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## CHAPTER 88.

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## Town Hospitals. Sanatoriums

Sec. 1. Hospitals may be established. R. S. c. 22, § 102. 1933, c. 1, § 154. 1935, c. 84, § 12. A town may establish therein one or more hospitals for the reception of persons having smallpox or other disease dangerous to the public health; or its local health officer may license any building therein as a hospital, which shall be under the control of said local health officer.

130 Me. 214.

Sec. 2. Physicians and others subject to hospital regulations. R. S. c. 22, § 103. 1933, c. 1, § 155. 1935, c. 84, § 12. When a hospital is so established or licensed, the physicians, the persons who are infected, infectious, or sick therein, the nurses, attendants, and all who come within its limits, and all furniture or other articles used or brought there shall be subject to the regulations made by the local health officer.

Sec. 3. Hospital to be provided, on breaking out of infectious diseases; regulations. R. S. c. 22, § 104. 1933, c. 1, § 156. 1935, c. 84, § 12. When smallpox or other disease dangerous to the public health breaks out in a town, the local health officer shall immediately provide such hospital or place of reception

for the sick and infected as he judges best for the accommodation and safety of the inhabitants; such hospitals and places are subject to his regulations the same as established hospitals; and he shall cause such sick and infected to be removed thereto, unless their condition will not permit it without imminent danger; in which case, the house or place where the sick are shall be deemed a hospital for every purpose aforesaid; and all persons residing in or in any way concerned with it are subject to hospital regulations.

66 Me. 72, 314, 315.

**Sec. 4. Precautions to prevent the spread of such diseases.** R. S. c. 22, § 105. 1933, c. 1, § 157. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and shall give public notice of infected places to travelers by displaying red flags at proper distances and by all other means most effectual, in their judgment, for the common safety.

28 Me. 257; \*64 Me. 121.

**Sec. 5. Penalty for violation of hospital regulations by persons subject thereto.** R. S. c. 22, § 106. 1933, c. 1, § 158. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith violates any lawful regulation in relation thereto, with respect to himself or his or another's property, he forfeits not less than \$10, nor more than \$100, for each offense.

**Sec. 6. Forfeitures, how appropriated.** R. S. c. 22, § 107. 1933, c. 1, § 159. All forfeitures mentioned in sections 1 to 5, inclusive, of this chapter and sections 50 and 51, 74 to 84, inclusive, and 127 to 143, inclusive, of chapter 22, except as otherwise provided, inure to the town where the offense is committed.

\*87 Me. 475.

**Sec. 7. Sanatorium or hospital for infectious diseases, prohibited unless approved; penalty.** R. S. c. 22, §§ 32, 33. 1933, c. 1, §§ 161, 162. No person, firm, or corporation shall establish or maintain within the populous districts of any city or town in this state any sanatorium or hospital designed for the treatment of persons suffering from tuberculosis or other infectious or contagious disease, unless approval has been obtained from the municipal officers of the city or town in question and from the department of health and welfare. Any person, firm, or corporation found guilty of violating the provisions of this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months; and jurisdiction in equity to enjoin threatened violations of the provisions of this section is conferred upon the supreme judicial and superior courts.

### Registration and Licensing of Dogs

**Sec. 8. Assessors to make lists of all dogs; returns to clerks of cities and towns and to commissioner of agriculture; commissioner of agriculture to report to treasurer of state; treasurer of state to notify municipal officers; certain credit to be allowed; consequence of failure to remit.** R. S. c. 5, § 157. 1941, c. 278, § 1. 1943, c. 76. Assessors of taxes shall include in their inventories lists of all dogs 6 months old or over owned or kept by any inhabitants on the 1st day of April, setting the number and sex thereof opposite the names of their respective owners or keepers, and shall make returns to the clerks of their respective cities or towns and to the commissioner of agriculture or his authorized agent of such lists on or before the 15th day of June following.

The commissioner of agriculture or his authorized agent shall, on or before the 1st day of September of each year, report to the treasurer of state the number of dogs by sexes, the number of dogs reported killed, and the number of kennels found in each city or town, together with the amount due the state from each city or town for dog licenses.

The treasurer of state shall notify the municipal officers of each city or town before October 1st of each year of the amount due the state for dog licenses, on which amount he shall allow credit for all dogs reported killed.

If any city or town fails to remit to the treasurer of state on or before October 15 of each year a sum of money equal to the licenses required by sections 8 to 25, inclusive, on all dogs living on the 15th day of June preceding, such deficiency shall be added to the state tax of such delinquent city or town for the following year.

See § 20.

Sec. 9. Dog licenses to be applied for annually; license fee; licenses to be in triplicate; metal tag to be attached to dog collar; clerks to make annual returns to commissioner of agriculture; license blanks and metal tags to be furnished by commissioner of agriculture; duties and salary of animal husbandry specialist; late licensing of unlicensed dogs; kennel licenses. R. S. c. 5, § 158. 1937, c. 202, § 2. 1939, cc. 65, 258. 1941, c. 278, § 2; c. 309. On or before the 1st day of April of each year, the owner or keeper of any dog 6 months old or over shall apply to the city or town clerk either orally or in writing for a license for each such dog owned or kept by him. Such application shall state the breed, sex, color, and markings of such dogs and the name and address of the last previous owner.

A fee of 90c shall be paid the city or town clerk for each license issued on male dogs, and a fee of \$4.90 shall be paid for all female dogs capable of bearing young. All female dogs shall be considered capable of producing young unless a certificate, or previous license record, is presented from a licensed veterinary stating that such female was made incapable of bearing young by spaying by him. When such certificate accompanies the application a fee of 90c shall then be paid on such spayed females. In addition to the amount paid for license and metal tag, each applicant shall pay the city or town clerk 25c for the recording and making a return to the commissioner of agriculture.

Such licenses shall be made in triplicate, the original copy shall be mailed to the commissioner of agriculture, 1 copy given to the person applying for the license, and 1 copy retained by the city or town clerk.

A metal tag showing the year such license is issued and bearing such other data as the commissioner of agriculture may prescribe shall be given with each license and must be securely attached to a leather or metal collar which must be worn at all times by the dog for which the license was issued and it shall be unlawful for any person to remove such tag or to place either collar or tag on any dog not described or for which the license was not issued.

Returns from clerks of cities, towns, and plantations showing all licenses issued by them together with a correct report showing the total number of dogs in "both sexes" found by the city or town assessors and the number of dogs killed shall be made to the commissioner of agriculture not later than the 1st day of July each year.

All license blanks and metal tags shall be furnished by the commissioner of agriculture. The representative of the department of agriculture in charge of animal husbandry shall be known as the animal husbandry specialist, and shall devote his time to carrying out the provisions of the dog licensing laws and the

adjustment of claims for damages to livestock by dogs and wild animals, and to the promotion of animal husbandry within the state. The expense of furnishing the above-mentioned blanks and tags, and the necessary clerk hire and travel, and the salary of the animal husbandry specialist shall be paid from the funds received from the licensing of dogs; provided, however, that not more than \$7,000 per year shall be expended under the provisions of this section, and provided further, that out of the money received for dog licenses as much as is necessary, up to \$7,000, is allocated for the purposes of this section.

Any person becoming the owner or keeper of a dog after the 1st day of April, not duly licensed as herein required, shall, within 10 days after he becomes the owner or keeper of said dog, cause said dog to be described and licensed as provided above.

Every owner or keeper of dogs, kept for breeding purposes, may receive annually a special kennel license authorizing him to keep said dogs for said purpose, provided he keeps said dogs within a proper enclosure. When the number of dogs so kept does not exceed 10, the fee for such license shall be \$9.90, and in addition 25c for each such license as a fee for recording and making the return required by law; when the number of dogs so kept exceeds 10, the fee for such license shall be \$19.90, and in addition 25c for each such license as a fee for recording and making the return required by law, and no fees shall be required for the dogs of such owner or keeper under the age of 6 months. Dogs covered by kennel license shall be exempted from the provisions of this section requiring registration, numbering, and collaring.

See § 20; 93 Me. 387.

**Sec. 10. Duty of clerks.** R. S. c. 5, § 159. 1941, c. 278, § 3. The clerks of cities and towns shall issue said licenses and receive the money therefor, and pay the same to the treasurer of state, who shall credit the same to a fund called "Dog Licenses". Such clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed, and the sex, registered numbers, and description of all such dogs; provided, however, that the sex, registered number, and description shall not be required of dogs covered by a kennel license.

See § 20.

**Sec. 11. Penalty for keeping unlicensed dog.** R. S. c. 5, § 161. 1941, c. 278, § 5. Whoever keeps a dog contrary to the provisions of sections 8 to 25, inclusive, shall be punished by a fine of not more than \$25 to be recovered by complaint before any trial justice or municipal court in the county where such owner or keeper resides.

See § 20.

**Sec. 12. Warrants to be issued to officers to enter complaint and summons to court the owner or keeper of any unlicensed dog; disposal of unlicensed dogs.** R. S. c. 5, § 162. 1941, c. 278, § 6. The mayor of each city and the municipal officers of each town or plantation shall annually within 10 days after the 1st day of May issue a warrant, returnable on the 1st day of June following, to one or more police officers or constables, directing him or them to proceed forthwith to enter complaint and summons to court the owner or keeper of any unlicensed dog.

On the 1st day of June the mayors of cities and the municipal officers of towns and plantations shall issue to one or more police officers or constables a warrant returnable on the 1st Monday of the following February, directing him or them

to seek out, catch, and confine all dogs within such city, town, or plantation which are not licensed, collared, and tagged, or enclosed as required by sections 8 to 25, inclusive, and to enter complaint and summons to court the owner or keeper of any such dog and to sell, give away, kill, or cause to be killed each such dog which after being detained by him or them for a period of not more than 6 days shall not have been licensed, collared, and tagged.

See § 20; c. 22, § 32, re rabies or hydrophobia; 93 Me. 388.

**Sec. 13. Officers to make returns.** R. S. c. 5, § 163. 1941, c. 89; c. 278, § 7. Each police officer or constable to whom the warrants named in the 2nd paragraph of the preceding section are issued shall return the same at the time specified and shall state in his return on each warrant the number of dogs killed or otherwise disposed of and whether all unlicensed dogs within his precinct have been disposed of, and the names of persons against whom complaints have been made under the provisions of said section. Such officers shall receive from the city, town, or plantation the sum of \$2 for each dog killed or otherwise disposed of, and for other services rendered under the provisions of sections 8 to 25, inclusive, they shall receive such compensation as the municipal officers may determine.

Provided, however, that in the event the owner of a dog, that has been ordered to be killed, desires to conform with the law in regard to the dog at the time the officer calls to attend to his duty, he may pay the regular fees due, plus an extra fee of 85c, to the officer. The officer shall make a return on the warrant to that effect, and pay over the regular fee to the city or town clerk, retaining the 85c.

Provided further, that in no case shall such officer be entitled to more than \$2 as a fee for disposing of any dog.

See § 20.

**Sec. 14. Secretary of state to forward copies of law; posting.** R. S. c. 5, § 164. The secretary of state shall seasonably forward to the clerks of the several cities, towns, and plantations copies of the 6 preceding sections, and each clerk shall annually, at least 20 days before the 1st day of April, post said copies in the usual places of posting notices of the annual municipal or town elections.

See § 20.

**Sec. 15. Liability for damages by dogs.** R. S. c. 5, § 165. When a dog does damage to a person or his property, his owner or keeper, and also the parent, guardian, master, or mistress of any minor who owns such dog, forfeits to the person injured the amount of the damage done, provided the said damage was not occasioned through the fault of the person injured; to be recovered by an action of trespass.

See § 20; 62 Me. 279; 74 Me. 488; 75 Me. 564; 78 Me. 559; \*83 Me. 568; 87 Me. 172; 98 Me. 264; 100 Me. 25; 101 Me. 551; \*110 Me. 307.

**Sec. 16. Payment of damages done by dogs and wild animals; determination of damages; recovery from owner; penalty for keeping dogs that kill sheep.** R. S. c. 5, § 166. 1931, c. 50. 1937, c. 202, § 1. Whenever any sheep, lambs, or other domestic animals are killed or injured by dogs or wild animals, the owner, after locating such animal or animals or a sufficient part of each animal to identify the same, may make complaint thereof to the mayor of the city or to one of the municipal officers of the town or plantation where such damage was done within 24 hours after he has knowledge of the same, and thereupon the municipal officers shall investigate the complaint, and if satisfied that such damage was committed by dogs or wild animals within the limit of their city, town, or planta-

tion they shall, after viewing the evidence, estimate the value of such animals according to the purpose for which they were kept, whether as breeders or other purpose, together with damage to any other animals by being bitten, torn, or chased until exhausted, and make returns on blank forms furnished by the commissioner of agriculture, which shall be made in triplicate, the original and duplicate copies together with a bill from the claimant shall be mailed to the commissioner of agriculture or his duly authorized agent, within 15 days from the date of investigation, and the triplicate shall be kept by the town clerk as his record.

A full description of all evidence seen by the investigator shall be plainly printed or written in duplicate on all reports and recommendations, giving the number of sheep with their estimated value, and the number of lambs, giving their ages, average liveweight, and actual estimated value, also any other information that will assist in making a fair adjustment.

If sheep, lambs, or other domestic animals are kept in an unincorporated place, the owner may make complaint to the municipal officers of the nearest incorporated town adjoining, or the nearest incorporated when there is none adjoining, who shall investigate the complaint.

Each report and recommendation must be signed by the investigator in the place provided for his or her signature. Such signature shall be construed to mean that the investigator has seen evidence legally establishing the liability of the state. Also, all reports and recommendations must be signed by a majority of the city or town officials.

The commissioner of agriculture or his duly authorized agent shall approve the bill or, if it seems advisable, investigate and adjust the claim.

When the claim is approved by the commissioner of agriculture or his duly authorized agent, the same shall be paid by the state to the person sustaining such damage.

All dogs doing such damage and found without leather or metal collar and metal tag as required by law shall be deemed to be unlicensed; provided, however, that if investigation shows such dog or dogs to have been legally licensed, the state shall accept liability and adjust the damage.

The state may maintain an action on the case against the owner or keeper of the dogs to recover the amount paid unless, before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.

Any person who keeps a dog that kills or injures sheep or lambs shall be punished by a fine of not more than \$100 and costs unless, before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.

See § 26; 125 Me. 67.

**Sec. 17. Damages to poultry by dogs or wild animals; procedure; penalty.** 1931, c. 170. 1933, c. 115. Whenever any poultry owned by a resident of this state is killed or injured by dogs, skunks, foxes, weasels, mink, or coons such owner may make complaint thereof to the mayor of the city or to one of the municipal officers of the town or plantation where such damage was done, within 24 hours after he has knowledge of the same, and thereupon the municipal officers shall investigate the complaint and, if satisfied that the said damage was committed by dogs or wild animals within the limit of their city, town, or plantation, they shall estimate the damage thereof according to the actual value of such poultry and make returns of their findings together with the estimated damage, in triplicate; the original and duplicate copies together with a bill from



the claimant shall be mailed to the commissioner of agriculture or his duly authorized agent, within 15 days from the date of investigation, and the triplicate shall be kept by the town clerk as his record. If the poultry is kept in an unincorporated place, the owner may make complaint to the municipal officers of the nearest incorporated place, who shall investigate the complaint. The commissioner of agriculture or his duly authorized agent shall approve the bill or, if it seems advisable, investigate and adjust the claim and such adjustment by the commissioner of agriculture or his duly authorized agent shall be final in all cases. When the claim is approved by the commissioner of agriculture or his duly authorized agent it shall be paid by the state to the person sustaining such damage and shall be a proper charge against the fund received by the state under the provisions of section 10.

Any person who keeps a dog that kills or injures poultry shall be subject to the same penalty as provided in section 16.

See § 20; 125 Me. 67.

**Sec. 18. Joint owners of dogs liable jointly and severally.** R. S. c. 5, § 167. If any sheep, lambs, or other domestic animals are killed or injured by two or more dogs at the same time, kept by two or more owners or keepers, the said owners or keepers of said dogs shall be jointly and severally liable for such damage.

See § 20.

**Sec. 19. Expenditure of money remaining in state treasury.** R. S. c. 5, § 168. 1941, c. 278, § 8. All money received by the treasurer of state as provided in section 10 and remaining unexpended at the end of the fiscal year shall be credited to the several cities, towns, and plantations upon their state tax in proportion to the amount each has paid into the state treasury under the provisions of sections 8 to 25, inclusive, and so much thereof as remains unexpended as aforesaid is appropriated to pay the same; provided, however, that the amount to be refunded to such plantations as are taxed as unorganized territory shall be paid direct to the plantation treasurer instead of being credited upon the state tax.

See § 20.

