

Sec. 310. Duties of agents. R. S. c. 17, § 4. 1933, c. 1, § 244. The agents shall have the care and management of the property belonging to the tribes for their benefit; each of said agents shall at least once in 6 months visit each Indian reservation within his agency limits where Indians reside, and incorporate into his reports the dates of such visits and the condition in which he found the Indians on each reservation at each visit.

Sec. 311. Record of proceedings; account of receipts and expenditures. R. S. c. 17, § 5. 1933, c. 1, § 245. The agents shall keep a true record of their proceedings, and correct accounts of all receipts and expenditures of every kind; and shall carry into effect all treaties with said tribes.

CHAP. 22

Sec. 312. Contracts of Indians for timber and grass, void. R. S. c. 17, § 8. 1933, c. 1, § 246. Contracts relating to the sale or disposal of trees, timber, or grass on the Indian lands made with any Indian belonging to either of said tribes, unless examined and allowed by the agent of his tribe, are void.

24 Me. 409.

Sec. 313. Limitations of leases and contracts made by agents. R. S. c. 17, § 9. 1933, c. 1, § 247. No lease of land, or contract for trees, timber, or grass, made by the agent of either tribe, has effect for more than 1 year; nor shall an agent, in any 1 year, sell or dispose of trees or timber of said Indians to an amount exceeding \$500, except as provided in sections 338 to 351.

Sec. 314. Agents may sue in their own names. R. S. c. 17, § 10. 1933, c. 1, § 248. The Indian agents may, in their own names and capacity, maintain actions for money due to any Indians, and for injuries done to them or their property; and all sums or damages so recovered shall be distributed to the Indians of the tribe, according to their usages, or be invested in useful articles.

See P. & S. L. 1867, c. 325. *21 Me. 536.

General Provisions

See c. 3, § 2, re Indians cannot vote.

Sec. 315. Warrants, how drawn. R. S. c. 17, § 56. 1933, c. 1, § 293. The governor and council may draw warrants on the treasurer for such sums as are payable to the Indians for the salary of the agent and for the bounties on agricultural products as hereinafter provided.

Sec. 316. Bounties on produce; proof made to agent. R. S. c. 17, §§ 58, 59. 1933, c. 1, §§ 295, 296. Bounties shall be paid to every Indian of either of said tribes for produce raised by him either on his own land or on land belonging to the tribe, as follows:

I. For every bushel of wheat, 20c.

II. For every bushel of rye, oats, barley, buckwheat, peas, or beans, 10c.

III. For every bushel of potatoes, turnips, parsnips, beets, or carrots, 5c.

Before any bounty is paid to such Indian, he shall prove to the satisfaction of the agent the number of bushels of each article before named, raised by him on such land.

Sec. 317. Indians to have free hunting, trapping, and fishing. 1937, c. 212. 1941, c. 74, § 1. All Indians of over 18 years of age of both the Passamaquoddy and Penobscot tribes may procure from the commissioner of inland fisheries and game a license to hunt, trap, and fish free of charge upon presentation to the commissioner of a certificate from the Indian agent of their respective tribe stating that the person described therein is an Indian and a member of that tribe. Holders of such licenses shall be subject to all the laws of the state and rules and regulations of the commissioner relative to fishing, trapping, and hunting, and for violation of said laws of the state or rules and regulations of the commissioner said licenses shall be revoked as provided in chapter 33. For the purposes of this section, no person shall be considered an Indian unless his father and mother were Indians.

Sec. 318. Agent to settle account annually. R. S. c. 17, § 60. 1933, c. 1, § 297. Agents shall keep an account of appropriations so paid out and present it duly certified to the department in July annually for examination.

Sec. 319. Relief of Indians not members of Penobscot or Passamaquoddy tribes; overseers of poor to transmit to department a statement of such cases; contents of statement. R. S. c. 17, § 61. 1933, c. 1, § 298. Whenever any Indian, not a member of the Penobscot or Passamaquoddy tribe of Indians or any member of the family of such Indian, is found destitute and in distress, and is relieved by the overseers of the poor of the town required by law to provide relief for such person, the overseers of the poor shall transmit to the department a statement specifying the nature, dates, and amounts of the supplies furnished, together with a statement of fact relating to the condition, tribe, length of time in the state so far as may be ascertained, and such other data as may be required concerning such Indian, whereupon the state shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been expended necessarily therefor.

Sec. 320. Department may expend fund of Indian tribes; conditions, consent of tribe. R. S. c. 17, § 62. 1933, c. 1, § 299. The department, subject to the approval of the governor and council, may expend for the benefit of either Indian tribe, any portion of the funds of that tribe; provided, however, that the expenditure will not decrease the principal of the fund to such an extent as to prevent compliance with any existing provisions of statute, and provided further, that the tribe whose funds are used shall consent to the expenditure at a meeting duly called for the purpose.

By c. 493 of the private and special laws of 1885, the governor was authorized to appoint special constables in each of the Indian tribes of the state.

By c. 49 of the private and special laws of 1899, as amended by c. 108 of the private and special laws of 1915, provision was made for the election of a policeman by the Penobscot tribe, and c. 493 above mentioned was superseded as to that tribe.

Sec. 321. Penalty for posing as Indian in vending. 1935, c. 152. Whoever, not a member Indian of either of said tribes, represents himself to be such Indian in the vending of goods and wares, shall be punished by a fine of not more than \$50.

Penobscot Tribe

Sec. 322. Tribal committee chosen annually; membership. R. S. c. 17, § 11. 1931, c. 134, § 1. 1933, c. 1, § 249. A tribal committee of the Penobscot tribe of Indians shall be chosen annually, in the month of November, to consist of 12 members of said tribe. No member of said committee shall be less than 21 years of age. The said members shall be chosen at a meeting held as hereinafter provided.

Sec. 323. Meetings for election of committee; certificates of election; vacancies. R. S. c. 17, § 12. 1931, c. 134, § 2. 1933, c. 1, § 250. A meeting for the election of members of said committee shall be called by the agent of said tribe, who shall give notice thereof in the same manner as notice of the meeting for the election of governor of said tribe is required to be given; and at such meeting said agent or some person appointed in writing by him shall preside, who shall receive, sort, count, and declare in open meeting the vote given in for members of said committee. The said agent shall issue certificates of election to the persons thus elected, who shall hold office as such members, until a new election is had, unless their term of office is sooner terminated by resignation or by ceasing to be members of said tribe. Whenever any vacancy occurs in said committee, the agent shall call a meeting of the tribe to fill such vacancy.

CHAP. 22

Sec. 324. Membership, how acquired. R. S. c. 17, §§ 16, 17. 1933, c. 1, §§ 254, 255. 1943, c. 242. Membership in the Penobscot tribe of Indians may, after March 22, 1901, be acquired only as follows:

I. By birth.

II. By adoption into the tribe as determined by its tribal committee, in accordance with the provisions of the 2 following sections.

III. By marriage to a male member of said tribe; but membership by marriage can be acquired only by such persons as are in whole or to the extent of at least $\frac{1}{4}$ part of Indian blood, and it shall not include the previous issue of the person acquiring it.

A certificate of marriage signed by the person solemnizing the same, or an attested copy of the record thereof, shall be sufficient evidence of such marriage.

Sec. 325. Committee may adopt person into tribe. R. S. c. 17, § 13. 1933, c. 1, § 251. 1939, c. 141. 1941, c. 272, § 1. The tribal committee at any regularly held meeting may, by $\frac{3}{4}$ vote of its total membership, adopt into said tribe any person who is in whole or to the extent of at least $\frac{1}{4}$ part Indian blood, and who is the husband, wife, or child of a member of said tribe, and who has his or her residence for at least 1 year next preceding such adoption upon any reservation of said tribe; but the decision of said committee upon such residence and Indian descent and such adoption shall not be effective until the same has been ratified and approved in writing by the Indian agent. The adoption of a child by any member of the tribe under ordinary legal process shall not of itself constitute such child a member of said tribe; but the power of adoption into the tribe shall in all cases rest with the aforesaid tribal committee subject to approval by the Indian agent as aforesaid.

Sec. 326. Certificate of adoption to be filed with agent; such person not to hold certain offices. R. S. c. 17, § 14. 1933, c. 1, § 252. 1941, c. 272, § 2. Whenever said tribal committee shall vote to adopt any person into said tribe, a certificate of such vote of adoption shall be signed by the person presiding at the meeting, and said certificate shall be filed with the agent of said tribe; and if ratified and approved by the Indian agent said adopted person shall thereafter be deemed and accepted to be a member of said tribe for all intents and purposes, and shall be enrolled as such upon the list of its members. No person hereafter adopted into the tribe shall be eligible to hold the office of governor, lieutenant-governor, or representative of said tribe.

Sec. 327. Persons adopted, required to make oath. R. S. c. 17, § 15. 1933, c. 1, § 253. Every male person adopted as provided in section 325, shall, within 1 month after such adoption, or if a minor within 1 month after becoming 21 years of age, make oath before the agent of said tribe that he will demean himself as a discreet, industrious, and good member of said tribe, and will faithfully fulfil the duties incumbent upon him as such member.

Sec. 328. Membership deemed lost when tribe is abandoned. R. S. c. 17, § 8. 1933, c. 1, § 256. 1943, c. 323. If any member of said tribe shall abandon it and join another tribe of Indians, he shall be deemed to have lost his membership in the Penobscot tribe, and shall not be entitled to any share of dividends, rentals, or other money thereafter apportioned among the members of said tribe, nor to any other subsequent rights of membership.

If any Indian, who is a member of either the Passamaquoddy or Penobscot tribes, marries a man or woman who is a member of neither tribe nor eligible for membership therein, he shall forfeit his membership in the tribe and shall

not be eligible for adoption into the tribe during the period of such marriage, and such persons shall be subject to removal from the tribal reservations as provided in sections 333 and 357. Provided, however, that this paragraph shall not apply to any Indian member of either tribe who serves in the armed forces of the United States or any of its allies in the present war.

Sec. 329. Loss of membership does not affect membership of other members of the family. R. S. c. 17, § 20. 1933, c. 1, § 258. When any member loses his membership under the provisions of section 328, or his right to share in dividends, rentals, or other moneys under the provisions of section 331, no member of his family to whom the provisions of said sections do not personally apply shall be deemed to have lost such membership or right.

Sec. 330. Restoration to membership; proceedings. R. S. c. 17, § 21. 1933, c. 1, § 259. Any person a member of said tribe on March 22nd, 1901, as shown by the tribal census taken under the laws of the state, who shall have forfeited any rights of membership may regain said rights by petition, under oath, to the Indian agent, alleging 1 year's continuous residence within the state. If at the end of 60 days said agent shall have refused or neglected to restore said person to membership he shall have the right of appeal to the tribal committee which shall thereupon forthwith hear the facts and enter such judgment as to restoration to membership as is just and right. Such renewal of rights shall not entitle such person to any share of the dividends, rentals, or moneys which previously thereto have come into the hands of the agent, nor have any other retrospective effect.

Sec. 331. Dividends payable if member resides within state and reports to agent once a year; otherwise not. R. S. c. 17, § 19. 1933, c. 1, § 257. If any member of the tribe shall reside outside the tribal reservation, but within the state, he shall report to the agent of the tribe at least once in each year in order to be entitled to his share of dividends, rentals, or other money apportioned to members of the tribe. During such time as he shall reside without the state he shall not be entitled to any part of the dividends, rentals, or other money apportioned to members of the tribe.

Sec. 332. Money forfeited may be used for benefit of family. R. S. c. 17, § 22. 1933, c. 1, § 260. If any member of said tribe shall desert his family, or fail to provide properly for said family's support, the agent may in his discretion use for the benefit of such family any part or all of said member's dividends or share of rentals or any money assigned to him from state funds or coming to him in any way by apportionment or distribution through the hands of said agent.

Sec. 333. Persons not belonging to tribe may be required to remove from reservation; proceedings; penalty if respondent does not comply with order to remove; costs. R. S. c. 17, § 23. 1933, c. 1, § 261. Any person residing or commorant upon the tribal reservation of the Penobscot tribe of Indians, not being a member, nor the husband, wife, or legally adopted child of a member of said tribe, may be required to remove therefrom by a written notice given to him in hand under the signature of the governor or, in his absence, the lieutenant-governor and the agent of said tribe. A copy of such notice attested by said agent, with a return of service thereon by any officer qualified to serve criminal precepts, or an affidavit of service by any other person, shall be filed with said agent and be sufficient evidence of such service. If the person so notified shall not remove from said reservation within 2 days after service of said notice upon him, the agent or any member of the tribe may make complaint to the judge of

the Old Town municipal court, who shall cause a certified copy of said complaint with a notice of the time and place of hearing thereon to be given in hand to said person or left at his place of last and usual abode at least 2 days before the time fixed for said hearing, or may cause said person to be at once apprehended and brought before said court. After due hearing, said judge may, if he is satisfied that such removal is approved by the majority of the adult members of said tribe or is for any cause proper to be enforced, order the respondent to remove within a specified time beyond the tribal reservation limits. If the respondent fails to obey said order, or if within 1 year after the service of said notice he shall again become resident or commorant upon any reservation of said tribe without the consent of said agent and said governor or lieutenant-governor, said judge may cause such person to be apprehended and brought before said court and may punish him by fine of not more than \$20, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The costs of all such court proceedings under the provisions of this section may be included in the order or sentence of said judge; and if the respondent fails to pay the same, he may be committed to jail for not more than 30 days additional to any imprisonment otherwise imposed upon him; and in such case, or if the judge does not include said costs in his order or sentence, such costs shall be paid by said agent from the tribal fund. Costs shall be taxed as in ordinary proceedings upon complaint.

See § 357.

Sec. 334. Relief of persons found destitute on reservation, not members of tribe. R. S. c. 17, § 24. 1933, c. 1, § 262. For all relief to any person not a member of the Penobscot tribe of Indians, nor having a pauper settlement in this state, found destitute and in distress upon any tribal reservation of said tribe, which has been furnished by the agent of said tribe or by the overseers of the poor of the town within whose territorial limits such person is so found, the state shall reimburse said agent or said town to such extent as the department adjudges to have been necessarily expended therefor. The reasonable expenses and services of said overseers relative to said pauper shall be included in the amount to be so reimbursed.