**Sec. 20. Penalty, if officer refuses or neglects duty.** R. S. c. 5, § 169. Any mayor, selectman, clerk, constable, or police officer who refuses or wilfully neglects to perform the duties imposed by the 12 preceding sections shall be punished by a fine of not less than \$10, nor more than \$50, and costs.

**Sec. 21. Liability for stealing or killing registered dog.** R. S. c. 5, § 170. Whoever steals, injures, or confines and secretes any registered dog, or kills any such dog, except as provided in the following section, and unless such killing be justifiable in the protection of person, property, or game, shall be liable to the owner in a civil action for the full value of the dog.

**Sec. 22. Certain officers may kill dogs found chasing game or worrying domestic animals; other persons may kill dogs under certain conditions.** R. S. c. 5, § 171. Any inland fish and game warden, sheriff, deputy sheriff, or constable may at any time lawfully kill any dog he may find in the act of hunting or chasing moose, caribou, or deer, or he may find worrying, wounding, or killing any domestic animal, when said dog is outside of the enclosure or immediate care of its owner or keeper. Any owner of sheep or any member of his family or any person to whom is intrusted the custody of any sheep shall have a right to kill any dog attacking any of said sheep. Any person having any evidence of any dog hunting or chasing moose, caribou, or deer, or of any dog kept and used

for that purpose, or of any dog worrying, wounding, or killing any domestic animal or fowl, when said dog is outside of the enclosure or immediate care of his owner or keeper, may present said evidence to any trial justice or judge or recorder of any municipal court, which said trial justice, judge, or recorder shall have power to issue a warrant against the owner of said dog, ordering him to appear before him and show cause why said dog should not be killed; and upon hearing the evidence in said case said court may order said dog killed. Any person may lawfully kill a dog which suddenly assaults him or another person when peaceably walking or riding.

See c. 22, § 32, re rabies or hydrophobia; c. 33, § 64, re dogs hunting wild animals; 93 Me. 389; 112 Me. 362.

**Sec. 23. Written complaint of dangerous dogs at large; treble damages and costs when order is neglected.** R. S. c. 5, §§ 172, 173. 1933, c. 118, § 1. 1939, c. 184. Whoever is assaulted by a dog when peaceably walking or riding or finds a dog strolling outside of the premises of its keeper, and the said dog is not safely muzzled, may, within 48 hours thereafter, make written complaint before the municipal court having jurisdiction in the city or town where the owner or keeper resides or, in case there is no court, before a trial justice in said town, that he really believes and has reason to believe that said dog is dangerous and vicious, whereupon said court or trial justice shall order said owner or keeper to appear and answer to said complaint by serving said owner or keeper of said dog with a copy of said complaint and order a reasonable time before the day set for the hearing thereon; and if, upon hearing, the court or trial justice is satisfied that the complaint is true, he shall order the dog to be killed or order said owner or keeper of said dog to muzzle the same, restrain the same, or confine said dog to the premises of said owner or keeper and the owner or keeper shall pay the costs. If the order of said court or magistrate is not complied with within the time fixed by such order, the court or magistrate making said order may, upon application by the complainant or other person, issue his warrant directed to the sheriff of the county or any of his deputies, or to any police officer or constable in the town where the dog is found, commanding such officer forthwith to kill said dog and to make return of his doings on said warrant to the court or magistrate issuing the same within 14 days from date thereof. The officer shall receive from the county treasury \$2 for executing said warrant, together with his legal fees for travel, and the owner or keeper aforesaid shall be ordered to pay the costs of such supplementary proceedings.

If a dog whose owner or keeper refuses or neglects to comply with said order wounds any person by a sudden assault as aforesaid, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs, to be recovered by an action on the case.

See c. 22, § 32, re rabies or hydrophobia; 75 Me. 569.

**Sec. 24. Dogs in unorganized territories.** R. S. c. 5, § 174. Dogs kept in unorganized territories shall be licensed by their owners or keepers in the oldest adjoining plantation or town. In case there is no adjoining town or plantation, said dogs shall be licensed in the nearest town or plantation.

**Sec. 25. Jurisdiction of courts; fines, how disposed of.** R. S. c. 5, § 175. 1933, c. 118, § 1. 1943, c. 269, § 5. Trial justices shall have original and concurrent jurisdiction with municipal courts and the superior court of all violations of the 17 preceding sections. All fines imposed shall be paid into the treasury of the county where the offense is committed and shall accrue to and be used for

the benefit of the town where the offense is committed unless otherwise provided.

See c. 22, § 32, re rabies or hydrophobia.

### Innkeepers, Victualers, and Lodging-houses

**Sec. 26. Licenses to innkeepers and victualers; may be revoked; licenses may be granted for a part of the year.** R. S. c. 36, §§ 1, 3. The municipal officers, treasurer, and clerk of every town, hereinafter in sections 26 to 50, inclusive, called the "licensing board", shall meet annually on the 1st Monday of May or on the day succeeding, or both, and at such time and place in said town as they appoint, by posting notices in two or more public places therein, at least 7 days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innkeepers and victualers in said town, until the day succeeding the 1st Monday in May of the next year, in such house or other building as the license specifies; and at any meeting so notified and held, they may revoke licenses so granted, if in their opinion there is sufficient cause.

The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on like conditions; but all such licenses expire on the day aforesaid.

See §§ 45, 48; 24 Me. 442; 93 Me. 485.

**Sec. 27. Bond.** R. S. c. 36, § 2. No person shall receive his license as an innkeeper or victualer until he has given his bond to the treasurer, to the acceptance of the licensing board granting it, with one or more sureties in the penal sum of \$300, in substance as follows, namely:

"Know all men that we ———, as principal, and ———, and ———, as sureties, are held and stand firmly bound to ———, treasurer of the town" (or city) "of ———, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the ——— day of ———, in the year nineteen hundred and ———.

"The condition of this obligation is such that, whereas the above bounden ——— has been duly licensed as a ——— within said town" (or city) "until the day succeeding the first Monday of May next; now if in all respects he shall conform to the provisions of law relating to the business for which he is licensed, and to the rules and regulations as provided by the licensing board in reference thereto, and shall not violate any law of the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force."

93 Me. 483; 117 Me. 339.

**Sec. 28. License fee and record.** R. S. c. 36, § 4. 1939, c. 142, § 1. Every person licensed as an innkeeper or victualer shall pay to the treasurer for the use of the town a fee of \$1, and such additional amount as the town may by ordinance or by-law prescribe. Such ordinance or by-law may, for the purpose of fixing such fees, establish classifications of victualers according to the size, nature, or other condition of business conducted and may prescribe for each of such classifications an appropriate fee which shall not in any case exceed the sum of \$10 in towns of less than 10,000 population or the sum of \$20 in towns

over 10,000 in population, excepting any town wherein a larger fee was permitted by law on July 20, 1939.

**Sec. 29. Duty of innkeepers to provide entertainment.** R. S. c. 36, § 5. 1935, c. 17. Every innkeeper shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and he shall grant such reasonable accommodations as occasion requires to strangers, travelers, and others.

\*71 Me. 19, 316; \*76 Me. 542.

**Sec. 30. Duties of victualers.** R. S. c. 36, § 6. Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innkeeper, except furnishing lodging for travelers.

10 Me. 439; 16 Me. 122.

**Sec. 31. Innkeepers and victualers to allow no gambling on their premises.** R. S. c. 36, § 7. No innkeeper or victualer shall have or keep for gambling purposes about his house, shop, or other buildings, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes any of said games, or any other unlawful game or sport therein; and every person, who uses or exercises any such game or sport for gambling purposes in any place herein prohibited, forfeits \$5.

See c. 121, § 43, re gambling, business, etc. on Lord's Day.

**Sec. 32. No reveling, drunkenness, etc.** R. S. c. 36, § 8. No innkeeper or victualer shall suffer any reveling, or riotous or disorderly conduct in his house, shop, or other dependencies; nor any drunkenness or excess therein.

**Sec. 33. Penalty for neglecting a license.** R. S. c. 36, § 9. No person shall be a common innkeeper or victualer without a license, under a penalty of not more than \$50.

65 Me. 363; 76 Me. 543; \*89 Me. 445.

**Sec. 34. Prosecutions.** R. S. c. 36, § 10. The licensing board shall prosecute for any violation of sections 26 to 33 that come to its knowledge, by complaint, indictment, or action of debt; and all penalties recovered shall inure to the town where the offense is committed. Any citizen of the state may prosecute for any violation of the said sections in the same manner as the licensing board may prosecute.

12 Me. 204; 65 Me. 363; \*93 Me. 484; 117 Me. 339.

**Sec. 35. Liability of hotel keepers, etc., defined.** R. S. c. 36, § 11. No innkeeper, hotel keeper, or boarding-house keeper who constantly has in his inn, hotel, or boarding-house a metal safe or suitable vault, in good order and fit for the custody of money, bank-notes, jewelry, articles of gold and silver manufacture, precious stones, personal ornaments, railroad mileage books or tickets, negotiable or valuable papers, and bullion, and who keeps on the doors of the sleeping rooms used by guests suitable locks or bolts, and on the transoms and windows of said rooms suitable fastenings, and who keeps a copy of this section printed in distinct type constantly and conspicuously posted in not less than 10 conspicuous places in all in said hotel or inn, shall be liable for the loss of or injury to any articles or property of the kind above specified suffered by any guest, unless such guest has offered to deliver the same to the innkeeper, hotel keeper, or boarding-house keeper for custody in such metal safe or vault, and the innkeeper, hotel keeper, or boarding-house keeper has omitted or refused to take

said property and deposit it in such safe or vault for custody and to give such guest a receipt therefor; provided, however, that the keeper of any inn, hotel, or boarding-house shall not be obliged to receive from any 1 guest for deposit in such safe or vault any property hereinbefore described exceeding a total value of \$300, and shall not be liable for any excess of such property, whether received or not.

See § 43; 72 Me. 274; 74 Me. 229, 262; 77 Me. 360; 91 Me. 279; \*115 Me. 190.

**Sec. 36. Special arrangement may be made to receive deposits.** R. S. c. 36, § 12. Any such innkeeper, hotel keeper, or boarding-house keeper may, by special arrangement with a guest, receive for deposit in such safe or vault any property upon such terms as they may in writing agree to; and every innkeeper, hotel keeper, or boarding-house keeper shall be liable for any loss of the above enumerated articles of a guest in his inn, hotel, or boarding-house after said articles have been accepted for deposit, if caused by the theft or negligence of the innkeeper, hotel keeper, or boarding-house keeper, or any of his servants.

**Sec. 37. Check or receipt to be given for property delivered for safe-keeping.** R. S. c. 36, § 13. Every guest and every person intending to be a guest of any hotel or inn in this state, upon delivering to the proprietor of such hotel or inn, or to his servants, any baggage or other articles of property of such guest, for safe-keeping, elsewhere than in the room assigned to such guest, shall demand, and such hotel proprietor shall give a check or receipt therefor in such case, to evidence the fact of such delivery; and no such proprietor shall be liable for the loss of or injury to such baggage or other article of property of this guest, unless the same shall have been actually delivered by such guest to such proprietor or to his servants for safe-keeping, or unless such loss or injury shall have occurred through the negligence of such proprietor, or of his servants or employees in such hotel or inn.

**Sec. 38. Liability to be that of a depository for hire; limit of liability.** R. S. c. 36, § 14. The liability of the keeper of any inn or hotel for loss of or injury to personal property placed by his guests under his care, other than that described in the 3 preceding sections, shall be that of a depository for hire, except that in case such loss or injury is caused by fire not intentionally produced by the innkeeper or his servants, such keeper shall not be liable; provided, however, that in no case shall such liability exceed the sum of \$150 for each trunk and its contents, \$50 for each valise and its contents, and \$10 for each box, bundle, or package, and contents, so placed under his care, and for all other miscellaneous effects including wearing apparel and personal belongings, \$50, unless he shall have consented in writing with such guest to assume a greater liability; and provided further, whenever any person shall suffer his baggage or property to remain in any inn, hotel, or boarding-house after leaving the same as a guest, and after the relation of keeper and guest between such guest and the proprietors of such inn or boarding-house or hotel has ceased, or shall forward the same to such inn, hotel, or boarding-house before becoming a guest thereof, and the same shall be received into such inn or boarding-house or hotel, such innkeeper may at his option hold such baggage or property at the risk of such owner.

74 Me. 229, 262.

**Sec. 39. Lien on baggage or other property deposited for safe-keeping.** R. S. c. 36, § 15. The keeper of any inn, boarding-house, or hotel shall have a lien on the baggage and other property in and about said premises belonging to or under

the control of his guests or boarders, for the proper charges due him from such guests or boarders for the accommodation, board, and lodging, and for all money paid for or advanced to them, and for such other extras as are furnished at their request, and said innkeeper, boarding-house keeper, or hotel keeper may detain such baggage and other property until the amount of such charges is paid, and such baggage and other property shall be exempt from attachment or execution until such keeper's lien and the cost of satisfying it are satisfied.

\*35 Me. 154; 38 Me. 192; 42 Me. 51.

**Sec. 40. Enforcement of lien; notice of sale; disposal of proceeds. R. S. c. 36, § 16.** The innkeeper, boarding-house keeper, or hotel keeper shall retain such baggage and other property upon which he has a lien for a period of 90 days, at the expiration of which time, if such lien is not satisfied, he may sell such baggage and other property at public auction, after giving 10 days' notice of the time and place of sale in a newspaper of circulation in the county where the inn, boarding-house, or hotel is situated, and also by mailing a copy of such notice addressed to said guest or boarder at the place of residence registered by him in the register of such inn, hotel, or boarding-house; after satisfying the lien and any costs that may accrue, any residue remaining shall, on demand within 6 months, be paid to such guest or boarder, and if not so demanded within 6 months from date of such sale, such residue shall be deposited by such innkeeper, boarding-house keeper, or hotel keeper with the treasurer of the county in which the inn, hotel, or boarding-house is situated, together with a statement of such keeper's claim and the cost of enforcing same, a copy of the published notice, and of the amounts received for the goods sold at said sale; said residue shall by said county treasurer be credited to the general revenue fund of said county, subject to a right of said guest or boarder, or his representative, to reclaim at any time within 3 years of date of deposit with said treasurer.

**Sec. 41. Penalty for fraud in obtaining food, etc. R. S. c. 36, § 17.** Whoever obtains food, lodging, or other accommodations at any hotel, inn, boarding-house, or eating-house, with intent to defraud the owner or keeper thereof, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 3 months.

**Sec. 42. False show of baggage, etc., to be proof of fraudulent intent. R. S. c. 36, § 18.** Evidence that lodging, food, or other accommodations were obtained by false pretense, or by false or fictitious show or pretense of baggage or other property, or that the person refused or neglected to pay for such food, lodging, or other accommodation on demand, or that he gave in payment for such food, lodging, or other accommodation, negotiable paper on which payment was refused, or that he absconded without paying or offering to pay for such food, lodging, or other accommodation, or that he surreptitiously removed or attempted to remove his baggage, shall be prima facie proof of the fraudulent intent mentioned in section 41; but this section and the preceding section shall not apply where there has been an agreement in writing for delay in payment for a period exceeding 10 days.

**Sec. 43. Copies of law to be posted. R. S. c. 36, § 19. 1933, c. 118, § 1.** Every hotel keeper, innkeeper, or boarding-house keeper within this state shall keep a copy of sections 41, 42, and 43, printed in distinct type, posted in not less than 10 conspicuous places in his hotel, inn, boarding-house, or eating-house.

Trial justices shall have jurisdiction of all offenses arising under the provisions of sections 41 and 42, where the amount of which any such keeper of a hotel, inn, boarding-house, or eating-house has been thus defrauded does not exceed the sum of \$20.

See § 35.

**Sec. 44.** Municipal officers may, by ordinance, require lodging-houses to be licensed; "lodging-house" and "lodger" defined. R. S. c. 36, § 20. The municipal officers of cities and towns shall have authority to require by ordinance the granting of licenses to lodging-houses. The term "lodging-house" shall not be deemed to include a house where lodgings are let to less than 5 lodgers, nor to the dormitories of charitable, educational, or philanthropic institutions, nor to the emergency use of private dwelling-houses at the time of conventions or similar public gatherings. The term "lodger" shall not be deemed to include persons within the 2nd degree of kindred to the person conducting a lodging-house.

See c. 22, § 152 et seq., re recreational camps and roadside places; c. 118, § 1 et seq., re burning of buildings.

**Sec. 45.** Licenses may be issued by same persons issuing innkeepers' and victualers' licenses; term of license; no fee. R. S. c. 36, § 21. Licenses required by section 44 may be issued by the same persons issuing innkeepers' and common victualers' licenses, as provided in section 26, and shall be for the same period as provided in said section. All innkeepers' licenses shall be expressed to be subject to the provisions of sections 44 to 50, inclusive. No license fee shall be collected for a lodging-house license.