Sec. 335. Relief of members of tribe found destitute beyond tribal reservations. R. S. c. 17, § 25. 1933, c. 1, § 263. When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this state where he is so found, the overseers of the poor of said town may send to the agent a statement specifying the nature, dates, and amounts of the supplies furnished, which shall be transmitted to the department with such additional statements of fact as said agent may think proper; and the state shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been necessarily expended therefor. Any member of said tribe found destitute and in distress beyond the tribal reservation may be removed by the agent from any place in which he may be residing, or be found, to said tribal reservation, whenever, in the judgment of the agent, such removal should be made.

Sec. 336. Payments by agent. R. S. c. 17, § 26. 1933, c. 1, § 264. The agent for the Penobscot tribe shall provide, furnish, pay, and deliver to said tribe, on account of the state, such articles, goods, provisions, and moneys as from time to time become due under any treaty or law.

See Resolves 1867, c. 96.

Sec. 337. School moneys of tribe, how expended; schools, how regulated; free tuition in high school. R. S. c. 17, § 27. 1931, c. 136. 1933, c. 1, § 265; c. 146, § 1. 1941, cc. 269, 274. 1943, c. 247. All moneys appropriated for schools for the Penobscot tribe of Indians shall be expended under the supervision of the agent of said tribe, subject to the approval of the department; said agent and the superintendent of the Old Town schools shall jointly employ the teachers and fix their salaries, limited by such appropriation. Said teachers shall meet all minimum qualifications as required for certification in the public schools of the state. The schools upon island number 1, commonly called Indian Old Town island, shall be under the care and supervision of the superintendent of schools of the city of Old Town; and those within the territorial limits of any other town under the care and supervision of the superintending school committee of such town. Said superintendent or school committee shall visit such schools at least 3 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel; and make reports to the agent and to the commissioner of education once each year, noting therein such facts and information as may seem of importance in the interest of education among said tribe or as may be required by the said department. The superintendent of schools of Old Town shall have such authority over the schools on Indian island as superintendents in any town may have, except as limited by this section. Said superintendent shall be paid from the state appropriation for school superintendents a sum not exceeding \$100 per year for his services. The children of Indian island may have the option of attending the Old Town schools whenever their parents may express a desire for them to so attend and the superintendent of schools shall transfer them to the building appropriate and suitable for their grades. The said children of said island shall be subject to all compulsory attendance laws as per sections 80 to 88, inclusive, of chapter 37 except that the superintendent of the Old Town schools and the agent of the Penobscot tribe of Indians shall jointly have full authority to enforce the full provisions of said attendance laws, and for purposes of such enforcement the attendance officer for the city of Old Town shall act as attendance officer for Indian island. All laws relating to the public schools shall be applicable to the schools on Indian island, and the superintendent of the Old Town schools and the agent of the Penobscot tribe of Indians shall be jointly responsible for the enforcement of the provisions of said laws. Whenever it shall be shown that any of the children of the Penobscot or of the Passamaquoddy tribes of Indians shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in this state, to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 98 of chapter 37, except that such tuition for such pupils shall be paid by the department from Indians funds. Said tuition shall be based on the average cost per pupil for the year preceding that for which the tuition is paid; provided, however, that the average cost per pupil shall be determined by dividing the sum of expenditures for instruction, fuel, and janitor service, textbooks and supplies, and ordinary minor repairs, by the average daily attendance of all regularly enrolled students. Tuition likewise for the children of the Penobscot and Passamaquoddy tribes of Indians who attend the elementary schools of any town or city in this state shall be paid to said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid;

provided, however, that the average cost per pupil shall be determined by dividing the sum of expenditures for instruction, fuel, and janitor service, textbooks and supplies, and ordinary minor repairs, by the average daily attendance of all regularly enrolled students.

Sec. 338. Islands of Penobscot tribe may be leased; assent. R. S. c. 17, § 28. 1933, c. 1, § 266. The islands belonging to said tribe may be leased by their agents for the benefit of such tribe for a term not exceeding 12 years, if such lease and the terms and conditions thereof are assented to by the governor and lieutenant-governor of the tribe and approved by the department; if such lease is on credit, it shall be at the risk of the agent, and accounted for as money; and the avails thereof shall be placed by him in the state treasury, subject to the order of the department according to law.

Sec. 339. Members of tribe not to sell standing wood or timber on reservation except to members of tribe. R. S. c. 17, § 45. 1933, c. 1, § 267. No member of the Penobscot tribe of Indians shall hereafter be permitted to sell any standing wood or timber growing on any islands or lands in the Penobscot river within the limits of the Indian reservation except to members of the tribe for firewood only; nor shall any member of said tribe lease any portion of his lands or islands within the limits of said reservation for the purpose of permitting any standing wood or timber to be cut and removed therefrom, except with the consent and approval of the Indian agent.

The Penobscot tribe authorized to establish and maintain a ferry between Indian island and the City of Old Town. P. & S. L. 1913, c. 132.

Registration of dogs. P. & S. L. 1917, c. 79.

Sec. 340. Indian holding land under certificate, may convey same to another Indian of same tribe. R. S. c. 17, § 30. 1933, c. 1, § 268. Any Indian holding lands under a certificate issued under authority of chapter 137 of the public laws of 1883, or by virtue of any assignment under the laws for the apportionment of the lands of said Penobscot tribe, may sell and convey the same to any member of the same tribe with the approval of the agent; provided that no Indian shall purchase lands upon the reservation of said tribe beyond his fair proportion of such reservation.

Sec. 341. Lots not to be sold or leased. R. S. c. 17, § 31. 1933, c. 1, § 269. No such Indian shall sell or lease his lot except as provided by law; and if he carries off the growth faster than is necessary for cultivation, except by permission of the agent, or commits strip or waste, he shall be dealt with as a trespasser.

See Resolves 1867, c. 133; 1878, c. 6. *69 Me. 477.

Sec. 342. Surveys and plans of islands deemed authentic; water privileges and wood and timberlands reserved for public use of tribe. R. S. c. 17, § 32. 1933, c. 1, § 270. Surveys of the islands in Penobscot river from Old Town Falls to Mattawamkeag Point and field notes thereof, as made under the provisions of chapter 158 of the public laws of 1835 and chapter 396 of the public laws of 1839, plans of which were returned to the land office and to the Indian agent, shall be deemed authentic in all matters to which they relate; and the water privileges belonging to said islands, valuable for mills, booms, fisheries, tracts of wood and timberland, and other lots indicated on said plans as reserved for public use, (except the public farm which is subject to allotment by chapter 22, of the private and special laws of 1878,) are not subject to assignment or

distribution to members of said tribe, but shall remain for the benefit of the whole tribe.

Sec. 343. Assignments of unassigned lands. R. S. c. 17, § 33. 1933, c. 1, § 271. The agent of said tribe, on application of any Indian thereof, male or female, 21 years of age or more, to whom his proportion of the tribe's lands has never been assigned, or has never come by inheritance, or who does not already hold by assignment, purchase, or otherwise his fair share of said lands, may cause a lot suitable for cultivation to be surveyed to such applicant from the unassigned lands of the tribe, if any, and may assign the same to him and designate the same upon the plan aforesaid. All lots so designated shall be limited by said plan and occupied accordingly, and any lot, when so assigned, shall be the property of the person to whom it is assigned during the pleasure of the legislature.

Sec. 344. Assignments accompanied by certificate of agent; form of certificate. R. S. c. 17, § 34. 1933, c. 1, § 272. The assignments mentioned in the preceding section shall be accompanied by a certificate from the agent to be recorded as in section 347, in form substantially as follows:

"Know all men by these presents, that I, ———, agent of the Penobscot tribe of Indians, have caused to be surveyed and set off to ———, a portion of the lands belonging to said tribe on the islands in Penobscot river, as contemplated by acts of the legislature, bounded and described as follows, viz:

* * * * *

To have and to hold to him, his heirs and assigns, as contemplated by said acts, during the will of the legislature.

In witness whereof I have hereunto set my hand and seal as agent of the Penobscot tribe of Indians, this ——— day of ———, nineteen hundred and ———."

Sec. 345. Abandonment of tribe forfeits lands. R. S. c. 17, § 35. 1933, c. 1, § 273. Any member of said tribe who abandons it and joins any other tribe forfeits all lands assigned to him, and the same may be assigned anew as provided in section 343.

Sec. 346. Death of owner and description of lots to be recorded. R. S. c. 17, § 36. 1933, c. 1, § 274. The agent shall enter upon his record a memorandum of the death of any Indian owning lands, the date thereof, a description of the lots owned by the deceased, and the names of those persons, so far as ascertainable, who are entitled to such lands by inheritance.

Sec. 347. Conveyances to be by release deed; record; lots on Old Town island. R. S. c. 17, § 37. 1933, c. 1, § 275. Conveyances made by virtue of section 340 shall be by release deed, executed and acknowledged, and the approval of the agent shall be written thereon; said deed and approval shall be recorded by the agent, without fee, in a suitable book kept by him; also by the register of deeds of Penobscot county in a like book kept in the registry of deeds in said county, upon payment of 25c for each deed so recorded; and until recorded as herein provided, no deed made as aforesaid shall pass any title. Sections 308 to 316, 318 to 320, 322 to 354, and 356 to 365 apply to house lots on the point of Old Town island, as well as to land allotted for agricultural purposes.

Sec. 348. Deeds made and deposited with agent may be delivered after death of grantor. R. S. c. 17, § 38. 1933, c. 1, § 276. Deeds made by any Indian of

the Penobscot tribe as provided in the preceding section may be deposited with said agent to be delivered by him to the grantee named therein, after the death of the grantor, if the fact that such deed is so deposited to be so delivered appears by the deed itself; and when delivered by said agent, it shall pass all the title of the grantor in the premises at the time of his death.

Sec. 349. Copies of deeds are evidence. R. S. c. 17, § 39. 1933, c. 1, § 277. Copies of deeds or certificates recorded as provided in sections 308 to 316, 318 to 320, 322 to 354, and 356 to 365, duly attested by the register of deeds or by the agent of said tribe, shall be evidence in all actions or controversies relating to title to lands between members of said tribe.

Sec. 350. Lease of island shores; rents of shores, how appropriated. R. S. c. 17, § 40. 1933, c. 1, § 278. The shores of the islands in the Penobscot river belonging to said tribe shall be leased for booming or hitching logs under the orders of the department. Such leases shall not run longer than 5 years. All sums received from rent of said shores shall be paid to the state, to be held in trust, and paid to said tribe as provided in section 1 of chapter 267 of the special laws of 1873.

Sec. 351. Agents may lease privileges for mills, booms, and fisheries. R. S. c. 17, § 41. 1933, c. 1, § 279. The agent may, with the approval of the department, lease any reserved privileges for mills, booms, and fisheries for a term sufficiently long to induce persons to take leases of them; and all rents shall be paid into the treasury, to be expended for the benefit of the tribe, under the direction of the department.

Sec. 352. Warrants for interest on 4 townships purchased; also for rents. R. S. c. 17, § 42. 1933, c. 1, § 280. The governor and council may draw warrants on the treasury for any sum not exceeding the interest on the price of the 4 townships purchased by the state of the Penobscot tribe in June, 1833, and of any other money paid into the treasury; and for the full amount of rents paid in as aforesaid; and when the whole amount of such sums, in the opinion of the department, is more than is necessary for said tribe, the excess may be invested for their benefit.

Sec. 353. Census of Penobscot Indians; annual meeting; notices; persons entitled to membership to be reported; correction of lists; compensation of committee. R. S. c. 17, § 43. 1933, c. 1, § 281. 1935, c. 141. An accurate census of the Penobscot tribe shall be taken early each January by the tribal committee upon the best information which they can obtain, as hereinafter provided, stating, as nearly as may be, the name, sex, and age of each Indian as it existed on the 1st day of such January, each family by itself. On or before the 10th day of January, annually, the original, certified under oath, shall be delivered to the agent, and a copy thereof to the governor of said tribe for their use. On the 1st Wednesday of January, annually, the said committee shall hold a meeting with said tribe on Old Town Indian island, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons, and the correctness of names; due notice in writing of the time and place of which meeting shall be given by said committee. At said meeting 5 of said tribal committee shall constitute a quorum thereof; and on said 1st Wednesday of January annually, the names of all persons entitled to membership under the provisions of section 324 shall be reported by the tribal committee to the person authorized by law to take the census of said tribe, and shall thereupon be placed on the census roll.

Corrections of the list, by reason of births, deaths, or omissions, may, as they come to the knowledge of the committee, be certified to the agent, and he shall correct his list accordingly. This list, so corrected, shall, with his account, be returned to the department. A reasonable compensation shall be paid to the tribal committee by the agent and charged in his account, and allowed and paid to him out of the state treasury.

Sec. 354. Biennial election of tribe. R. S. c. 17, § 44. 1933, c. 1, § 282. 1941, c. 273, § 1. 1943, c. 248. Biennially on the even-numbered years, on the 1st Tuesday of September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant-governor of said tribe, and a representative at the legislature of this state. The agent of said tribe shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on Old Town island. Said agent shall receive, sort, and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected certificates thereof.

Sec. 355. Health officer provided for. 1941, c. 270. There shall be appointed a physician or other person approved because of training and experience in public health work to serve as local health officer for the reservation of the Penobscot tribe of Indians. Such health officer shall be appointed by the director of health subject to approval by the commissioner and shall serve for a term of 3 years and until his successor is appointed and approved; compensation to be determined by the commissioner.

Passamaquoddy Tribe

Sec. 356. Biennial election of Passamaquoddy tribe; procedure. R. S. c. 17, § 55. 1933, c. 1, § 292; c. 146, § 3. 1941, c. 273, § 2. Biennially on the even-numbered years, on the 1st Tuesday of October, the Passamaquoddy tribe of Indians shall hold their election for the choice of governors and lieutenant-governors of said tribe, and a representative at the legislature of this state. The agents of said tribe shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at their respective offices and one in some conspicuous place on the reservations at Pleasant Point and Peter Dana's Point. Said agents shall receive, sort, and count the votes given in at said election, in the presence of members of the tribe, and those elected shall be given certificates therefor.