**Sec. 46.** Register to be kept; true name of guests to be inscribed therein; contents and method of keeping register prescribed; register open to inspection of licensing authority; penalty. R. S. c. 36, § 22. Every person conducting any hotel or lodging-house shall at all times keep and maintain or cause to be kept and maintained therein a register in which shall be inscribed the true name of each and every guest or person renting or occupying a room or rooms therein. Such register shall be signed by the person renting such room or rooms, or by some one under his direction; and the proprietor of such hotel or lodging-house, or his agent, shall thereupon write opposite such name or names so registered the number of each room assigned to and occupied by each such guest, together with the date such room is rented. The proprietor of such hotel or lodging-house, or his agent, shall also keep and preserve a record showing the date when the occupant of each room so rented shall quit and surrender the same. Such record may be made a part of the register, and both shall be kept available for a period of 2 years at all reasonable times to the inspection of any lawful agent of the licensing authority. Any person who wilfully violates any provision of this section shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 90 days for each offense, or by both such fine and imprisonment.

**Sec. 47.** No person to write other than true name in register; all persons must register; penalty. R. S. c. 36, § 23. No person shall write, or cause to be written, or if in charge of a register knowingly permit to be written, in any register in any lodging-house or hotel any other or different name or designation than the true name or names in ordinary use of the person registering or causing himself to be registered therein; nor shall any person occupying such room or rooms fail to register or fail to cause himself to be registered. Any person violating any provision of this section shall be punished by a fine of not less than \$10, nor more than \$25, for each offense.

**Sec. 48.** License may be revoked or suspended; hearing must be held and licensee given opportunity to hear evidence; notice, how served; appeals. R. S. c. 36, § 24. A license issued under the provisions of sections 26 to 51, inclusive, may be revoked if at any time the licensing authority shall be satisfied that the licensee is unfit to hold the license. It shall also have the right to suspend and make inoperative for such period of time as it may deem proper all the aforesaid licenses mentioned herein for any cause deemed satisfactory to it. The revocation and suspension shall not be made until after investigation and hearing, nor until the licensee shall have been given opportunity to hear the evidence in support of the charge against him and to cross-examine, by himself or through counsel, the witnesses, nor until the licensee shall have been given an opportunity to be heard. Notice of hearing shall be served on the licensee or left at the premises of the licensee not less than 3 days before the time set for the hearing. The licensing authority, as designated in sections 26 to 51, inclusive, is specifically charged with the duty of enforcing the provisions therein and of prosecuting all offenders against the same. Appeal from the decision of the licensing authority may be had to the superior court in and for the county in which the licensing authority is located, in the usual manner provided for appeals from municipal courts; courts of competent jurisdiction, for due cause shown, may issue temporary orders restraining the enforcement of such revocations and suspensions, and after full hearing may vacate such temporary orders or make the same permanent.

**Sec. 49.** Copy of §§ 46-47 to be posted near register. R. S. c. 36, § 25. All licensed innholders and all licensees under the provisions of sections 44 to 50, inclusive, shall post in a conspicuous place near the register, if required by the licensing authority, a notice to be furnished by it containing the provisions of sections 46 and 47, inclusive, relating to the entry of names in the register, together with the penalties herein provided for their violation.

**Sec. 50.** Record of convictions to be transmitted by clerk of court to licensing authority. R. S. c. 36, § 26. The clerk of a court in which any person is convicted of a violation of any provision of sections 26 to 50, inclusive, shall forthwith send a copy of the record of the conviction to the licensing authority in the city or town where the offense occurred.

### Lunch Wagons

**Sec. 51.** Lunch wagons may be licensed; license may be revoked; objection of abutters. R. S. c. 36, § 27. The mayor and aldermen of any city or selectmen of any town may, if in their opinion public convenience so requires, license any reputable person, upon the payment of an annual license fee to be fixed by said licensing authority, to maintain a vehicle for the sale of food in such part of any public way and during such hours as the licensing authority may designate, provided that public travel is not incommoded thereby; and no other or further license shall be required for this purpose. Any such license may be revoked for reasonable cause, at any time, by the licensing authority. No such license, however, shall be granted to use any part of any public way the fee in which is not owned by the city or town, against the objection of the owners of the land abutting on that part of the way.

See § 48.



### Public Exhibitions

**Sec. 52. Penalty for pageantry, etc. without license; museum excepted.** R. S. c. 37, § 1. 1939, c. 180, § 1. Whoever, for money or other valuable article, exhibits any images, pageantry, sleight of hand tricks, puppet show, circus, traveling amusement show, feats of balancing, wire dancing, personal agility, dexterity, or theatrical performances, without a license therefor as hereinafter provided, forfeits for every offense not less than \$10, nor more than \$100; but this prohibition does not extend to any permanently established museum.

**Sec. 53. Licenses; fees; prosecutions; traveling circuses or traveling amusement shows required to obtain state license; penalty.** R. S. c. 37, § 2. 1939, c. 180, § 2. 1941, c. 125. The municipal officers of towns may grant licenses for any of the exhibitions or performances described in the preceding section, on receiving for their town such sum as they deem proper, 24 hours or more being allowed for such exhibitions or performances as they may determine; and they shall prosecute, by complaint for the use of their town, all violations of the preceding section. No traveling circus or traveling amusement show shall exhibit any parade, show, or entertainment in this state without first paying a state license of \$500 in the case of a circus and \$25 in the case of amusement shows for each calendar year. Application for such license shall be made to the state tax assessor and shall contain the name of the person or corporation owning or operating said traveling circus or said traveling amusement show and a statement of the proposed territory within the limits of said state and the names of the cities and towns in which said traveling circus or said traveling amusement show is to exhibit. Upon the payment of the sum of \$500 or \$25, as the case may be, a license shall issue.

The exhibiting of any parade, show, or entertainment of any traveling circus or traveling amusement show without first taking out such license shall be deemed a misdemeanor, and the person, persons, firm, or corporation owning or controlling such traveling circus or traveling amusement show, or the manager or officer in charge thereof within the state, shall be punished by a fine of not more than \$1,000.

Municipal and superior courts in the counties where such traveling circus or traveling amusement show exhibits or parades shall have jurisdiction over said offense.

See c. 121, §§ 28, 29, re immoral exhibitions.

### Bowling-alleys and Billiard Rooms

**Sec. 54. Penalty for keeping unlicensed alleys and billiard rooms.** R. S. c. 37, § 3. Whoever keeps a bowling-alley, shooting-gallery, pool, bagatelle, or billiard room without a license forfeits \$10 for each day that such alley, gallery, or room is so kept.

\*30 Me. 74; 128 Me. 349.

**Sec. 55. Town officers may license alleys and billiard rooms.** R. S. c. 37, § 4. Municipal officers of towns may license suitable persons to keep bowling-alleys, shooting-galleries, pool, bagatelle, and billiard rooms therein, in any place where it will not disturb the peace and quiet of a family, for which the person licensed shall pay \$10 to such town; such licenses expire on the 1st day of May after they are granted, unless sooner revoked.

111 Me. 117; 128 Me. 349.

**Sec. 56. Keepers of alleys, etc., to give bond.** R. S. c. 37, § 5. Every person so licensed under the provisions of section 55 shall, at the time he receives his license, give bond to the town with 2 good and sufficient sureties, in a sum of not less than \$100, conditioned that he will not permit gambling or drinking of intoxicating liquors in or about his premises; or any minor to play, shoot, or roll therein without the written consent of his parent, guardian, or master; or his alley, gallery, pool, bagatelle, or billiard room to be opened or used between 10 o'clock in the evening and sunrise.

See §§ 58, 59; III Me. 117.

**Sec. 57. Bond violated, license to be revoked, etc.** R. S. c. 37, § 6. On proof that any person, so licensed under the provisions of section 55, has violated any condition of his bond, said officers shall revoke his license and enforce payment of his bond to their town; and no such person shall afterwards be licensed therein for such purpose.

**Sec. 58. Penalties; officer may enter at any time to enforce the law.** R. S. c. 37, § 7. The keeper of any bowling-alley, shooting-gallery, pool, bagatelle, or billiard room, who violates any condition of his bond, forfeits \$10 for the first offense, and \$20 for each subsequent offense; and any marshal, sheriff, police, or other officer may at any time enter said alley, gallery, pool, bagatelle, or billiard room, or rooms connected therewith, to enforce this or any other law; and whoever obstructs his entrance forfeits not less than \$5, nor more than \$20.

30 Me. 78; 128 Me. 349.

**Sec. 59. Licensed places may be kept open until midnight.** R. S. c. 37, § 8. Any person licensed to own, keep, and operate a bowling-alley or bowling-alleys, shooting-gallery, pool, bagatelle, or billiard rooms, under the provisions of this chapter, may be granted permission by the municipal officers of the town or city where such alley or alleys, shooting-gallery, pool, bagatelle, or billiard rooms are situated, to keep the same open to the public until midnight, when in the opinion of such municipal officers no person or persons residing in the immediate neighborhood will be disturbed thereby. In such case the condition of the bond required by section 56 shall be varied accordingly.

#### Roller-skating Rinks

**Sec. 60. Keepers of skating rinks to be licensed; penalty.** R. S. c. 37, § 9. Every person who keeps a roller-skating rink or room shall obtain a license from the municipal officers of the city or town where such rink is located and shall pay therefor such sum as said municipal officers may deem proper. Any person keeping a roller-skating rink without such license shall be punished by a fine of \$10 for each day it is so kept.

**Sec. 61. Hours for closing rinks fixed; penalty.** R. S. c. 37, § 10. Every person so licensed under the provisions of section 60 shall keep such rink closed between 10 o'clock in the evening and sunrise, unless express permission in writing to keep it open a longer time is obtained from the municipal officers of the city or town where such rink is located. Any person violating the provisions of this section shall be punished by a fine of \$10 for every such offense.

#### Steam-riding Galleries

**Sec. 62. License required for operating merry-go-round.** R. S. c. 37, § 11. Municipal officers of any town, upon the payment of a sum of not more than \$50,

shall grant a license to operate or run a merry-go-round or steam-riding gallery in their town, but the license shall not exempt the operator from complaint to the superior court for maintaining a nuisance under the provisions of section 9 of chapter 128.

**Sec. 63. Penalty for operating without license.** R. S. c. 37, § 12. Whoever operates or runs a merry-go-round or steam-riding gallery in any town without such license as required by section 62 shall be punished by a fine of \$5 for each and every day that he so operates or runs such merry-go-round or steam-riding gallery.

**Sec. 64. Jurisdiction of offenses.** R. S. c. 37, § 13. 1933, c. 118, §§ 1, 5. Trial justices, in their respective counties, shall have jurisdiction of all offenses arising under the provisions of 52 to 72, inclusive, except as provided in section 53 relating to state license for traveling circuses, and all penalties herein provided, except that specified in said section 53, shall be recovered by complaint for the use of the town where incurred.

### Cinematograph and Moving Pictures

**Sec. 65. Cinematograph and moving-picture machine to be licensed; apparatus to be enclosed; provisions not to apply in certain cases.** R. S. c. 37, § 14. 1939, c. 178. No cinematograph or similar apparatus, involving the use of a combustible film more than 10 inches in length, shall be kept, used, or exhibited in any building, place of public assemblage, or place or building used for entertainment, whether such place or building has been licensed for public entertainment or not, unless a license or permit shall have been first obtained from the insurance commissioner; said cinematograph or similar apparatus shall be placed in an enclosure or booth consisting of a steel frame covered with asbestos-wood or other fire resisting material approved by the insurance commissioner and constructed and located in accordance with the specifications hereinafter provided, and the entrances, exits, and fire escapes connected with such public building, place of public assemblage, or place or building shall be erected in accordance with law; provided that this section and the 5 following sections shall not apply to any cinematograph or similar apparatus operated with only cellulose acetate films not more than 1¼ inches in width and using only an enclosed incandescent lamp; provided further, the manufacturer of such cinematograph or similar apparatus shall apply for and receive the approval of the insurance commissioner; and provided further, no such cinematograph or similar apparatus shall be used where an admission fee is charged, except in social, fraternal, charitable, religious, and educational organizations where the machine so used is owned by said organization and used in the city or town where said organization is located, and the proceeds of such admission fees are to be devoted to the uses of said organization.

**Sec. 66. Application for license; enclosure and machine to be inspected; license fee.** R. S. c. 37, § 15. 1939, c. 178. Whoever desires to keep, exhibit, or use any cinematograph or similar apparatus in any place or building described in section 65 shall make application to the insurance commissioner for a license to keep, exhibit, or use such cinematograph or similar apparatus, and upon receipt of said application the insurance commissioner shall inspect or cause to be inspected the enclosure or housing provided for such cinematograph or similar apparatus and shall also inspect or cause to be inspected any such cinematograph or similar apparatus, and shall also inspect the entrances, exits,

and fire escapes. If, as a result of such inspection, he is convinced that the specifications hereinafter provided are fully complied with, and such cinematograph or similar apparatus is found to be in a safe and suitable condition to be stored, exhibited, or used, and that the entrances, exits, and fire escapes of such public buildings, place of public assemblage, or place or building, are in accordance with law, he may issue a license to the person desiring to keep, use, or exhibit such cinematograph or similar apparatus, which license shall state the name of the makers, trade name and number and the serial number of such cinematograph and the place in which it is to be kept, used, or exhibited. A fee for such license not exceeding \$10 shall be fixed by the insurance commissioner. No license shall be granted under the provisions of this section for any cinematograph or similar apparatus operated by oxyhydrogen gas so called, or by lime light.

**Sec. 67. No person to operate without a license; operator to be 18 years of age, and thoroughly skilled.** R. S. c. 37, § 16. 1939, c. 178. No person shall operate any cinematograph or similar apparatus in any city or town until he has received a license or permit to do so from the insurance commissioner; no such license to operate a cinematograph or similar apparatus shall be granted to any person under 18 years of age, nor until the applicant shall have satisfied the insurance commissioner that he is thoroughly skilled in the mechanical and electrical apparatus or devices used in the operation of a cinematograph or similar apparatus. A fee therefor of not more than \$5 shall be fixed by the insurance commissioner.

**Sec. 68. Specifications of booth or enclosure; exits.** R. S. c. 37, § 17. 1939, c. 178. The construction of the booth or enclosure for any such cinematograph or similar instrument must conform substantially to the following specifications: all booths, or enclosures, must be at least 7 feet high and the floor space to vary according to the number of machines used in said booth or enclosure. At least 48 square feet of floor space shall be provided for 1 machine and 24 square feet for each additional machine. The material used in the construction of such booths or enclosures shall be steel or asbestos-wood sheets supported by a skeleton frame of structural steel; the asbestos-wood sides and tops shall not be less than  $\frac{1}{4}$  inch thick, and the floor space not less than  $\frac{3}{8}$  of an inch thick. Said structural steel frame shall be made of angles of tee shape not less than  $1\frac{1}{2}$  inches by  $1\frac{1}{2}$  inches by  $\frac{3}{16}$  of an inch. The door of said booth or enclosure shall be made of asbestos-wood and iron and shall be so contrived that it shall be kept closed at all times. The booth shall also be provided with a ventilator pipe not less than 12 inches in diameter leading to the outer air, or to a chimney, with an electric fan installed so as to create at all times when the machine or machines are in operation a forced draft through said ventilator for the purpose of carrying off all gases and smoke which may arise from accidental ignition of the film. Shutters made of  $\frac{1}{4}$  inch asbestos-wood shall be provided for closing the windows in the booth or enclosure which must be so contrived as to close automatically in case of accidental ignition of the film. The enclosure or housing provided for such cinematograph, moving-picture machine, or other similar apparatus shall be located above the main floor of the hall, room, or building where such cinematograph, moving-picture machine, or similar apparatus is located. There shall be a sufficient number of exits and fire escapes leading into a street, lane, or passageway, with no obstruction to free exit. Nothing herein, however, shall preclude the use of any other fire resisting material approved by the insurance commissioner.

**Sec. 69. Ordinances of cities or towns to apply.** 1943, c. 287. The provisions of sections 65 to 68, inclusive, shall not apply in cities having a population of over 18,000 having ordinances or by-laws, duly enacted under enabling statutes, which are at least equal from the standpoint of safety to the requirements of said sections, unless the insurance commissioner shall have evidence of the fact that such ordinance or by-law is not equal from the standpoint of safety to the requirements of said sections, or unless the insurance commissioner shall have evidence that such ordinance or by-law is not being adequately enforced. In case of either of these exceptions, the insurance commissioner shall advise the municipal officers of such city or town of such evidence of inadequacy, and shall apply the requirements of said sections 65 to 68, inclusive, to such city or town until such time as an adequate ordinance or by-law and adequate enforcement thereof shall be provided.