By c. 56 of the resolves of 1887, provision was made for an agricultural superintendent for the Passamaquoddy tribe.

Sec. 357. Provisions of § 333 made applicable to Passamaquoddy reservation. R. S. c. 17, § 54. 1933, c. 1, § 291. All the provisions of section 333 shall apply to the Passamaquoddy tribe of Indians as well as to the Penobscot tribe, except that complaints under said section relating to the Passamaquoddy tribe shall be made to the judge of the Calais or Eastport municipal court instead of the Old Town municipal court as provided in said section.

Sec. 358. Health officer provided for. R. S. c. 17, § 53. 1933, c. 1, § 290. 1935, c. 84, § 12. The duty of caring for the health of the residents and for the general sanitation of the reservations at Pleasant Point and at Peter Dana's Point shall be vested in a person who shall be appointed by and hold office during the pleasure of the governor and council, and who shall exercise all the powers, rights, and privileges of a local health officer, as defined by the laws of the state.

Said person shall have received training equivalent to that of a graduate nurse or of a nurse Sister of the Order of Sisters of Mercy, and shall receive as compensation not less than \$500 per year, to be paid out of the appropriation for the Passamaquoddy tribe of Indians. Said person shall, as nearly as may be, spend $\frac{2}{3}$ of his or her time at the reservation at Pleasant Point, and $\frac{1}{3}$ at the reservation of Peter Dana's Point, and shall at all times act under the direction of the commissioner.

Sec. 359. Forest commissioner may sell timber on Indian township; surveyor to be sworn. R. S. c. 17, § 46. 1933, c. 1, § 283. 1941, c. 275. The forest commissioner may sell to the best advantage, at public or private sale, to a citizen of the state, the timber and grass from township numbered 2 on the St. Croix river, called the Indian township, expressly retaining in the written contract of sale a lien on the timber and grass cut, until the amount due for stumpage thereon is paid. Every surveyor appointed by said forest commissioner to scale or survey the lumber so sold, before entering on his duties, shall be sworn to the faithful performance of his trust, and shall file a certificate of his oath with the agent. The net proceeds from such sales shall be set up in the state treasury as an improvement fund for the reservations of the Passamaquoddy tribe of Indians to be expended with the approval and under the direction of the department; provided that in the event the balance in said improvement fund shall at any time exceed the sum of \$10,000, the excess over \$10,000 shall be added to the permanent trust funds of said tribe.

Sec. 360. No sale or permit to a foreigner. R. S. c. 17, § 47. 1933, c. 1, § 284. No citizen or subject of a foreign government shall purchase, cut, or carry off trees, timber, or grass from the township reserved for the benefit of the Passamaquoddy tribe; and if their agent gives to such citizen or subject a permit for such unlawful purpose, he forfeits not more than \$500, nor less than \$100, to be recovered by an action of debt, $\frac{1}{2}$ to the state and $\frac{1}{2}$ to the prosecutor.

13 Me. 385.

Sec. 361. Lands in Indian township may be leased or sold. R. S. c. 17, § 48. 1933, c. 1, § 285. The department, subject to the approval of the governor and council, may, at the expense of the state, and for the benefit of the Passamaquoddy tribe, lease or sell the whole or any part of the Indian township, on such terms as they deem just, and all sums received from such leases or sales shall be credited to the funds of said tribe.

By c. 84 of the private and special laws of 1899, the governor and council were authorized to lease or sell the whole or any part of the Indian reservation in the town of Perry.

Sec. 362. Amounts due Indians to be certified to controller by agent; controller to prepare warrants for payment of fund. R. S. c. 17, § 49. 1933, c. 1, § 286. Out of the interest accruing upon the funds belonging to said tribe, the agent shall certify to the state controller the amounts due to said Indians in conformity to resolves of the legislature and for any further amounts that the legislature may appropriate, and the state controller shall prepare warrants for the same, making all payments so far as possible direct to the person to whom such payment is due.

Sec. 363. Agent may remove distressed poor to reservation; towns to be reimbursed for relief furnished. R. S. c. 17, § 50. 1933, c. 1, § 287. Any member of the Passamaquoddy tribe requiring assistance may be removed by the agent of said tribe from any place in which he may be residing, or be found, to

either of the Indian reservations provided for said tribe, or may be removed from one of such reservations to another such reservation, whenever, in the judgment of the agent, such removal should be made. When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this state where he is so found, the overseers of the poor of said town may send to the agent a statement specifying the nature, dates, and amounts of the supplies furnished, which shall be transmitted to the department with such additional statements of fact as said agent may think proper; and the state shall reimburse said town for the relief so furnished, to such extent as the department adjudges to have been necessarily expended therefor.

Sec. 364. Supervision of schools at Pleasant Point and at Peter Dana's Point; reports and compensation of superintendent; teaching in English and use of textbooks. R. S. c. 17, § 51. 1933, c. 1, § 288; c. 146, § 2. 1941, c. 271. The school at the Pleasant Point reservation shall be under the care and supervision of the superintendent of schools of the town of Perry or of the school union of which Perry may be a member. The school at Peter Dana's Point shall be under the care and supervision of the superintendent of schools of the town of Princeton, or of the school union of which Princeton may be a member. All subjects shall be taught in the English language, and the textbooks used shall be the same as those used in the town in which said schools are located. Said superintendents shall visit said schools at least 4 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel, or discipline; and make report once each year to the agent and to the department, noting therein such facts and information as may seem of importance in the interest of education among the Indians of said reservation, or as may be required by the department. The state shall pay said superintendents reasonable compensation for said services; but the compensation shall not be less than \$100 in each case, and shall be paid out of the state fund for the superintendence of school unions. Whenever it shall be shown that any of the children of the Passamaquoddy tribe living on the reservations shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in the state to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 98 of chapter 37, except that tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average instructional cost per pupil for the year preceding that for which the tuition is paid.

See § 337.

Sec. 365. Police officers to act as attendance officers. R. S. c. 17, § 52. 1933, c. 1, § 289. It shall be the duty of the police officer at Pleasant Point and at Peter Dana's Point, in addition to the regular duties of his office, to act as a school attendance officer. Said police officer shall receive the salary provided in the appropriation made by the legislature, and \$50 in addition thereto at Pleasant Point, and \$25 at Peter Dana's Point, in consideration of the extra duties herein provided for. Such salary and such additional sum shall be payable by the agent quarterly, but no such payment shall be made unless it shall appear from the records of attendance at the school in the reservation in which the police officer is acting, that the attendance at the school shall have been maintained at not less than $\frac{2}{3}$ of the total registration of children of school age, as defined by the laws of the state, during the quarter for which payment is due; provided that absences

caused by epidemics, regular school holidays, and the necessary absence of pupils from the reservations shall not be counted against the said attendance average. Said sums for attendance officers shall be paid out of the appropriations for the Passamaquoddy tribe of Indians.

Registration of Vital Statistics

See c. 90, § 14, re records of deorganized municipalities; c. 106, § 1, sub-§ III, re no action maintained to charge person upon agreement in consideration of marriage.

Sec. 366. Registrar of vital statistics; to furnish blanks for registration of births, marriages, deaths, and divorces. R. S. c. 72, § 15. 1933, c. 1, § 60. The commissioner or such director as he may designate shall be the registrar of vital statistics for the state, and shall furnish to clergymen, and others authorized to marry, to sextons, to physicians, town clerks, clerks of the society of Friends, and clerks of courts, a copy of the provisions of the laws of this state relating to the registration of vital statistics, and suitable blanks for recording births, marriages, deaths, and divorces, so printed, with appropriate headings, as readily to show the following facts and such others as may be deemed necessary to secure an accurate registration:

I. The record of birth shall state its date and place of occurrence, full christian and surname, if named, color and sex of child, whether living or stillborn, and the full christian and surnames, color, occupation, residence, and birthplace of parents.

II. The record of marriage shall state its date and place of occurrence, the name, residence, and official character of the person by whom solemnized, the full christian and surnames of the parties, the age, color, birthplace, occupation, and residence of each, the condition, whether single or widowed, whether 1st, 2nd, or other marriage; and the full christian and surnames, residence, color, occupation, and birthplace of their parents.

III. The record of death shall state its date, the full christian and surname of the deceased, the sex, color, condition, whether single or married, age, occupation, place of birth, place of death, the full christian and surnames and birthplaces of parents, and the disease or other cause of death, so far as known.

Sec. 367. Report of birth to town clerk. R. S. c. 72, § 16. 1933, c. 1, § 61. The attending physician, accoucheur, midwife, or other person in charge, who shall attend at the birth of any child, living or stillborn, within the limits of any town or city in this state, shall report to the clerk of such town or city within 6 days thereafter, all the facts regarding such birth, as required in section 366.

Sec. 368. Copy of record of marriages, forwarded to town clerk. R. S. c. 72, § 17. 1933, c. 1, § 62. 1939, c. 126, § 2. Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by him in conformity with the requisitions prescribed for blank records of marriages in section 366. That person shall forthwith, following each marriage solemnized by him, return each original certificate or certificates to the clerk who issued the same; and if the marriage was solemnized in a town other than the place or places where the parties to the marriage reside, return a copy of the certificate or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the names of the parties united in marriage, place and date of the marriage, the signature of the person by whom the same was solemnized, and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which marriage was solemnized, his resi-

dence, and the date of his commission. All certificates or copies so returned shall be recorded by the clerk receiving them.

Sec. 369. Provisions relating to issuance of marriage certificates. 1939, c. 126, § 3. 1941, c. 66, §§ 2, 3. 1943, c. 140. Before issuing a marriage certificate to a person who resides and intends to continue to reside in another state, the town or city clerk shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited to marry by the laws of the state where he or she resides.

Persons filing notice of intention to marry, one or both of whom have previously been married and divorced, shall file therewith a certificate or certified copy from the clerk of the court by which the divorce was granted, showing the title and location of the court and the names of the parties to the proceeding for divorce, and showing which party obtained the divorce, the cause therefor, and the date when the decree became absolute. If there has been more than one divorce, the said certificate or certified copy as to every such divorce shall accompany the notice of intention.

On or before the 15th day of each month every marriage of a non-resident occurring in Maine during the preceding month shall be reported to the city or town of their residence.

The certificate shall contain the information called for in the following form, so far as same is known to each person, one of whom shall subscribe to the truth of same in the presence of the clerk or one of his assistants, of that town or city in which he or she resides.

State of Maine

MARRIAGE CERTIFICATE

The laws of Maine provide for a fine not exceeding one thousand dollars or imprisonment not exceeding five years to be the punishment of any clergyman, or other person, who shall solemnize a marriage within this state unless authorized to solemnize therein.

No.....

1. Full Name of Groom
2. Place of Residence
3. Age 4. Color 5. Occupation
6. Birthplace 7. Number of 8. Single, Widowed
Marriage or Divorced
9. Father's Name 10. Color
11. Last Residence
12. Birthplace 13. Occupation
14. Mother's Maiden Name 15. Color.....
16. Last Residence
17. Birthplace 18. Occupation
19. Full Name of Bride
20. Place of Residence
21. Age 22. Color 23. Occupation
24. Birthplace 25. Number of 26. Single, Widowed
Marriage or Divorced
27. Father's Name 28. Color
29. Last Residence
30. Birthplace 31. Occupation

32. Mother's Maiden Name 33. Color
34. Last Residence
35. Birthplace 36. Occupation

I do solemnly swear that the statements herein made are true.

Signature

Sworn to before me this day of 19..

..... City Clerk.
Town

City Clerk's Office, City of 19...

The intentions of marriage between the parties above named were duly entered
in this office, on the day of A. D. 19...
and by me recorded according to law.

Certificate issued City Clerk
Town

MARRIAGE CERTIFICATE

I hereby certify that Mr. and
M the above named parties, were
joined in marriage by me at this
day of A. D. 19...

..... Clergyman or Justice of the Peace.

Date of my Commission Residence

Witnesses

This certificate is good only in

This certificate is invalid after one year from the date issued.

See c. 153, § 5, re void marriages.

Sec. 370. Physicians in attendance to furnish certificate of name, age, disease, and date of birth of deceased. R. S. c. 72, § 18. 1933, c. 1, § 63. A physician who has attended a person during his last illness shall within 24 hours after the death of said person make a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, and the date of his death, and shall either deliver it to the person superintending the burial or leave it with the family of the deceased or at the said physician's office where it may be obtained when called for; and a physician or midwife who has attended at the birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate, stating to the best of his knowledge and belief the fact that such child died after birth or was born dead. It shall be a misdemeanor for any person to make a false return in regard to any birth or death.

Sec. 371. Town clerk to be furnished with record of any death in town; permit for burial. R. S. c. 72, § 19. 1933, c. 1, § 64. Whenever any person shall die or any stillborn child be brought forth in this state, the undertaker, town clerk, or other person superintending the burial of said deceased person shall obtain from the physician attending such bringing forth or last sickness a certificate, duly signed, setting forth as far as may be the facts required by the preceding section; and the undertaker or other person having charge of the burial of said deceased person shall add to said certificate the other facts re-

quired by section 366; and having duly signed the same shall forward it to the clerk of the town or city where said person died and obtain a permit for burial; and in case of any contagious or infectious disease, said certificate shall be made and forwarded immediately.

91 Me. 75.

Sec. 372. Notice of death from tuberculosis. R. S. c. 72, § 20. 1933, c. 1, § 65. 1935, c. 84, § 12. When a town or city clerk receives a certificate of the death of any person who has died of tuberculosis in his town, he shall forthwith send a copy of said certificate to the health officer of his town or city, or where there is no health officer, to the commissioner.

Sec. 373. If no attending physician in last sickness, clerk may issue certificate, upon such facts as can be obtained. R. S. c. 72, § 21. 1933, c. 1, § 66. Whenever any deceased person did not have the attendance of a physician in his or her last sickness, the town clerk may issue and sign the certificate of death upon presentation of such facts as may be obtained of relatives, persons in attendance upon said deceased person during said last sickness or present at the time of death, or from any other source, and the permit for burial shall be issued upon such information. Said certificate and permit shall not be required before burial in cases where it is impracticable to obtain the same within a reasonable time after death, but in all such cases said certificate shall be obtained as soon as practicable after death.