**Sec. 70. Asbestos booth may be used for moving-picture machine in open air or tents.** R. S. c. 37, §§ 18, 19, 20, 21, 22, 23. For exhibition of moving pictures in the open air or in a tent, a portable asbestos booth may be used provided such booth meets the specifications hereinafter set forth, and while in use shall be located not less than 300 feet from any building or woods.

**I. Size of booth.** The portable asbestos booth shall be at least 6 feet 6 inches in height by 5 feet square, and is designed for use for 1 picture machine only. The frame shall be of standard pipe, angle ventilator trap, and fittings, and shall conform to the specifications herein set forth. The 4 corner posts shall be of  $\frac{3}{4}$  inch standard pipe, the 8 horizontal members of  $\frac{1}{2}$  inch standard pipe, and the 8 corner fittings of malleable iron or bronze casting, with braced corners. The ventilator trap shall be made of 1 inch by 1 inch by  $\frac{1}{8}$  inch angles on all sides, shall extend the full width of the top and 2 inches beyond the front of the top pipe, shall be securely hinged 1 foot 10 inches from the front, and the corners shall be braced with  $\frac{1}{8}$  inch gusset plate bolted to each angle with  $\frac{3}{16}$  inch bolts.

**II. Specifications.** The sides shall be of plain commercially pure asbestos cloth weighing not less than 2 pounds to the square yard, which shall be in 1 piece, long enough to lap over not less than 2 feet where it comes together around the booth, and shall be not less than 7 feet 6 inches in width so as to lap on the floor; it shall be held in place by substantial metal hooks over the top pipe and with snap catches or asbestos cord on the bottom pipe, such hooks, bottom catches, or cord to be not more than 8 inches on centers. The top shall be covered with asbestos cloth of the same quality as the sides, which shall be of sufficient size to hang down on all sides at least 8 inches; it shall be provided with metal hooks or asbestos cord which shall hook or lace onto the pipe to hold it in place. The floor shall be covered with an asbestos mat of the same material not less than 1 foot larger than the booth on all sides, and held in place when in use with heavy thumb tacks.

**III. Entrance and exit.** The overlapping sides shall form the entrance and exit of the booth. All raw edges of asbestos cloth shall be bound or hemmed at least 1 inch deep.

**IV. Ventilation.** The angle ventilator described in this section shall be so arranged that it may be raised at least 1 foot above the top pipe of the booth, and held by a toggle joint, or other approved device whereby, in case of accident, it can be instantly dropped.

V. **Apertures.** The apertures, 2 in number, one for the machine not more than 6 inches in height by 12 inches in width, and one for the operator not more than 12 inches in height by 6 inches in width, shall be provided with shutters sewed to curtain at the top of opening, and the lower edges of the same shall be weighted with  $\frac{3}{8}$  inch gas pipe, which shall be long enough to go the whole horizontal length of the shutter, and provided with cord and fusible link, as specified for the standard booth, running through a screw eye, or a ring attached to the pipe frame over the openings. All shutters shall be of size to lap over curtain at least  $1\frac{1}{2}$  inches on all sides.

**Sec. 71. Penalties.** R. S. c. 37, § 24. 1939, c. 178. Whoever keeps, uses, or operates any cinematograph or similar apparatus contrary to the provisions of the 6 preceding sections shall be punished by a fine of not less than \$25, nor more than \$500, to be recovered on complaint or indictment to the use of the city or town in which any such violation occurs.

**Sec. 72. County commissioners to exercise powers of municipal officers in unincorporated places, and counties to exercise rights of towns.** R. S. c. 37, § 25. County commissioners, within their counties, and counties, within their limits, shall respectively exercise over unincorporated places all the powers of municipal officers and towns under the provisions of sections 52 to 72.

#### Auctions and Auctioneers

**Sec. 73. License; fee.** R. S. c. 46, § 1. The municipal officers of any town may license any legal voter thereof, by a writing under their hands, to be an auctioneer for 1 year, in every town in their county; and shall record every such license in a book kept by them for that purpose. Upon receipt of such license, said auctioneer shall pay \$2 to the treasurer of said licensing town for said town, and may be exempted from the deduction of  $2\frac{1}{2}\%$  from the gross amount of sales provided in section 75.

See §§ 77, 78, 80, 82; 4 Me. 263, 335; 25 Me. 142; 38 Me. 311; 43 Me. 160; 53 Me. 394.

**Sec. 74. Appeal to county commissioners in case of refusal.** R. S. c. 46, § 2. If such municipal officers, after written application to them for a license, unreasonably refuse or neglect to grant it, the applicant, by giving them 10 days' notice and a bond to pay all costs arising thereafter, may appeal to the county commissioners, who, after a hearing of the parties, may grant the license if they judge it reasonable.

**Sec. 75. Auctioneers to keep account of goods sold; tax on goods of non-residents; penalty.** R. S. c. 46, § 3. Every person licensed shall keep a fair and particular account of all goods and chattels by him sold, stating of whom received, and the price for which the same were sold; and unless otherwise authorized, if said goods are sold voluntarily for the benefit of parties residing out of the state, he shall deduct  $2\frac{1}{2}\%$  from the gross amount of the sales for the use of the town where the sale is made, and pay the same to the treasurer thereof within 10 days after the sale; and in default thereof, he shall be punished by a fine of not less than \$50, nor more than \$300, and shall forfeit his license.

See § 73; 53 Me. 394.

**Sec. 76. Penalty for allowing any person, not a voter in town, to act under him.** R. S. c. 46, § 4. No auctioneer shall allow any person, not a legal voter in the town from which he received his license, to act for or under him in any sales

at public auction, under a penalty of \$50 for each offense; and any person so acting is subject to the same penalty.

**Sec. 77. Penalty for receiving goods of minors or servants, or selling before sunrise or after sunset; town officers may license to sell after sunset.** R. S. c. 46, § 5. If an auctioneer receives goods for sale at public auction of any servant or minor, knowing him to be such, or sells goods before sunrise or after sunset at public auction, he forfeits not less than \$50, nor more than \$170, for each offense; but the municipal officers of any town may license any duly licensed auctioneer, specially, to sell after sunset upon payment of a sum not exceeding \$20.

**Sec. 78. Real estate lying in 2 towns, how sold; penalty; blooded animals may be sold without license.** R. S. c. 46, § 6. A parcel of real estate lying partly in one town and partly in another may be sold by an auctioneer of either; but if an auctioneer sells or offers to sell real or personal property at public auction in any other towns than those authorized by his license, or if any person sells without a license, he forfeits not exceeding \$600; provided, however, that any person employed by the owner of blooded animals may sell the same as auctioneer, at public auction, whether licensed by municipal officers or not.

43 Me. 160.

**Sec. 79. Penalty if occupant of building permits any person to sell therein contrary to law.** R. S. c. 46, § 7. If the tenant or occupant of any building, having actual possession and control thereof, knowingly permits any person to sell any goods or chattels at public auction contrary to the provisions of sections 73 to 82, inclusive, in such building, or in any apartment or yard appurtenant thereto, he forfeits not less than \$100, nor more than \$600.

**Sec. 80. Exceptions as to sales by officers.** R. S. c. 46, § 8. Nothing in sections 73 to 79, inclusive, extends to sales made by sheriffs, deputy sheriffs, constables, tax collectors, executors, or administrators, or any other person authorized to sell goods, chattels, or lands by order of any court or judge of probate.

**Sec. 81. Fines, how recovered.** R. S. c. 46, § 9. All fines imposed by the provisions of sections 73 to 80, inclusive, may be recovered by indictment; and it is the special duty of city marshals and their deputies, sheriffs, constables, and police officers to make immediate complaint for every offense against the provisions hereof.

**Sec. 82. Town officers may grant special license to auctioneers to sell on invoice.** R. S. c. 46, § 10. The municipal officers of any city or town may, upon presentation of an invoice or inventory of the property to be sold, which shall be produced unless said municipal officers decide that the same is unnecessary, grant a special license to any auctioneer, a voter in the state, to sell at public auction, between the hours of 7 in the forenoon and 6 in the afternoon, upon payment to such city or town of \$5 for each invoice or inventory.

See c. 127, § 26, re penalty for sale of diseased horses.

#### Itinerant Vendors

**Sec. 83. Itinerant vendors not to sell without license; penalty.** R. S. c. 46, § 11. 1943, c. 33, §§ 1, 2. Any itinerant vendor who sells or exposes for sale, at public or private sale, any goods, wares, and merchandise without state and local

licenses therefor, issued as hereinafter provided, shall be punished for each offense by a fine of not more than \$200, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

112 Me. 215; 133 Me. 293.

**Sec. 84. Penalty for advertising sale before licenses are issued.** R. S. c. 46, § 12. 1943, c. 33, §§ 1, 2. All persons, both principals and agents, who by circular, handbill, newspaper, or in any other manner advertise any such sales as those referred to in the preceding section, before proper licenses shall have been issued to the vendor, shall be punished by a fine of not more than \$50, or by imprisonment for not more than 60 days, or by both such fine and imprisonment.

**Sec. 85. Vendors to take out state and local licenses; rights of municipal officers unaffected.** R. S. c. 46, § 13. 1943, c. 33, §§ 1, 2. Every itinerant vendor, whether principal or agent, before commencing business shall take out a state license and a local license in the manner hereinafter set forth, but nothing herein contained shall affect the right of any municipal officers to make such regulations relative to itinerant vendors as may be permissible under the general law or under any municipal charter.

**Sec. 86. Vendors to make deposit before procuring license; license not transferable; licensee may have assistants.** R. S. c. 46, § 14. 1943, c. 33, §§ 1, 2. Every itinerant vendor desiring to do business in this state shall deposit with the secretary of state the sum of \$500 as a special deposit, and after such deposit, upon application in proper form and the payment of a further sum of \$100 as a state license fee, the secretary of state shall issue to him an itinerant vendor's license, authorizing him to do business in the state in conformity with the provisions of sections 83 to 99, inclusive, for the term of 1 year from the date thereof. Every license shall set forth a copy of the application upon which it is granted. Such license shall not be transferable nor give authority to more than one person to sell goods as an itinerant vendor, either by agent or clerk or in any other way than in his own proper person, but any licensee may have the assistance of one or more persons in conducting his business, who may aid that principal but shall not act for or without him. No person shall be entitled to hold or directly or indirectly receive the benefit of more than one state license at any one time, and any license obtained, held, or used in violation of the provisions of this section is void.

See §§ 94, 95; 112 Me. 217; 133 Me. 293.

**Sec. 87. Applications for state licenses to disclose name and residence of owners.** R. S. c. 46, § 15. 1943, c. 33, §§ 1, 2. All applications for state licenses shall be sworn to, shall disclose the names and residences of the owners or parties in whose interests said business is conducted, and shall be kept on file by the secretary of state, and a record shall be kept by him of all licenses issued upon such applications. All files and records, both of the secretary of state and of the several towns, relative to such licenses, shall be in convenient form and open for public inspection.

**Sec. 88. Local license to be obtained; proceedings.** R. S. c. 46, § 16. 1943, c. 33, §§ 1, 2. Every itinerant vendor intending to sell goods in any town shall file his state license and an application for a local license with the collector of taxes for such town, and before selling, offering, or exposing for sale any goods in such town, shall pay to the collector for the use of such town, as a further local license fee for such sale in such town, a sum to be computed as



provided in the following section. A receipt for said local license fee when paid shall be indorsed by said collector on the back of such state license, which shall remain on file with such collector so long as such sale shall continue or such goods be kept, exposed, or offered for sale in such town. Every application for a local license shall be signed by the holder of the accompanying state license and shall specify the kind and line of goods then in stock in such town, the name of the town from which said goods were last shipped, and the name of the town in which said goods were last exposed or offered for sale. Such local license fee shall be computed and collected in each town respectively, in which said goods shall be successively offered or exposed for sale.

112 Me. 217; 133 Me. 293.

**Sec. 89. Assessors to examine stock and certify amount of local license fee; license restricted to goods described; vendor to pay additional fee when stock is increased; penalty.** R. S. c. 46, § 17. 1943, c. 33, §§ 1, 2. The collector of taxes for any town upon receiving an application in due form as provided in the preceding section, accompanied by the applicant's state license shall forthwith give notice thereof to the assessors of said town. Said assessors, or a majority of them, shall as soon as practicable examine the stock of goods described in such application, and shall compute and certify to said collector the amount of said applicant's local license fee for such intended sale in said town which shall be a percentage on the full value of said stock of goods equal to the rate per cent of the last preceding taxation in said town. The payment of said local license fee to said collector shall authorize such applicant who has complied with all other requirements of law to sell within the limits of said town such goods, wares, and merchandise as are described in his application, and for that purpose to carry in stock in said town, goods only of the kind or line specified in his application, not exceeding in amount at any one time the valuation on which his local license fee for such town was computed; such license shall continue in force so long as such licensee shall in good faith continuously keep, offer, or expose for sale the same kind or line of goods specified in his application, except that such license and authority shall in any event terminate and expire on the 1st day of April next following the date of application. Any itinerant vendor who, after applying or paying for a local license, increases his stock kept, offered, or exposed for sale in the town for which such local license fee was paid, above the valuation on which such local license fee was computed, without first making seasonable written application to the collector of such town for a supplemental license for such excess of stock, shall be punished by a fine of not less than \$20, nor more than \$50, and for each day such excess of stock is kept, offered, or exposed for sale without payment of local license fee therefor shall be punished by a fine of not less than \$20, nor more than \$50, and shall forfeit his state license. Supplemental licenses shall be applied for, and the fees therefor shall be computed, certified, and collected in the manner provided for local license fees.

90 Me. 253; 133 Me. 293.

**Sec. 90. Penalty for neglect to apply for local license.** R. S. c. 46, § 18. 1943, c. 33, §§ 1, 2. Whoever as proprietor or clerk, having in his care, custody, or keeping any goods for the sale of which a local license is required, neglects or refuses to file the application for local license required by law, or whoever makes a false or fraudulent representation or statement in any application for a local license, shall be punished by a fine of not less than \$20, nor more than \$50, for each day such goods are kept, offered, or exposed for sale. The penalties

provided herein are not to be construed as substitutes for payment of local license fees.

**Sec. 91. Town has lien on goods for license fee; collector may maintain action of debt for fee; officers charged with enforcement of law.** R. S. c. 46, § 19. 1943, c. 33, §§ 1, 2. Every town in which is kept, exposed, or offered for sale an itinerant vendor's stock of goods has a lien on such goods for the amount due such town for local license fee on such stock, to be enforced by suit and attachment within 10 days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in section 89, the tax collector of the town to which such license fee is due may maintain an action of debt by writ of attachment or trustee process therefor in the name of such town or in his own name for the benefit of such town. Tax collectors, police officers, and constables shall prosecute for violations of the provisions hereof relating to itinerant vendors, in their respective towns, and shall report such violations promptly to the assessors for the purpose of computing and certifying such local license.

**Sec. 92. Vendor to state to secretary of state all facts relating to sale.** R. S. c. 46, § 20. 1943, c. 33, §§ 1, 2. No itinerant vendor shall advertise, represent, or hold forth any sale as an insurance, bankrupt, insolvent, assignee's, trustee's, testator's, executor's, administrator's, receiver's, wholesale or manufacturer's, or closing out sale or as a sale of any goods damaged by smoke, fire, water, or otherwise, or in any similar form, unless he shall before so doing state under oath to the secretary of state, either in the original application for a state license or in a supplementary application subsequently filed, and copy on the license all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares, and merchandise were obtained, the date of delivery to the person applying for the license, and the place from which said goods, wares, and merchandise were last taken, and all details necessary to exactly locate and fully identify all goods, wares, and merchandise to be so sold.

**Sec. 93. Penalty for making false statement.** R. S. c. 46, § 21. 1943, c. 33, §§ 1, 2. Any false statement in an application, either original or supplementary, for a license, and any failure on the part of any licensee to comply with all the requirements of section 92 shall subject said itinerant vendor to the same penalty as if he had no license.

**Sec. 94. State licenses to expire in 1 year.** R. S. c. 46, § 22. 1943, c. 33, §§ 1, 2. All state licenses issued under the provisions of section 86 shall expire by limitation 1 year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancellation.

**Sec. 95. Upon expiration or surrender of license, duty of secretary of state.** R. S. c. 46, § 23. 1943, c. 33, §§ 1, 2. Upon the expiration and return or surrender of each state license, the secretary of state shall cancel the same, indorse the date of delivery and cancellation thereon, and place the same on file. He shall then hold the special deposit of each licensee mentioned in section 86 for the period of 60 days, and after satisfying any and all claims made upon the same under the provisions of the following section, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it.