Sec. 374. Regulation of removal of bodies of persons dying of cholera, or other pestilential disease; certificate of cause of death; heart failure not deemed sufficient cause for burial permit; permit, when body is brought into this state for burial. R. S. c. 72, § 22. 1933, c. 1, § 67. 1935, c. 84, § 12. No body of a deceased person whose death was caused by cholera, yellow fever, diphtheria, scarlet fever, typhus fever, typhoid fever, smallpox, or other pestilential disease shall be removed from place to place in this state by any railroad, steamboat, or other common carrier unless there shall be attached to the outer case in which said body is enclosed a certificate from the local health officer where such person died, stating the disease causing such death, and that necessary precautions against infection satisfactory to said local health officer have been observed. A certificate of death giving heart failure as the only cause of death shall not be deemed sufficient upon which to issue a burial permit, and such certificate must be returned to the physician who made it for the proper correction and definition. If the body of a deceased person is brought into this state from without for burial, and if it is accompanied by a permit issued by the legally constituted authorities of the state from which it was brought, such permit shall be received as sufficient authority upon which the clerk of the town in which said body is to be buried shall issue a permit for burial; but if it is not accompanied by such permit, then the person or persons in charge of it shall apply for a burial permit to the clerk of the town in which it is to be buried, and the clerk of the town shall issue such permit when furnished with satisfactory information.

Sec. 375. No interment, or disinterment, to be made without permit. R. S. c. 72, § 26. 1933, c. 1, § 71. Except as provided in section 373, no interment, disinterment, or placing in a tomb or vault of a dead human body shall be made without a permit, as aforesaid, from the clerk of the town or city where said person died, or is buried; and no disposition of a dead human body from any tomb or vault shall be made without a permit, as aforesaid, from the clerk of

the town or city where said body has been entombed, or placed in such vault. No undertaker or other person shall assist in, assent to, or allow any such interment or disinterment to be made, except as provided in section 373, until such permit has been given as aforesaid; and every undertaker or other person having charge of any burial place as aforesaid, who shall receive such permit, shall preserve and forward the same to the clerk of the town in which burial takes place, within 6 days after the day of burial.

See c. 121, § 30, re desecration of dead bodies.

Sec. 376. Cremation of bodies of the dead. 1933, c. 37. Any person, firm, or corporation within the state, with the approval of the department, may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead, and subject to such regulations as said department may from time to time make, may cremate such bodies and dispose of the ashes of the same.

Sec. 377. Subregistrars may be appointed who may issue burial permits. R. S. c. 72, § 27. 1933, c. 1, § 72. The town or city clerk may appoint two or more suitable and proper persons in each town or city as subregistrars, who shall be authorized to issue burial permits and permits for transportation of dead human bodies based upon a death certificate, as hereinbefore provided, in the same manner as is required of the town or city clerk; and the said death certificate upon which the permit is issued shall be forwarded to the town clerk within 6 days after receiving the same, and all permits by whomsoever issued shall be returned to the town clerk as required by section 375. The appointment of subregistrars shall be made with reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk; the subregistrars in any town shall hold office at the pleasure of the town clerk.

Sec. 378. Clerks and subregistrars may issue burial permits in contiguous towns. R. S. c. 72, § 28. 1933, c. 1, § 73. Town clerks and subregistrars may issue burial permits to persons in contiguous towns, when by so doing it would be more convenient for those seeking a permit, but in all cases the permit shall be made returnable to the town clerk of the town in which the death occurred.

Sec. 379. Reports to clerk of births and deaths. R. S. c. 72, § 23. 1933, c. 1, § 68. Within 6 days following such events, parents shall report to the clerk of their city or town the births or deaths of their children; householders shall report every birth or death happening in their houses; the eldest person, next of kin, shall report the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, almshouse, or other institution, and the master or other commanding officer of a ship shall report every birth or death happening among the persons under his charge; and parents and other persons enumerated in this section shall not be absolved from the duty of reporting births until the names of the children have been given to the clerk of the city or town in which the births occur.

Sec. 380. Birth certificates of foundlings; foundling report. 1943, c. 167. Whoever assumes the custody of a child of unknown parentage shall immediately report to the local town or city clerk in writing:

- I. The date and place of finding or assumption of custody;
- II. Sex; color or race; and approximate age of child;

III. Name and address of the person or institution with whom the child has been placed for care;

IV. Name given to the child by the finder or custodian.

The place where the child was found or custody assumed shall be known as the place of birth and the date of birth shall be determined by approximation. The report shall constitute the certificate of birth. If the child is thereafter identified, the record of birth made in compliance herewith and any certificate issued thereon shall be null and void and so recorded.

Sec. 381. Record of birth of children legitimated. 1935, c. 114. If a person shall have acquired the status of a legitimate child by the marriage of his parents and the acknowledgment of his father, the record of his birth shall be amended or supplemented as hereinafter provided so as to read, in all respects, as if such person had been reported for record as born to such parents in lawful wedlock. For such purpose, the town clerk shall, if satisfied as to the identity of the persons, receive an affidavit executed by the parents setting forth the material facts. Unless such marriage is recorded in the records in the custody of such clerk, such affidavit shall be accompanied by a certified copy of the record thereof.

If any person acquires a new name by judicial decree, the town clerk of the town in which said person was born or in which the birth was recorded shall receive a certified copy of such decree.

The town clerk shall file any affidavit, certified copy of such decree, or copy of record submitted under the provisions of this section and record it in a separate book kept therefor, with the name and residence of the deponent or the facts of such decree and the date of the original record, and shall thereupon draw a line through any statement, or statements, sought to be corrected or amended in the original record, without erasing them, shall enter upon the original record the facts required to correct, amend, or supplement the same in accordance with such affidavit or decree, and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the state registrar a certified copy of the corrected, amended, or supplemented record upon blanks to be provided by him, and the state registrar shall thereupon correct, amend, or supplement the record in his office. Reference to the record of the affidavit or such decree shall be made by the clerk on the margin of the original record.

Any birth certificate issued under the provisions of this section shall be issued in accordance with the facts contained in the corrected record.

Sec. 382. Birth, marriage, or death, in unincorporated place. R. S. c. 72, § 24. 1933, c. 1, § 69. When a birth, marriage, or death occurs in an unincorporated place, it shall be reported to the town clerk in the town which is nearest to the place at which the birth, marriage, or death took place, and shall be recorded by the town clerk to whom the report is made; and all such reports and records shall be made and recorded and returned to the state registrar as is provided herein.

Sec. 383. Clerk to make certified copy of record on 1st Monday of each month, and transmit to clerk of town where person or parents of child were resident at time of death. R. S. c. 72, § 25. 1933, c. 1, § 70. The clerk of each town shall, on the 1st Monday of each month, make a certified copy of the record of all deaths and births recorded in the books of said town during the

previous month, whenever the deceased person or the parents of the child born were resident in any other town in this state at the time of said death or birth, or whenever they were recently resident in any other town, or whenever the remains of any deceased person have been carried to any other town for burial, or whenever the deceased person was born in any other town of this state, and shall transmit said certified copies to the clerk of the town in which said deceased person or parents were resident at or near the time of said birth or death, or to which the remains of such deceased person have been carried for burial, or in which said deceased person was born as aforesaid, stating in addition the name of the street and the number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the registrar of vital statistics.