Sec. 96. Deposits subject to attachment and execution and to payment of fines and penalties incurred; claims satisfied in order in which notice of claim is received; deposits not to be paid to licensees, so long as there are claims against them. R. S. c. 46, § 24. 1943, c. 33, §§ 1, 2. Each deposit made with the secretary of state shall be subject, so long as it remains in his hands, to attachment and execution in behalf of creditors whose claims arise in connection with business done in the state, and the secretary of state may be held to answer as trustee, under the trustee process, in any civil action in debt or case brought against any licensee, and the secretary of state shall pay over, under order of court, or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise. Said deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violation of any of the provisions of the 13 preceding sections, and the clerk or recorder of the court in which or the trial justice by whom such fine or penalty is imposed shall thereupon notify the secretary of state of the name of the licensee against whom such fine or penalty is adjudged and of the amount of such fine or penalty, and the secretary of state if he has in his hands a sufficient sum deposited by such licensee shall pay the sum so specified to said clerk, recorder, or trial justice; and if the secretary of state shall not have a sufficient sum so deposited he shall make payment as aforesaid, of so much as he has in his hands. All claims upon the deposit shall be satisfied after judgment, fine, or penalty, in the order in which notice of the claim is received by the secretary of state, until all such claims are satisfied or the deposit exhausted, but no notice filed after the expiration of the 60 days' limit aforesaid shall be valid. No deposits shall be paid over by the secretary of state to the licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment or that no fine or penalty will be imposed.

Sec. 97. Construction of words "itinerant vendors"; vendor not exempt by associating himself with local trader. R. S. c. 46, § 25. 1943, c. 33, §§ 1, 2. The words "itinerant vendors" for the purposes of sections 83 to 99, inclusive, shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in this state, either in one locality or in traveling from place to place selling goods, wares, and merchandise, and who, for the purposes of carrying on such business, hire, lease, or occupy any building or structure for the exhibition and sale of such goods, wares, and merchandise, or who sell goods, wares, and merchandise at retail from a car, wagon, or other conveyance, steamer, or vessel. No itinerant vendor shall be relieved or exempted from the provisions and requirements hereof by reason of associating himself temporarily with any local dealer, trader, or merchant, or by conducting such temporary or transient business in connection with or as a part of the business of, or in the name of any local dealer, trader, or merchant.

112 Me. 215; 133 Me. 293.

Sec. 98. Persons exempt. R. S. c. 46, § 26. 1943, c. 33, §§ 1, 2. The provisions of the 15 preceding sections shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares, and merchandise by sample for future delivery, nor to hawkers or peddlers on the streets or peddlers from vehicles.

133 Me. 293.

Sec. 99. Jurisdiction of prosecutions. R. S. c. 46, § 27. 1933, c. 118, § 1. 1943, c. 33, §§ 1, 2. Trial justices shall have jurisdiction of all complaints and prosecutions under the provisions of the 16 preceding sections.

### Pawnbrokers and Junk Dealers

Sec. 100. Licenses of pawnbrokers; term; penalty. R. S. c. 47, § 1. The municipal officers of any town may grant licenses to persons of good moral character to be pawnbrokers therein for 1 year, unless sooner revoked by said officers for violation of law. Whoever carries on said business without a license forfeits not more than \$100.

Sec. 101. An account of all business done by pawnbrokers to be kept; penalty. R. S. c. 47, § 2. Every pawnbroker shall keep a book in which he shall enter the date, duration, amount, and rate of interest of every loan made by him, an accurate account and description of the property pawned, and the name and residence of the pawner; and at the same time shall deliver to said pawner a written memorandum signed by him, containing the substance of the above entry, and at all reasonable times shall submit said book to the inspection of any of the municipal officers aforesaid; and for every violation of the provisions of this section he forfeits \$20.

Sec. 102. Junk dealers to keep records; penalty; "junk" defined. 1937, c. 192, §§ 1, 2. Every dealer in junk, as hereinafter defined, shall keep a record of the name of every person selling such junk to said dealer and also the registration number of the motor vehicle used by such seller in the delivery of such junk. These records shall be open for the inspection of any officer of the law. Whoever fails to make such record as provided by this paragraph shall be punished by a fine of not more than \$100.

The word "junk" as herein used shall mean old iron, chain, brass, copper, tin, lead, or other base metals, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber, and glass, and empty bottles of different kinds, when less than 1 gross, and all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned.

See §§ 196, 205.

Sec. 103. Rates of interest fixed; penalty. R. S. c. 47, § 3. No pawnbroker shall directly or indirectly receive a rate of interest greater than 25% a year on a loan not exceeding \$25, nor more than 6% on a larger loan made upon property pawned, under a penalty of \$100 for each offense.

Sec. 104. Time and mode of selling pawned property, and notice thereof, fixed under a penalty. R. S. c. 47, § 4. No pawnbroker shall sell any property pawned until it has remained in his possession for 3 months after the expiration of the time for which it was pawned. All such sales shall be at public auction by a licensed auctioneer, after notice of the time and place of sale, the name of the auctioneer, and a description of the property to be sold has been published in a newspaper in the town where the property is pawned, if any, and if not, after such notice has been posted in 2 public places therein at least 2 weeks before the sale. All sales of such property otherwise made are void, and the pawnbroker undertaking to make them forfeits \$20 for every such offense.

Sec. 105. Penalty for not paying over proceeds. R. S. c. 47, § 5. After deducting from the proceeds of any sale under the provisions of the preceding section the amount of the loan, the interest then due, and the proportional part of the expenses of the sale, such pawnbroker shall pay the balance to the person who would have been entitled to redeem such property if no sale had been made; and if not so paid on demand, the broker forfeits double the amount so retained, one-half to the pawner, and one-half to the state.

### Automobile Junk Yards

**Sec. 106. Statement of purpose.** 1941, c. 296, § 1. Automobile junk yards, or so-called "auto graveyards", have been steadily expanding and frequently encroach upon highways. These graveyards have become a nuisance and a menace to safe travel on public ways, often detracting the attention of drivers of motor vehicles because it appears cars are parked on the highway, or that an accident has occurred. It is declared that such automobile graveyards are properly subject to police regulation and control.

**Sec. 107. Establishment and maintenance of automobile junk yards, regulated.** 1941, c. 296, § 2. No automobile junk yard, or "automobile graveyard", so called, where three or more unserviceable, discarded, worn-out, or junked automobiles, or bodies or engines thereof, are gathered together, shall be established, operated, or maintained, or permitted by the owner of any land to be established, operated, or maintained without first obtaining a non-transferable permit to do so from the municipal officers of the city or town wherein said yard is to be established, operated, or maintained, or from the county commissioners of the county in which said yard is to be established, operated, or maintained in an unorganized township, which permit shall be valid only until the 1st day of the year following.

**Sec. 108. Hearings.** 1941, c. 296, § 3. Municipal officers or county commissioners as provided for in section 107 shall, before granting a permit to establish, operate, or maintain such automobile junk yard, hold a public hearing, notice of which shall be posted at least 7 days prior to and not more than 14 days prior to said hearing, in not less than 3 public places in said city or town or unorganized territory, and in one newspaper of general circulation in said city or town, or unorganized territory wherein such yard is to be established, operated, or maintained. Before the municipal authorities or county commissioners, as provided for in section 107, shall post or publish notice of a hearing, they shall collect from the applicant for said permit a fee of \$10 plus the costs of posting and publishing said notice.

**Sec. 109. Limitations on granting permits for initial establishment.** 1941, c. 296, § 4. No permit shall be granted for such automobile junk yard to be established within an unreasonable distance, and in no case less than 500 feet, from any state or state aid highway now or hereafter designated as such highway by the state highway commission, if within view from said highway, except upon condition that the area to be occupied by said automobiles or parts thereof be kept entirely screened to ordinary view by those passing upon said highway, by natural objects, or well constructed and properly maintained fences at least 6 feet high, acceptable to said municipal officers or county commissioners and so specified in said permit; nor if said area is within a radius of 300 feet of any public park, public playground, public bathing beach, school, church, or cemetery, which shall have been established prior to the establishment of such yard and which is within ordinary view thereof; except that the provisions of this section and section 110 shall not apply to any such yard located in the compact or built-up portions of any city, town, or village as defined by section 102 of chapter 19.

**Sec. 110. Limitations on granting permits for initial establishment if within 100 feet of a highway.** 1941, c. 296, § 5. Notwithstanding the provisions of section 108, no permit shall be granted for such automobile junk yard to be established within 100 feet of any state or state aid highway, except upon com-

pliance with the provisions of section 109 and upon payment of an annual fee of \$500 to the city or town, or to the county treasurer for the use of the county in the case of unorganized territory, within which limits the automobile junk yard is to be established, operated, or maintained.

**Sec. 111. Limitations on granting permits for existing establishments.** 1941, c. 296, § 6. No permit shall be granted for such automobile junk yard established prior to January 1, 1943 and on said date maintained or operated, unless said yard shall conform to the provisions of section 109.

**Sec. 112. Penalty.** 1941, c. 296, § 7. Whoever violates any provision of sections 106 to 113, inclusive, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100, nor more than \$500, and it shall be the duty of the state police as well as local and county officers of the law to enforce the provisions of said sections. In case of default in payment of the fine imposed herein, the violator shall be punished by imprisonment for not more than 90 days.

**Sec. 113. Chapter 128, § 7, not affected.** 1941, c. 296, § 8. Nothing contained in sections 106 to 112, inclusive, shall be construed as in any way repealing, invalidating, or abrogating the provisions of section 7 of chapter 128, or limiting the right of prosecutions thereunder, and violation of the provisions of sections 106 to 112, inclusive, in the establishment, maintenance, or operation of any such automobile junk yard shall constitute prima facie evidence that said yard is a nuisance as therein defined.

### Employment Offices

**Sec. 114. Regulation of employment agencies; particulars of license; license not valid to protect another place; not to be located in certain places; affidavits; penalty.** R. S. c. 47, § 6. No person shall open, keep, or carry on any employment agency in the state, unless such person shall first procure a license therefor from the municipal officers of the city or town where such employment agency is to be located. Any person who shall open or conduct any such agency without first procuring such license shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50, nor more than \$300, or by imprisonment for not less than 1 month, nor more than 6 months, or by both such fine and imprisonment. Such license shall be granted upon the payment to the city or town treasurer, annually, of a fee of \$25 for the use of said city or town; the license shall be signed by a majority of the municipal officers, and shall continue in force from May 1st to May 1st of the succeeding year. Every license so granted shall contain the name of the person licensed, a designation of the city, street, and number of the house or building in which the licensee is authorized to carry on the employment agency, and the number and date of such license, and shall be exhibited in a public and conspicuous place in the office or place of business of the licensee. Such license shall not be valid to protect any other place than that designated therein, unless consent is first obtained from the municipal officers, nor until the written consent to such transfer of the surety or sureties on the bond required by the following section is filed with the original bond. No such agency shall be located in a building or upon premises where intoxicating liquors are sold or dispensed contrary to law, or which or part of which is used as an inn, lodging-house, or boarding-house; nor shall any license be issued to any person, directly or indirectly interested in the sale of intoxicating liquors. The application for such license shall be filed with the municipal officers at least

1 week prior to the date of hearing thereon, and the municipal officers shall act upon any application within 30 days after the filing thereof. Each application shall be accompanied by the affidavits of 2 persons who have known the applicant, or the chief officers thereof if a corporation, for 2 years at least, stating that the applicant is, or said officers are, of good moral character and a resident or residents of the state and has or have been such for at least 5 years prior to the date of such application.

**Sec. 115. Bond required of applicant; action on bond.** R. S. c. 47, § 7. The municipal officers shall require such person to file with his application under the provisions of section 114 a bond to the inhabitants of the city or town wherein such application is made, in the penal sum of \$1,000, with one or more sureties, to be approved by said municipal officers, conditioned that the obligor will conform to and not violate any of the duties, terms, conditions, provisions, or requirements of sections 114 to 121, inclusive. Whoever is aggrieved by the misconduct of any such licensed person may maintain an action in the name of the inhabitants of the city or town to whom the bond was given, but for his own benefit, upon the bond of such person, in any court having jurisdiction, and shall be liable for costs in such action and the inhabitants of such city or town shall not be liable.

**Sec. 116. Licensee to keep register, which is to be open for inspection.** R. S. c. 47, § 8. Every such licensee shall keep a register in which shall be entered in the English language the date of every accepted application for employment, name and address of the applicant to whom employment is offered or promised, written name and address of the person to whom applicant is sent for employment, and of the fee received. The aforesaid register of applicants for employment shall be open during office hours to inspection by any one or more of the municipal officers, their authorized agents, or any police officer when on duty. No licensee or his employees shall knowingly make any false entry in such register.

**Sec. 117. Receipt to be given to applicants for employment; fee returned if no employment obtained.** R. S. c. 47, § 9. Every licensee shall give to each applicant for employment from whom a fee or other valuable thing shall be received for procuring such employment, or to whom a charge is made therefor, which fee or other valuable thing shall in no case exceed the sum of \$1 if paid in advance, or \$1.25 if charged to the applicant, a receipt, if said fee is paid in advance, or a statement if it is charged, in which shall be stated the name of the applicant, the amount of the fee or other valuable thing, the date, the name or nature of the employment or situation to be procured, and the name and address of the person, firm, or corporation to whom the applicant is referred or sent for work or employment. Such fee shall be in full compensation for all service of said licensee. If the applicant does not obtain a situation or employment through the agency of such licensee within 6 days after the application as aforesaid, said licensee shall return to said applicant on demand the amount of the fee or other valuable thing so paid and delivered by said applicant to said licensee, or if a charge was made, said licensee shall cancel the same, provided that said person seeking employment through such agency does not break any agreement he may make with said licensee relative to time of entering into the employment sought for. The person to be employed must be furnished with a duplicate card showing name, last residence, and name and residence of nearest relative or friend. No licensee shall by himself, agent, or otherwise induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency.

Sec. 118. No person to be sent to place of bad repute; questionable characters not permitted to frequent agency. R. S. c. 47, § 10. No licensee under the provisions of section 114 shall send, or cause any female help or servant, or inmate, or performer to be sent to any questionable place or place of bad repute, house of ill fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purpose of prostitution, vice, or gambling, the character of which such licensee knows, either actually or by reputation. No licensee shall knowingly permit questionable characters, prostitutes, gamblers, intoxicated persons, or procurers to frequent such agency. No licensee shall accept any application made by or on behalf of any child for, or shall place or assist in placing any child in, any employment in violation of law.

See cc. 121, 126.

Sec. 119. Enforcement; complaints for violation, how and to whom made; notice of hearing; revocation of license. R. S. c. 47, § 11. The enforcement of the provisions of sections 114 to 121, inclusive, shall be entrusted to the municipal officers during their term of office and until the qualification of their successor or successors. Complaints of the violation of any provision of said sections shall be made orally or in writing to said municipal officers, and reasonable notice thereof, and of the time and place of hearing, not less than 24 hours, shall be given in writing to such licensee by serving upon him a concise statement of the facts constituting the complaint; the hearing shall be had before said municipal officers at such time and place as they may designate, within 1 week from the date of such service, and no adjournment shall be taken for a period longer than 1 week. The result of such hearing shall be announced within 1 week from the date thereof. The municipal officers may refuse to issue and may revoke any license for good cause shown within the meaning and purpose of said sections; and when it is shown to the satisfaction of a majority of said municipal officers that any person is guilty of any immoral, fraudulent, or illegal act or conduct in connection with said business, said municipal officers shall revoke the license of such person; but notice of such charges shall be presented in writing signed by the party making the same and reasonable opportunity shall be given such licensee to defend himself in the manner heretofore provided in this section. Whenever said municipal officers shall refuse to issue or shall revoke any license of an employment agency, their decision shall be final. Whenever for any cause such license shall be revoked, such revocation shall take effect upon announcement of the decision, and such revocation shall be considered good cause for refusing to issue another license to said person or his representative, or to any person with whom he is to be associated in the business of furnishing employment or help.

Sec. 120. Penalty and jurisdiction. R. S. c. 47, § 12. 1933, c. 118, § 1. Whoever violates any provision of sections 114 to 121, inclusive, except as is otherwise provided, shall be punished by a fine of not more than \$25 with costs of prosecution. Trial justices shall have jurisdiction of such offenses, and in default of payment may commit the respondent to the county jail or house of correction for a period of not more than 30 days. Any municipal officer may institute criminal proceedings to enforce the provisions of said sections.

Sec. 121. Definitions. R. S. c. 47, § 13. The term "person" in the 7 preceding sections shall include a person, company, society, association, firm, or corporation; and the term "employment agency" shall include the business of keep-



ing an intelligence office, employment bureau, or other agency for procuring work or employment for persons seeking employment, or for acting as agent for procuring such work or employment, where a fee or other valuable thing is exacted, charged, or received, or for procuring or assisting to procure employment, work, or situation of any kind or for procuring or providing for any person; but said sections shall not apply to the employment of seamen, nor to teachers' agencies, nor charitable institutions.

### Inspection of Dairy Products

**Sec. 122. Municipal officers to prosecute violations.** R. S. c. 42, § 6. The mayor and aldermen, selectmen, assessors, city marshal, chief of police, and constables in every city and town shall make complaint and prosecute all violations of the provisions of sections 80 and 81 of chapter 27, and promptly enforce all laws against illegal sale and transportation of dairy products.

See c. 27, §§ 77-79, re duties of commissioner of agriculture.

**Sec. 123. Appointment of inspectors.** R. S. c. 42, § 12. The municipal officers of cities and towns containing not less than 3,000 inhabitants, and the municipal officers of all other towns on application of 10 voters therein, shall appoint annually one or more persons to be inspectors of milk, cream, butter, and all other dairy products, substitutes therefor, and imitations thereof, who, before entering upon their duties, shall give notice of their appointment by publishing the same for 2 weeks in a newspaper published in their towns, if any, otherwise by posting such notice in 2 or more public places therein; and they may receive such fees as said officers establish.

**Sec. 124. Duties of inspectors.** R. S. c. 42, § 13. Inspectors appointed by the municipal officers of cities and towns shall keep an office and books for the purpose of recording the names and places of business of all persons selling milk or other dairy products within their jurisdiction. They shall have access at all reasonable hours to all places of business, factories, or carriages, cans, or other vessels used in the production, handling, or sale of milk or any other dairy product, substitute therefor, or imitation thereof, and, upon tendering the market price of a sample of milk or other dairy product, substitute therefor, or imitation thereof, may take such sample from any person, firm, corporation, or association; cause it to be analyzed or otherwise satisfactorily tested, and preserve the result as evidence. The inspectors shall, if the owner of the product inspected so requests, leave with the owner a sealed specimen of the product examined by them, which shall be marked in the same manner as the specimen taken at that time by the inspector; and they shall prosecute for all violations of the provisions of sections 89 and 98 of chapter 27.

**Sec. 125. Interference with inspector; penalty.** R. S. c. 42, § 14. Whoever in any way interferes with an inspector, appointed under the provisions of section 123, in the performance of his duties, by refusing entrance to a place he is authorized to enter, or access to a receptacle to which he is authorized to have access, or by refusing to deliver to him a sample which he is authorized to take, or in any other way interferes with said inspector in the performance of his duties, shall be punished by a fine of not less than \$10, nor more than \$50, or by imprisonment for not less than 10 days, nor more than 30 days.

See c. 124, §§ 2-6, re unwholesome provisions and drinks.

### Inspection of Flour

**Sec. 126. Inspectors of flour, their appointment.** R. S. c. 49, § 1. The municipal officers of towns may appoint annually in their towns one or more

suitable persons not interested in the manufacture and sale of flour to be inspectors thereof for 1 year from the date of appointment.

**Sec. 127. Oath; certificate of appointment.** R. S. c. 49, § 2. An inspector of flour, before entering upon his duties, shall be sworn to the faithful and impartial discharge thereof before the town clerk, who, upon payment of 50c, shall give him a certificate of his appointment and qualification, to be exhibited on the demand of any person interested in any inspection made by him.

**Sec. 128. Inspection; duties of inspectors; record.** R. S. c. 49, § 3. Inspection of flour shall be for the purpose of ascertaining its soundness; every package inspected shall be opened sufficiently to allow a trier to be passed through it, and a sample of the whole length of the passage shall be taken out and examined by the inspector, who shall mark upon each package with a brand or stencil the word "Sound" or "Unsound", as the quality of the flour contained in each is found, and his name, residence, office, and the year of inspection. He shall keep a record of all flour inspected by him in a suitable book which he shall exhibit to any person requiring it.

**Sec. 129. Penalty for fraudulent marks.** R. S. c. 49, § 4. If an inspector falsely and fraudulently marks any package of flour, he shall be punished by a fine of \$5 for every such package, and forfeits to any person injured thereby 3 times the amount of damage, in an action of debt.

**Sec. 130. Penalty for alteration, etc., of inspection marks.** R. S. c. 49, § 5. Whoever, with intent to defraud, alters, obliterates, or counterfeits the marks of an inspector, and whoever, with such intent, places upon any package of flour marks, falsely purporting to be inspection marks, shall be punished by a fine of not more than \$50 for each offense and, on conviction of placing such false marks on as many as 10 packages at one time, shall also be imprisoned for not more than 10 months.

**Sec. 131. Purchasers of flour may require inspection before delivery.** R. S. c. 49, § 6. The purchaser may require flour to be inspected before delivery. The inspector's fees shall be 5c a package for lots of less than ten; for lots of more than ten and not exceeding twenty, 2c a package; and for every package exceeding twenty, 1c; to be paid by the person demanding inspection.

**Sec. 132. Duties of inspectors in relation to sample packages.** R. S. c. 49, § 7. Inspectors of flour shall, when required, determine whether the flour conforms to and equals the sample furnished, and shall mark, with some distinct and intelligible mark, the packages that are found like the sample, and for this service they may charge an additional compensation of  $\frac{1}{2}$ c a package.

**Sec. 133. Contract for sale of uninspected flour not prohibited.** R. S. c. 49, § 8. Nothing contained in sections 126 to 132, inclusive, prohibits any contract for the manufacture or sale of uninspected flour, when inspection is not required by the buyer or the seller.

#### Inspection of Leather

**Sec. 134. Inspectors of sole leather, appointment, duties; fees to be determined by the municipal officers.** R. S. c. 49, § 9. The municipal officers of each town, when they deem it expedient, may appoint one or more suitable inspectors of sole leather, who shall receive such fees from their employer as said officers establish; and when paid by the seller, to be repaid to him by the buyer; when

requested they shall go to any place in their town to inspect any sides of sole leather which have not been inspected in this state according to law.

See Const. of Me. Art. IX, § 1, re oath.

**Sec. 135. Mode of inspection and stamping sole leather; penalty.** R. S. c. 49, § 10. Each inspector of sole leather shall provide himself with a proper apparatus with which he shall weigh and stamp every side of sole leather inspected by him, with the weight thereof, his surname, and the name of his town; and on all sole leather made of good hides, and in the best manner, the word "best" shall be stamped; on all made of such hides in a merchantable manner, the word "good"; and on all other, the words "second quality", "third quality", "damaged", or "bad", according to the fact; and whoever counterfeits, alters, or defaces such mark forfeits \$20 for each offense, one-half to the town and one-half to the prosecutor.

#### Wood and Bark

**Sec. 136. Dimensions of a cord of wood; penalty.** R. S. c. 51, § 1. All cord-wood offered for sale shall be 4 feet long including one-half the scarf, and well and closely laid together. A cord of wood or bark shall measure 8 feet in length, 4 feet in width, and 4 feet in height, or otherwise contain 128 cubic feet; the measurer shall make due allowance for refuse or defective wood and bad stowage. Any person or persons exposing for sale as a cord of wood anything less shall be punished by a fine of not less than \$10, nor more than \$50, for each offense. Cities and towns by ordinance may assign location for teams to sell said cord-wood and bark.

See §§ 142, 162, 163, 196; c. 80, § 83, sub-§ V, re by-laws and ordinances; 14 Me. 406; 82 Me. 318.

**Sec. 137. Measurers of wood and bark.** R. S. c. 126, § 21. Measurers of firewood and bark shall receive such fees for their services as the municipal officers of the town designate, to be paid by the driver, and repaid by the buyer when brought by land, and by the wharfinger when brought by water.

**Sec. 138. Penalty for selling wood or bark before survey.** R. S. c. 51, § 2. If any fire-wood or bark brought into any town by land is sold and delivered, unless otherwise agreed to by the purchaser, before it is measured by a sworn measurer, and a ticket signed by him and given to the driver stating the quantity that the load contains, the name of the driver, and the town in which he resides, such wood or bark is forfeited and may be libeled and disposed of according to law.

See §§ 162, 163; 72 Me. 119; 82 Me. 574.

**Sec. 139. Measure of cord-wood brought by water; penalty.** R. S. c. 51, § 3. All cord-wood brought by water into any town for sale shall be corded on the wharf or land on which it is landed, in ranges, making up in height what is wanting in length; then it shall be so measured and a ticket given to the purchaser, who shall pay the stated fees; and no such wood shall be carried away by any wharfinger or carter before it has been so measured, under a penalty of \$1 for every load.

See §§ 162, 163.

**Sec. 140. Ticket required, and penalty for not showing it.** R. S. c. 51, § 4. Persons carrying fire-wood from a wharf or landing for sale shall be furnished by the owner or seller with a ticket stating the quantity and the name of the

driver; and if such fire-wood is carried away without such ticket, or any driver refuses to exhibit such ticket to any sworn measurer on demand, or does not consent to have the same measured, when in the opinion of the measurer the ticket certifies a greater quantity of wood than the load contains, such wood shall be forfeited and may be seized and libeled by said measurer according to law.

See §§ 162, 163.

**Sec. 141. Penalty for fraudulent stowage.** R. S. c. 51, § 5. When any wood, bark, or charcoal, sold by the cord, foot, or load, is so stowed as to prevent the surveyors from examining the middle of the load, and it appears on delivery that it was stowed with the fraudulent intent of obtaining payment for a greater quantity than there was in fact, the seller or owner thereof forfeits \$10 to the county.

See §§ 162, 163.

**Sec. 142. Sale of wood by the load; penalty.** 1939, c. 204, §§ 1, 2. Fitted wood, not exceeding 16 inches in length, sold by the load in the loose shall contain: if sold as a load, not less than 144 cubic feet; if sold as a  $\frac{3}{4}$  load, not less than 108 cubic feet; if sold as  $\frac{1}{2}$  load, not less than 72 cubic feet; if sold as  $\frac{1}{4}$  load, not less than 36 cubic feet. Whoever violates the provisions of this section shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days.

### Charcoal

**Sec. 143. Measure and sale of charcoal.** R. S. c. 51, § 6. Charcoal brought into a town for sale may be measured and sold by the cord or foot, estimating the cord at 96 bushels, when the purchaser and seller agree to the same; and the measurers of wood shall be measurers of charcoal also.

See §§ 141, 162, 163.

**Sec. 144. Charcoal baskets to be sealed; dimensions; penalty for using smaller baskets.** R. S. c. 51, § 7. All baskets for measuring charcoal brought into a town for sale shall be sealed by the sealer of the town where the person using them usually resides, and shall contain 2 bushels and be of the following dimensions, viz.: 19 inches in breadth in every part, and  $17\frac{1}{2}$  inches deep, measuring from the top of the basket to the highest part of the bottom; and in measuring charcoal for sale, the basket shall be well heaped. Whoever measures charcoal for sale in any basket of less dimensions, or not sealed, forfeits for each offense \$5.

See §§ 162, 163.

**Sec. 145. Seizure of unlawful baskets.** R. S. c. 51, § 8. The municipal officers of towns may appoint some suitable person to seize and secure all baskets used for measuring charcoal, not conforming to the provisions of section 144.

See §§ 162, 163.

**Sec. 146. Penalty for refusing to give certificate.** R. S. c. 51, § 9. Any measurer of wood, bark, or charcoal who neglects or refuses to give to the owner or purchaser a certificate of the contents of a load forfeits \$5 for each offense; and all the penalties hereinbefore provided may be recovered by action of debt or by complaint, one-half to the town where the offense is committed, and one-half to the prosecutor.

See §§ 162, 163, 196.

## Coal and Coke

Sec. 147. Coal and coke put up in bags or packages to have net weight marked on outside; penalty. R. S. c. 51, § 10. Anthracite, bituminous, and all mineral coal or coke shall be sold by weight and 2,000 pounds shall constitute a ton. Coal or coke put up in bags or package form shall have marked on the bag in a plain and conspicuous manner the net weight. For each violation of the provisions of this section, there shall be a fine of not less than \$25, nor more than \$100.

See §§ 162, 163.

Sec. 148. Weighers of coal and coke; duties of weighers; penalty. R. S. c. 51, § 11. 1933, c. 200, § 6. The municipal officers shall annually elect or appoint weighers of coal and coke. Unless coal is sold by the cargo, the seller shall cause it to be weighed by a sworn weigher. Weighers must give slips either in writing or printing to every purchaser of coal when not in bags or packages, showing the gross, tare, and net weight for each and every load so delivered. The slips so given must have stamped, printed, or written thereon the full name of the weigher. For each violation of the provisions of this section, there shall be a fine of not less than \$10, nor more than \$20.

See §§ 162, 163, 196; Const. of Me. Art. IX, § 1, re oath; \*121 Me. 221.

## Boards, Plank, and Other Lumber. Logs. Fees

Sec. 149. Towns to elect surveyors of lumber. R. S. c. 51, § 13. Every town, at its annual meeting, shall elect one or more surveyors of boards, plank, timber, and joist; one or more surveyors of shingles, clapboards, staves, and hoops; and every town containing a port of delivery whence staves and hoops are usually exported shall also elect two or more viewers and cullers of staves and hoops; and the municipal officers of a town may, if they deem it necessary, appoint not exceeding 7 surveyors of logs.

See §§ 162, 163; Const. of Me. Art. IX, § 1, re oath; c. 80, §§ 12, 15.

Sec. 150. Lumber to be surveyed before delivery. R. S. c. 51, § 14. All boards, plank, timber, and joist offered for sale shall, before delivery, be surveyed by a sworn surveyor thereof, and, if he has doubts of the dimensions, he shall measure the same and mark the contents thereon, making reasonable allowance for rots, knots, and splits, drying and shrinking; pine boards  $\frac{3}{4}$  of an inch thick when fully seasoned, and in that proportion when partly seasoned, shall be considered merchantable; and no pine boards, except sheathing boards, shall be shipped for exportation beyond the United States, but such as are square edged, and not less than  $\frac{7}{8}$  of an inch thick, nor less than 10 feet long, under penalty of forfeiture to the town whence shipped.

See §§ 162, 163; Const. of Me. Art. IX, § 1, re oath; c. 80, §§ 12, 15.

Sec. 151. Dimensions and quality of shingles. R. S. c. 51, § 15. All shingles, packed for exportation beyond the state, shall be 16 inches long, free from shakes and worm-holes, and at least  $\frac{3}{8}$  of an inch thick at the butt end when green, and if of pine, free from sap. They shall be 4 inches wide on an average, not less than 3 inches wide in any part, hold their width  $\frac{3}{4}$  of the way to the thin end, well shaved or sawed, and be denominated "number one"; but shingles intended for sale within the state, if of inferior quality or of less dimensions, may be surveyed and classed accordingly, under the denominations of "number two" and "number three".

See §§ 162, 163.

Sec. 152. Manner of sawing and packing shingles; forfeiture. R. S. c. 51, § 16. All shingles shall be split or sawed crosswise the grain; each bundle shall contain 250 shingles and, if in square bundles, 25 courses, and be  $22\frac{1}{2}$  inches at the lay; and when packed to be surveyed as "number one" or for exportation, if in any bundle there are 5 shingles deficient in the proper dimensions, soundness, or number to make 250 merchantable shingles, or if any shingles are offered for sale before they are surveyed and measured by a sworn surveyor of some town in the county where they were made, and the quality branded on the hoop or band of the bundle, unless the parties otherwise agree, they are forfeited to the town where the offense is committed.

See §§ 162, 163; 77 Me. 592.

Sec. 153. Dimensions and quality of clapboards. R. S. c. 51, § 17. All clapboards exposed for sale or packed for exportation shall be made of good sound timber, free from shakes and worm-holes, and if of pine, clear of sap; and they shall be at least  $\frac{5}{8}$  of an inch thick on the back or thickest part, 5 inches wide, and  $4\frac{1}{2}$  feet long, and straight and well shaved or sawed.

See §§ 162, 163.

Sec. 154. Dimensions and quality of staves, and how enumerated. R. S. c. 51, § 18. Staves packed for sale or exportation shall be well and proportionably split, and of the following dimensions, viz.:

White oak butt staves, at least 5 feet in length, 5 inches wide, and  $1\frac{1}{4}$  inches thick on the heart or thinnest edge, and every part thereof;

White oak pipe staves, at least 4 feet and 8 inches in length, 4 inches broad in the narrowest part, and not less than  $\frac{3}{4}$  of an inch thick on the heart or thinnest edge;

White or red oak hogshead staves, at least 42 inches long, and not less than  $\frac{1}{2}$  an inch thick on the least or thinnest edge;

White or red oak barrel staves for a market out of the United States, 32 inches long; if for use within the United States, 30 inches long; and in either case,  $\frac{1}{2}$  an inch thick on the heart or thinnest edge;

All white or red oak hogshead or barrel staves, at least, one with another, 4 inches in breadth, and no one less than 3 inches in breadth in the narrowest part; those of the breadth last mentioned shall be clear of sap; and 2 staves shall be sold as 1 cast, 50 casts, 100 staves; and 1,000 staves, 1,000.