Sec. 384. Assessors to make return of all births. R. S. c. 72, § 29. 1933, c. 1, § 74. The assessors shall, when taking the annual inventory, collect and return to the town clerk, before the 1st day of June, the births which have occurred within their respective jurisdictions during the year ending December 31st next preceding, together with the names of such children.

Sec. 385. Town clerks required to make returns to state registrar, monthly; copies to be typewritten or in legible hand. R. S. c. 72, §§ 30, 40. 1933, c. 1, § 75. The clerk of every town shall keep a chronological record of all births, marriages, and deaths reported to him or known to him, and shall, between the 10th and the 15th of every month, transmit to the state registrar a copy of the record of all births, marriages, and deaths which have occurred within the month next preceding, together with the names, residences, and official stations of all persons who have neglected to make returns to him in relation to the subject matters of such records which the law required them to make, all to be made upon blanks to be prepared and furnished by the state registrar; and if no births, marriages, or deaths have occurred in the aforementioned period of time or month for which returns are to be made, the town clerk shall send the state registrar a statement to that effect. Whenever the report of a birth, marriage, or death, required by law to be returned to such clerk, is reported to him or he learns of it too late for inclusion in his returns as provided hereunder to the state registrar, he shall, after it is reported to him or after he has knowledge of it, make due returns thereof to the state registrar forthwith. The registrar of vital statistics shall require all copies which are transmitted under the provisions of this section to be typewritten or written with black durable ink in a fair or legible hand.

Any city or town clerk who neglects or refuses to make or cause to be made the returns as required by this section shall forfeit not less than \$20, nor more than \$100, to the use of the state.

See c. 3, § 25, re clerks of cities shall transmit to the board of registration list of persons over 21 years of age deceased since the preceding election.

Sec. 386. Clerks of courts required to make return of divorces, annually. R. S. c. 72, § 31. 1933, c. 1, § 76. The clerks of courts for the several counties shall, annually, during the month of February, make returns to the registrar of vital statistics relating to libels for divorce in their respective counties for the calendar year next preceding. Such returns shall specify the following details; the number of divorces granted; and the names of the parties including the maiden name and any other former name of female, if any, when ascertainable.

Sec. 387. Duty of state registrar. R. S. c. 72, § 32. 1933, c. 1, § 77. The state registrar shall cause the returns made to him in pursuance of the 2 preceding sections to be arranged alphabetically for convenient reference, and carefully preserved in his office. He shall annually make and publish a general abstract and report of the returns of the preceding year in such form as will render them of practical utility, not more than 2,000 copies of which shall be printed and bound in cloth, 1 copy of which shall be forwarded to every town, 1 copy to each senator and representative, 1 copy to each state and territory in the union, and the remainder to such departments, libraries, and persons as the state registrar shall direct.

Sec. 388. Clerk's record or certified copy, prima facie evidence. R. S. c. 72, § 33. 1933, c. 1, § 78. 1939, c. 164. The city and town clerks shall upon request, supply to any applicant a certified copy of the record of any birth, marriage, or death registered under the provisions of this chapter, upon the payment of a fee of 50c, to be paid by the applicant in advance. For any search of the files and records, where no certified copy is made, the fee shall be 50c for each hour or fractional part of the hour for time of search, said fee to be paid by the applicant in advance. The town clerk's record of any birth, marriage, or death, or a duly certified copy thereof, shall be prima facie evidence of such birth, marriage, or death, in any judicial proceeding.

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Sec. 389. Defective and erroneous records, how perfected. R. S. c. 72, § 34. 1933, c. 1, § 79. If the record relating to a birth, marriage, or death does not contain all the required facts, or if it is alleged that the facts are not correctly stated therein, the town clerk shall receive an affidavit containing the facts required for record, if made by a person who was required by law to furnish information for the original record, or, at the discretion of the town clerk, by one or more credible persons having knowledge of the case. The town clerk shall file such affidavit and record it in a separate book to be kept for that purpose, with the name and residence of any deponent and the date of such record, and shall thereupon draw a line through the incorrect statements in the original record without erasing them, and shall then enter the facts required to amend the record; and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the registrar a certified copy of the corrected record upon blanks to be provided by said registrar; and the registrar shall thereupon amend the record in his office and state in the margin thereof his authority therefor. Reference to the record of the affidavit shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such record, he shall certify to the facts contained therein as amended, and shall state in addition that the certificate is issued under the provisions of this section, a copy of which shall be printed on every such certificate. Such affidavit, or a certified copy of the record of any other city or town or of a written statement made at the time by any person since deceased who was required by law to furnish evidence thereof, may, at the discretion of the clerk, be made the basis for the record of a birth, marriage, or death not previously recorded, and such copy of a record may also be made the basis for completing the record of a birth, marriage, or death which does not contain all the required facts. Any oath which is required by the provisions of this section may be administered by the clerk or deputy clerk of a city or town; they shall receive no fee therefor.

Sec. 390. Penalty. R. S. c. 72, § 40. 1933, c. 1, § 80. If any person willfully neglects or refuses to perform any duty imposed upon him by the provi-

sions of sections 366 to 368, inclusive, 370 to 375, inclusive, 377 to 379, inclusive, and 382 to 389, inclusive, he shall be punished by a fine of not more than \$100 for each offense, for the use of the town in which the offense occurred, and the state registrar shall enforce the provisions of this section as far as comes within his power.

Sec. 391. Duties of clerks. R. S. c. 72, § 35. 1933, c. 1, § 81. The clerk of each city or town shall enforce, so far as comes within his power, the provisions of sections 367, 368, 369, 370, 371, 375, 379, and 384 of this chapter, and section 10 of chapter 153, and when he knows of any birth, marriage, or death, which is not reported to his office in accordance with the provisions of the law relating to vital statistics, he shall collect, so far as he is able to do so, the facts called for in the blank certificates of birth, of marriage, or of death, as furnished by the state registrar, and shall record them as is herein prescribed; for each birth or death or marriage duly reported to the town clerk, physicians or persons solemnizing marriages shall receive 25c from the town in which the birth, death, or marriage has occurred.

Sec. 392. Duty of state registrar of vital statistics, when provisions of law as to registration of vital statistics are not complied with. R. S. c. 72, §§ 36, 40. 1933, c. 1, § 82. When the state registrar of vital statistics believes that, in any place in this state, the records of births, marriages, or deaths are not made as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the said registrar may visit such places and make such investigations as he may deem necessary, and all records, blanks, and papers of town clerks relating to births, marriages, or deaths shall be open to his examination. Any person who refuses to permit or hinders the examination or investigation herein provided for shall be punished by a fine of not less than \$5, nor more than \$20. All actual traveling and other necessary expenses thus incurred by the state registrar, or incurred in attending the prosecution of cases brought by county attorneys, hereunder, shall be paid by the state, but not more than \$200 shall thus be paid to the state registrar for such expenses in 1 year.

When the state registrar knows, or has good reason to believe, that any penalty or forfeiture under the law relating to vital statistics has been incurred, he shall forthwith give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.