See §§ 162, 163.

Sec. 155. Dimensions and quality of hogshead hoops; how packed, and forfeiture for deficiency. R. S. c. 51, § 19. All hogshead hoops exposed for sale or packed for exportation shall be from 10 to 13 feet in length, and of oak, ash, or walnut, and of good and sufficient substance, well shaved; if of oak or ash, at least 1 inch broad, and, if of walnut,  $\frac{3}{4}$  of an inch at the smaller end; the different lengths shall be made up in bundles by themselves; each bundle shall contain 25 hoops, 4 bundles shall make 100, and 1,000 hoops, 1,000; and every bundle, packed for sale or exportation, found to be deficient in number or dimensions, is forfeited to the town where it is exhibited.

See §§ 162, 163; 85 Me. 284.

Sec. 156. Manufactured lumber, not to be offered for sale until surveyed and branded; penalty; shipmaster also liable. R. S. c. 51, § 20. No person shall deliver on sale, or ship, or attempt to ship for exportation, any boards, plank, timber, joists, shingles, clapboards, staves, or hoops before they have been surveyed, measured, viewed, or culled, as the case may be, and branded by the

proper officer, and a certificate thereof given by him, specifying the number, quality, and quantity thereof, under a penalty of \$2 per 1,000, by quantity or tale, as such article is usually sold, one-half to the town where the offense is committed, and one-half to the prosecutor; and in addition thereto, the master or owner of any vessel exporting any of the articles aforesaid beyond the limits of the United States contrary to law shall, for the 1st offense, forfeit \$200 to the town whence said articles are exported; and if after conviction he commits a 2nd offense in the same vessel, he forfeits the same sum, and the vessel is also forfeited to the town.

See §§ 162, 163; 68 Me. 144; 77 Me. 591; 83 Me. 324; 85 Me. 284.

**Sec. 157. Failure to survey lumber and give certificate not to defeat action for price.** R. S. c. 51, § 21. In any action hereafter brought for the price of boards, plank, timber, joists, shingles, clapboards, staves, or hoops, unless sold by the cargo, any failure to survey, measure, view, or cull, and brand the same and to give certificate thereof as required by section 156, shall not defeat recovery in such action, unless it appears that before delivery the purchaser requested such survey, measurement, view, or culling, and branding and certificate.

See §§ 162, 163; 90 Me. 295.

**Sec. 158. Master or owner to produce surveyor's certificate before clearance, with affidavit thereto.** R. S. c. 51, § 22. The master or owner of any vessel having any of the lumber or other articles mentioned in section 156 on board, for exportation as aforesaid, shall, before the vessel is cleared at the custom-house, produce to the collector a certificate from the proper officer that the same have been duly surveyed, measured, viewed, or culled, as the case may require; and such master or owner shall likewise make oath before the collector, or a justice of the peace whose certificate shall be returned to the collector, that the articles so shipped for exportation are the same articles thus surveyed, measured, viewed, or culled, that he has no others on board of the like description, and that he will not take any others.

See §§ 162, 163.

**Sec. 159. Duty of surveyors of logs.** R. S. c. 51, § 25. Surveyors of logs may inspect, survey, and measure all mill logs floated or brought to market or offered for sale in their towns, and divide them into several classes, corresponding to the different quality of boards and other sawed lumber which may be manufactured from them; and they shall give certificates under their hands of the quantity and quality thereof to the person at whose request they are surveyed.

See §§ 162, 163; 8 Me. 32; \*25 Me. 401; 53 Me. 491; 62 Me. 168; 92 Me. 196.

**Sec. 160. Method of scaling logs.** R. S. c. 51, § 26. Unless the parties otherwise agree, in the scaling or measurement of unmanufactured logs and timber the cubic foot shall be the unit of measure, to be determined by mathematical calculation or by such cubic rules as the parties may agree upon.

See §§ 162, 163.

**Sec. 161. Round timber to be scaled.** R. S. c. 51, § 27. Any person measuring round timber, the quantity of which is estimated by the thousand, shall scale the same and mark upon each log surveyed by him the contents thereof, unless otherwise agreed by the parties contracting.

See §§ 162, 163.

**Sec. 162. Penalty, if surveyor or culler neglects duties or practices fraud in his office.** R. S. c. 51, § 23. If any person, duly elected a surveyor, measurer, viewer, or culler of any of said articles under the provisions of sections 136 to 163, inclusive, and duly qualified, unnecessarily refuses or neglects to attend to the duties of his office when requested, he forfeits \$3; and if he connives at or willingly allows any breach of the provisions hereof, or practices any other fraud or deceit in his official duties, he forfeits \$30 to the use aforesaid.

**Sec. 163. Recovery of penalties; jurisdiction of courts.** R. S. c. 51, § 24. 1933, c. 118, § 6. All pecuniary penalties in sections 136 to 163, inclusive, may be recovered by action of debt, indictment, or complaint, and all other forfeitures, by a libel filed by the treasurer or any inhabitant of the town interested. Where the violation of any of the provisions of sections 136 to 163, inclusive, is made an offense punishable by a fine, trial justices within their county shall have jurisdiction of such offenses concurrent with municipal courts and the superior court.

**Sec. 164. Fees of surveyors of lumber.** R. S. c. 126, § 20. Surveyors of boards, plank, timber, and joist shall receive, for viewing only, 6c a thousand feet; for measuring and marking the same, 6c more; and in that proportion for any part of a thousand, to be paid by the buyer.

Surveyors of shingles and clapboards shall receive, for surveying and telling, 6c a thousand to be paid by the buyer.

Viewers and cullers of staves and hoops shall receive, for barrel staves, 25c a thousand, and for hogshead and butt staves, 33c a thousand, whether refuse or merchantable; the merchantable to be paid for by the buyer, the refuse by the seller; and the culler of hoops shall be allowed 40c a thousand.

Surveyors shall receive at the rate of 4c a thousand feet board measure for viewing and inspecting mill logs, and 2c a thousand in addition for measuring and marking the quantity and quality of the logs, and making out and delivering certificates of the same, to be paid by the buyer.

#### Inspection of Oils

**Sec. 165. Persons engaged in sale of oil may file with town clerk and publish description of marks used on cans.** R. S. c. 49, § 29. All persons or corporations engaged in the sale of kerosene, refined petroleum, gasoline, or other burning or illuminating oils or fluids, in cans of a capacity of not less than 5 gallons, with their names or other marks or devices branded, stamped, engraved, etched, impressed, or otherwise produced upon such cans or anything connected therewith or appertaining thereto, may file in the office of the town or city clerk in which their principal place of business is situated, a description of the names and marks aforesaid, used by them, and cause the same to be published once a week for 3 successive weeks in any newspaper published in the county in which said notice may have been filed as aforesaid.

**Sec. 166. Regulation of sale of certain oils.** 1943, c. 71, § 2. No person shall sell or keep for sale, except for remanufacture or as hereinafter provided, kerosene, range oil, fuel oil, or other burning oil for illuminating, heating, or cooking purposes which will flash at a temperature of less than 115 degrees Fahrenheit, to be ascertained by the application of any standard approved closed cup tester. Nothing herein contained shall prohibit the sale or keeping for sale of gasoline or naphtha as such for fuel or illuminating purposes.

**Sec. 167. Pure sperm oil defined; penalty for adulteration.** R. S. c. 49, § 24. All oils sold under the names of sperm, summer, fall, and winter oils are



deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor \$15 for each offense; and the oil so sold shall be deemed whale oil, and the seller is liable to the purchaser for the difference between pure sperm oil and whale oil, to be recovered in an action on the case.

**Sec. 168. Deception as to quality, nature, or identity of engine fuel or lubricating oils unlawful; adulteration or misbranding prohibited.** R. S. c. 49, § 30. It shall be unlawful for any person, firm, or corporation within this state to store, sell, distribute, transport, expose for sale, or offer for sale, distribution, or transportation any internal combustion engine fuels, lubricating oils, or other similar products in any manner whatsoever so as to deceive or tend to deceive the purchaser as to the nature, quality, and identity of the product so sold or offered for sale or which is adulterated or misbranded within the meaning of sections 168 to 175, inclusive.

**Sec. 169. Names and symbols on distributing devices to show true contents and identity of the manufacturer or distributor.** R. S. c. 49, § 31. 1931, c. 129; c. 216, Art. II, § 28. It shall be unlawful for any person, firm, or corporation to store, keep, expose for sale, offer for sale, or sell from any tank or container or from any pump or other distributing device or equipment, any internal combustion engine fuels, lubricating oils, or other similar products than those indicated by the name, trade name, symbol, sign, or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump, or other distributing equipment from which the same are sold, offered for sale, or distributed, and all tanks, containers, pumps, or other distributing equipment containing internal combustion engine fuels, lubricating oils, or other similar products shall be plainly designated by the name, trademark, symbol, sign, or other distinguishing mark or device of the manufacturer or distributor, and any person, firm, or corporation desiring to engage in the business of distribution of internal combustion engine fuels, lubricating oils, or other similar products at wholesale shall apply to the state tax assessor for certificate allowing such distribution, and such applicant shall submit with such application to the state tax assessor samples or specifications of such fuels or oils as he desires to distribute. When such application, accompanied by such samples, has been received by the state tax assessor, he shall issue a certificate or permit to enable such person, firm, or corporation to sell or distribute its products.

See §§ 174, 175.

**Sec. 170. Trade names not to be imitated.** R. S. c. 49, § 32. It shall be unlawful for any person, firm, or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol, or trade name of the equipment under which recognized brands of internal combustion engine fuels, lubricating oils and similar products are generally marketed.

See §§ 174, 175.

**Sec. 171. Dealers not to sell, mix, or adulterate fuels or oils sold under a trade name.** R. S. c. 49, § 33. It shall be unlawful for any person, firm, or corporation to expose for sale, offer for sale, or sell under any trade-mark or trade name in general use any internal combustion engine fuels, lubricating oils, or other like products except those manufactured or distributed by the manufac-

turer or distributor marketing internal combustion engine fuels, lubricating oils, or other like products under such trade-mark or trade name, or to substitute, mix, or adulterate the internal combustion engine fuels, lubricating oils, or other similar products sold, offered for sale, or distributed under such trade-mark or trade name.

See §§ 174, 175.

**Sec. 172. Unlawful to place in tank any other fuel or oil than mark thereon signifies.** R. S. c. 49, § 34. It shall be unlawful for any person, firm, or corporation to aid or assist any other person, firm, or corporation in the violation of the provisions of sections 168 to 175, inclusive, by depositing or delivering into any tank, receptacle, or other container, any other internal combustion engine fuels, lubricating oils, or like products than those intended to be stored therein and distributed therefrom as indicated by the name of the manufacturer or distributor, or the trade-mark or trade name of the product displayed on the container itself, or on the pump, or other distributing device used in connection therewith.

**Sec. 173. "Internal combustion engine fuel" defined; "misbranded" and "adulterated" defined.** R. S. c. 49, § 35. For the purposes of sections 165 to 175, inclusive, the term "internal combustion engine fuel" shall mean motor fuel, commonly called and known as gasoline, benzol, or other product to be used in the operation of an internal combustion engine. The term "misbranded" shall apply to all internal combustion engine fuel, the package, label, pump, tank, or container of which shall bear any statement, design, or device regarding such article or the ingredient or substance contained therein which shall be false or misleading in any particular or which is falsely branded in any particular.

Gasoline shall be held to be "adulterated":

**I.** If it contains water or tar-like matter;

**II.** If it contains more than 4% by weight of residue after being distilled at a temperature of 437° Fahrenheit;

**III.** If the maximum temperature of the vapor on distillation without pressure exceeds 437° Fahrenheit.

The method of testing to be used shall be those in general use in the petroleum refining industry.

**Sec. 174. Director of Maine Agricultural Experiment Station to analyze samples; state tax assessor to enforce; expenses to be covered by gasoline tax.** R. S. c. 49, § 36. 1931, c. 216, Art. II, § 28. The director of the Maine Agricultural Experiment Station shall analyze or cause to be analyzed such samples of internal combustion engine fuels, lubricating oils, and other like products at such time and to such extent as the state tax assessor may determine. It shall be the duty of the state tax assessor in person, or by deputy, to enforce the provisions of sections 168 to 175, inclusive, and for that purpose the state tax assessor in person, or by deputy, shall have full access, ingress, and egress at all reasonable hours to any place or building wherein internal combustion engine fuels, lubricating oils, and other like products are stored, transported, sold, offered or exposed for sale. He may also in person or by deputy open any case, package, or other container, tank, pump, tank car, or storage tank, and enter upon any barge, vessel, or other vehicle of transportation and may, upon tendering the market price, take samples for analysis. The expense of such analysis and of the administration of sections 168 to 175, inclusive, shall be included in the expense of the administration of the tax on gasoline provided for by chapter 14 and shall be deducted from the proceeds of said tax.

Sec. 175. Penalty. R. S. c. 49, § 37. Any person, firm, or corporation, or any officer, agent, servant, or employee thereof who shall violate any of the provisions of sections 168 to 175, inclusive, shall be punished by a fine of not more than \$100 for the 1st offense and by a fine of not more than \$200 for each subsequent offense, or by imprisonment for 90 days, or by both such fine and imprisonment, and each separate sale or attempt to sell in violation of the provisions of sections 168 to 175, inclusive, shall be deemed a separate offense.

### Local Sealers of Weights and Measures

Sec. 176. Municipal officers to elect sealer of weights and measures for indefinite term; removable only for neglect; penalties; state sealer to have jurisdiction. R. S. c. 53, § 8. 1933, c. 200, § 2. The municipal officers of each town shall elect a sealer of weights and measures, also a deputy sealer if necessary, not necessarily a resident therein, and said sealer and deputy shall hold office during their efficiency and the faithful performance of their duties. On complaint being made to said officers of the inefficiency or neglect of duty of a sealer or deputy sealer, the said officers shall set a date for and give notice of a hearing, to the complainant, sealer complained of, and the state sealer. If the evidence satisfies the said officers that the said sealer or deputy sealer has been inefficient or has neglected his duty, they may remove him from office and appoint another in his stead. The state sealer of weights and measures shall have jurisdiction over said sealer or deputy sealer, and any vacancy caused by death or resignation shall be filled by election by said municipal officers within 30 days; for each month that said municipal officers neglect their duty they severally shall forfeit \$10. Within 10 days after each such election the clerk of each city or town shall communicate the name of the person so elected to the state sealer of weights and measures, and for neglect of this duty shall forfeit \$10. Such sealer of weights and measures in any town may be sealer for several towns if such is the pleasure of the municipal officers therein, provided such action received the approval of the state sealer of weights and measures.

See § 179.

Sec. 177. Powers of local sealers of weights and measures. R. S. c. 53, § 9. All local sealers of weights and measures and their deputy sealers in cities and towns shall have the same power that is given the state sealer of weights and measures and deputy state sealer by section 246 of chapter 27.

Sec. 178. Treasurer of each town to keep town standards; penalty. R. S. c. 53, § 10. The treasurer of each town, at the expense thereof, or jointly with the treasurers of adjacent towns, shall constantly keep as town standards a set of beams and weights and measures subject to the approval of the state sealer and conformable to the state standards. Said treasurers shall cause all beams and weights and measures belonging to their towns to be proved and sealed by the state standards once in 5 years. For each neglect of said duties by any treasurer, he shall be punished by a fine of \$100.

Sec. 179. Cities may own scales; appoint weighers and deputy sealers. R. S. c. 53, § 11. Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers, and fix their fees, to be paid by the purchaser. The municipal officers of cities and towns may appoint a deputy sealer of weights and measures to hold office during their pleasure, and fix his compensation. Such deputy shall act under the direction of the sealer of weights and measures in the

municipality, and shall have the same authority as the sealer in the performance of his duties.

**Sec. 180. City and town sealers to keep records of weights and measures sealed; to make annual report.** R. S. c. 53, § 12. The several city and town sealers and other persons authorized to inspect weights and measures shall keep records of all weights and measures, balances, and measuring devices inspected, sealed, or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed, or condemned. Each sealer shall make an annual report, duly sworn to, on or before the 1st day of June of each year, to the state sealer, giving in addition to the above an inventory of the standards and apparatus in his possession, and such other information as he may deem important, or as the state sealer may require.

**Sec. 181. Duty of sealer to receive and receipt for standards; penalty.** R. S. c. 53, § 13. The sealer shall receive the standards and seal from the treasurer, giving a receipt therefor, describing them and their condition, and therein engaging to redeliver them at the expiration of his office in like good order; and he shall be accountable for their due preservation while in his possession. For each neglect of any duty prescribed in sections 176 to 202, inclusive, such sealer shall be punished by a fine of \$10.

68 Me. 470.

**Sec. 182. Sealers to give notice and to seal or condemn weights and measures.** R. S. c. 53, § 14. 1933, c. 203, § 3. 1937, c. 97, § 1. The sealers of weights and measures in the several cities and towns shall annually give public notice by advertisement or by posting in one or more public places in their respective cities and towns notices to all inhabitants or persons having usual places of business therein and who use weights or measures, or who use weighing devices, measuring devices, or weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity for the purpose of buying or selling goods, wares, merchandise, or other commodities or for public weighing, or for hire, or reward, to bring them in to be tested. Such sealers shall attend one or more convenient places, and shall seal or condemn such devices in accordance with the result of their test, and shall make a record thereof.

See § 195; 125 Me. 124.

**Sec. 183. Sealers to visit persons who neglect to comply with the law.** R. S. c. 53, § 15. 1933, c. 200, § 4. 1937, c. 97, § 2. After giving said notice, said sealers shall go once a year or oftener, on request of the owner or on complaint, to the stores, houses, places of business, and vehicles of persons not complying therewith, and shall test and seal or condemn in accordance with the result of their tests the weighing or measuring devices, or the devices which register or indicate the price as well as the weight or measure of such persons, provided that when a vehicle tank used in the buying or selling of commodities by liquid measures has once been sealed, it shall not be necessary to seal it again while it remains in the same condition as when first sealed. When a vehicle tank is subdivided into two or more compartments, each compartment, for the purposes of this section, shall be considered as a separate tank.

**Sec. 184. All scales, weights, and measures may be tested any time.** R. S. c. 53, § 17. All persons using any scales, weights, or measures for the purpose of buying or selling any commodity may, when they desire it, have the same tested

and sealed by the sealers of weights and measures at the office of any of said sealers.

**Sec. 185.** If sealer cannot seal any weight, etc., he may mark to show inspection; use of weights, etc., that cannot be adjusted by sealers forbidden; penalty for removal of notice. R. S. c. 53, § 18. In case a sealer of weights and measures cannot seal any weights, measures, and balances in the manner before provided, he may mark them with a stencil, or by other suitable means so as to show that they have been inspected; but he shall in no case seal or mark as correct any weights, measures, or balances which do not conform to the standards. If such weights, measures, or balances can be readily adjusted by such means as he has at hand, he may adjust and seal them; but if they cannot be readily adjusted, he shall affix to such weights, measures, or balances a notice, forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards. Whoever removes said notice, without consent of the officer affixing the same, shall for each offense be punished by a fine of not less than \$10, nor more than \$50.

**Sec. 186.** Sealers to be furnished with appliances for testing weights, etc. R. S. c. 53, § 19. A sealer when visiting the place of business of any person for the purpose of testing any weights, measures, or balances may use for that purpose such weights, measures, or balances as he can conveniently carry with him, and each city and town shall furnish its sealer with one or more duplicate sets of weights, measures, and balances, which shall at all times be kept to conform to the standards furnished by the state, and all weights, measures, and balances so sealed shall be deemed to be legally sealed the same as if tested and sealed with the standard weights, measures, and balances.

**Sec. 187.** False weights and measures may be seized. R. S. c. 53, § 20. A sealer of weights and measures may seize without a warrant such weights, measures, or balances as may be necessary to be used as evidence in cases of violation of the law relating to the sealing of weights and measures, such weights, measures, or balances to be returned to the owners or forfeited as the court may direct.

**Sec. 188.** Proceedings, when complaint is made that incorrect weights, etc., are being used; penalty. R. S. c. 53, § 21. When a complaint is made to a sealer of weights and measures by any person that he has reasonable cause to believe or when such sealer himself has reasonable cause to believe that a weight, measure, or balance used in the sale of any commodity within his city or town is incorrect, the said sealer shall go to the place where such weight, measure, or balance is and shall test the same, and mark it according to the result of the test applied thereto; and if the same is incorrect and cannot be adjusted, the said sealer shall attach a notice thereto, certifying that fact, and forbidding the use thereof until it has been made to conform to the authorized standard. Any person using a weight, measure, or balance after a sealer has demanded permission to test the same, and has been refused such permission, shall be punished by a fine of not less than \$10, nor more than \$100.

**Sec. 189.** How incorrect weights, etc., shall be stamped; penalty. R. S. c. 53, § 22. All weights, measures, and balances that cannot be made to conform to the standard shall be stamped "condemned" or "CD" by the sealer, and no person shall thereafter use the same under the penalties provided in the case of the use of false weights and measures.

Sec. 190. Scales to be sealed before use. R. S. c. 53, § 23. 1933, c. 200, § 5. 1937, c. 97, § 3. No person, firm, or corporation shall use any weights, measures, scales, steelyards, beams, or other weighing or measuring device or balances, or any weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity, except meters for measuring water, gas, or electricity supplied by companies subject to regulation by the public utilities commission, until they are sealed by a public sealer of weights and measures. Whoever violates any of the provisions of this section shall be punished by the penalties provided for in section 192.

68 Me. 470.

Sec. 191. Sales by gross weight. R. S. c. 53, § 24. Such articles as are sold or exchanged in any market or town in the state by gross or avoirdupois weight shall be sold or exchanged as follows: 25 avoirdupois pounds constitute 1 quarter; 4 quarters, 1 hundred; and 20 hundreds, 1 ton; and all other articles, usually sold by tale, shall be sold by decimal hundred.

Sec. 192. Penalty for using false, altered, or condemned scales, weights, measures, etc.; sealer or his deputy may examine commodities sold or offered for sale and test weights and measures. R. S. c. 53, § 25. Whoever by himself, or by his servant, or as the agent or servant of another, shall use or retain in his possession any false scales, weight, or measure, or weighing or measuring device in the buying or selling of any commodity or thing, or whoever, after a weight, measure, scale, balance, or beam has been adjusted and sealed, shall alter it so that it does not conform to the public standard and shall fraudulently make use of it, or whoever shall dispose of any condemned scales, weight, measure, or weighing or measuring device, contrary to law, or remove any tag, stamp, or mark placed thereon by the sealer; or whoever by himself, or by his agent or servant, or as agent or servant of another, shall sell, offer, or expose for sale less than the quantity he represents, or whoever by himself, or by his agent or servant, or as the agent or servant of another, shall sell, offer for sale, or have in his possession for the purpose of selling, any false scales, weight, or measure, or any device or instrument to be used or calculated to falsify any weight or measure, shall be guilty of a misdemeanor and shall for the 1st offense be punished by a fine of not more than \$50; for the 2nd offense by a fine of not less than \$20, nor more than \$200; and for any subsequent offense by a fine of \$50 and by imprisonment for not less than 30 days, nor more than 90 days. The possession or use by any person of any false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure, or other apparatus.

Any person, refusing to exhibit any sales slip, record of sale, or weight slip in his possession, or to allow proper tests for correct weight, measure, or count, or refusing to proceed to a proper and convenient place for the making of any such test, shall be punished by a fine of not more than \$10.

Every sealer of weights and measures, or his duly appointed deputy, who has reasonable cause to believe that a weight, measure, scale, balance, or beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same. A sealer, or his duly appointed deputy, may examine commodities sold or offered for sale and test them for correct weight, measure, or count, and bring complaint for violations of the provisions of sections 176 to 197, inclusive. He, or his duly appointed deputy, may, for the purpose stated above, and in the general performance of

his or their official duties, have access without formal warrant to any stand, place, building, or premises, or to any sales slip, record of sale, or weight slip, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any person for the purpose of making the proper tests.

See § 189.

**Sec. 193. Fees of sealers of weights and measures. R. S. c. 126, § 22. 1933, c. 200, § 8.** The fees of sealers of weights and measures, for testing and adjusting scales, weights and measures by the town standard, to be paid by the persons for whom the service is rendered, are as follows: for testing railroad track scales of 40,000 pounds capacity and upwards, \$4; elevator scales of 20,000 pounds capacity and upwards, \$1.50; platform scales of 5,000 pounds capacity and upward, \$1; dormant scales of less than 5,000 pounds capacity, 50c; dormant beef track scales, 50c; platform scales of less than 5,000 pounds capacity, 50c; beam scales of over 1,000 pounds capacity, 50c; wagon or auto trucks scales, \$2; computing scales, 25c; platform scales of less than 1,000 pounds capacity, 25c; platform counter scales, 25c; counter balance or trip scales, 25c; spring balance scales, 25c; weights, each, 3c; measures, wet and dry, each 3c; yardsticks, each, 5c; coal baskets, each, 10c; milk cans, large size, 5c each; milk cans, small size, 3c each; milk bottles, in lots of 1 gross or less, 1c each, in lots from 1 to 2 gross,  $\frac{3}{4}$ c each, in lots of more than 2 gross and not over 4 gross,  $\frac{1}{2}$ c each, in lots greater than 4 gross,  $\frac{1}{4}$ c each; for testing gasoline pumps of not over 5 gallon capacity, 50c; for testing gasoline pumps of not over 10 gallon capacity, \$1.00; for testing gasoline meters, 50c; for fabric measuring devices, 25c; for testing fuel oil meters, \$1; for testing vehicle tanks, \$1 for 1st 100 gallons or less, and 50c for each additional 100 gallons or fractional part thereof; for testing taxicab meters, \$1; for adjusting weights when either light or heavy, not to exceed 10c each; for adjusting measures, wet or dry, when either large or small, not to exceed 10c each; for adjusting yardsticks, not to exceed 5c each; for sealing gas, electric, and water meters, not to exceed 50c each; for adjusting any weight or measure not mentioned above, a fair and reasonable compensation.

**Sec. 194. Penalty. 1935, c. 93.** Any person, firm, or corporation for whom scales, weights, and measures or any weighing or measuring devices have been tested by a local sealer of weights and measures, who shall neglect or refuse to pay for said services rendered, shall be punished by a fine of \$3 and costs for the first offense, and by a fine of not less than \$10 and costs, nor more than \$20 and costs, for each subsequent offense.

**Sec. 195. Sealer may be paid salary and fees paid into treasury. R. S. c. 53, § 26.** The city government of a city may by ordinance and a town may by by-law provide that the sealer of weights and measures for their city or town shall be paid by a salary, and that he shall account for and pay into the treasury of the city or town the fees received by him by virtue of his office; and where such salary is paid no fees shall be charged for services rendered under the provisions of section 182.

**Sec. 196. Weighers and measurers not to give certificate of weight or measure until qualified; penalty; jurisdiction of courts. R. S. c. 53, § 27.** It shall be unlawful for any weigher of coal, hay, straw, junk, or other articles offered to be weighed, or for any measurer of wood, bark, or charcoal to give a certificate of weight or measure until said weigher or measurer shall have qualified by taking oath for the faithful performance of the duties of his office. Whoever violates

any of the provisions of this section shall be punished by a fine of not less than \$10, nor more than \$25, for each offense. 4

See c. 27, § 41, re pressed hay.

**Sec. 197. Penalty for using weights, etc., which have not been sealed. R. S. c. 53, § 28.** Whoever sells by any other weights, measures, scales, beams, or balances than those which have been sealed as before provided shall forfeit a sum not exceeding \$20 for each offense, and when by the custom of trade such weights, measures, scales, beams, or balances are provided by the buyer, he shall, if he purchases by any other, be subject to a like penalty to be recovered by an action of tort to the use of the complainant.

See c. 27, § 89, re sealing of cans, etc. used for milk or cream.

**Sec. 198. Jurisdiction of courts. R. S. c. 53, § 29. 1933, c. 118, §§ 1, 5.** Trial justices within their county shall have original jurisdiction, concurrent with municipal courts and the superior court, of prosecutions for all offenses against the laws pertaining to weights and measures.

See § 144, re duties of sealers of weights and measures as to charcoal baskets; § 193, re fees of; c. 27, § 89, re annually sealing all measures used for sale of milk.

### Measurers of Salt, Corn, and Grain

**Sec. 199. Appointment and fees of measurers. R. S. c. 53, § 30.** The municipal officers of towns annually may appoint measurers of salt, corn, and grain therein, who shall receive such fees from the purchaser as said officers establish; and in every contract made in the state for the sale of salt by the hogshead, such hogshead shall consist of 8 bushels; and when the buyer or seller requests, salt, corn, or grain bought or sold in places where such measurers live shall be measured by them.

### Standard Weights and Measures

**Sec. 200. Standard weight fixed; penalty. R. S. c. 53, § 31.** The standard weight of a bushel of potatoes is 60 pounds; of apples, 44 pounds; of dried apples, 25 pounds; of wheat, 60 pounds; of corn or rye, 56 pounds; of cracked corn, feed, or meal of any kind except oatmeal, 50 pounds; of barley or buckwheat, 48 pounds; of carrots or English turnips, 50 pounds; of onions, 52 pounds; of rutabaga, turnip, sugar beets, mangel-wurzel, and other beets, 60 pounds; of parsnips, 45 pounds; of beans, 60 pounds; of Lima beans, 56 pounds; of shell beans, 28 pounds; of soy beans, 58 pounds; of scarlet or white runner pole beans, 50 pounds; of string beans, 24 pounds; of Windsor (broad) beans, 47 pounds; of beet greens, dandelions, kale, or spinach, 12 pounds; of parsley, 8 pounds; of peas, 60 pounds; of unshelled green peas, 28 pounds; of wrinkled peas, 56 pounds; of rough rice, 44 pounds; of oats, 32 pounds; of green peanuts, 22 pounds; of roasted peanuts, 20 pounds; of Turk's Island or other coarse grades of salt, 70 pounds; of Liverpool or other fine grades of salt, 60 pounds; of lime, 70 pounds; of hair used in masonry, well dried and cleaned, 11 pounds; of strawberries, raspberries, or blackberries, 40 pounds; of blueberries, 42 pounds; of currants, 40 pounds; of cranberries, 32 pounds; of peaches, 48 pounds; of pears, 58 pounds; of dried peaches, 33 pounds; of sweet potatoes, 54 pounds; of quinces, 48 pounds; of tomatoes, 56 pounds; all to be in good order and fit for shipping or for market; the measure of each of these articles shall be determined as afore-said at the request of the vendor or vendee; and if either party refuses to do so he forfeits 20c for each bushel, to the person prosecuting therefor within 30 days.



The standard weight of a bushel of herd's-grass seed when well cleaned and in good condition is 45 pounds; of clover seed, 60 pounds; of alfalfa seed, 60 pounds; of flaxseed, 56 pounds; of hemp seed, 44 pounds; of Hungarian grass seed, 48 pounds; of orchard grass seed, 14 pounds; of redtop seed, 14 pounds; of sorghum seed, 50 pounds; of timothy seed, 45 pounds; of millet seed, 50 pounds; of Japanese millet seed, 35 pounds; of bran, 20 pounds; of Sea Island cotton seed, 44 pounds; of upland cotton seed, 30 pounds.

The standard weight of a barrel of flour is 196 pounds; of a barrel of potatoes in good order and fit for shipping is 165 pounds; of a barrel of sweet potatoes in like condition, 150 pounds.

**Sec. 201. Sale of fruit, nuts, and vegetables, by measure, regulated; penalty.** R. S. c. 53, § 32. All fruits, nuts, and vegetables, if sold by measure, shall be sold by dry measure, United States standard, and shall be measured by level measure. Baskets or other receptacles holding 1 quart or less which are to be used in the sale of strawberries, blackberries, cherries, currants, blueberries, huckleberries, raspberries, or gooseberries shall be of the capacity of 1 quart, 1 pint, or  $\frac{1}{2}$  pint, United States standard, dry measure. Whoever sells or offers for sale or has in possession with intent to sell, any of the aforesaid fruits in any basket or other receptacle holding 1 quart or less which does not conform to said standard, or conforming to said standard is not level measure, shall be punished by a fine of \$10 for each offense. Said baskets or other receptacles shall not be required to be tested and sealed as provided under the provisions of sections 176 to 202, inclusive, but any sealer or health officer may test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold; and, if the same is found to contain less than the standard measure, or if the quantity of such fruit is otherwise less than as herein provided, he shall seize the same and make complaint against the vendor.

#### Sale of Ice by Weight

**Sec. 202. Sale of ice by weight, when requested; penalty.** R. S. c. 53, § 33. A dealer in ice who on request of the purchaser of ice refuses or neglects to weigh the same when delivered or gives false weight shall for each offense be punished as provided in section 192. Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses on the request of the purchaser of ice to weigh the same when it is delivered, or gives false weight, shall be punished by a fine of not more than \$10.

#### Marks on Syphons, Bottles, and Cans

**Sec. 203. Protection of marks on containers used for soda-water and similar beverages.** R. S. c. 49, § 38. All persons or corporations engaged in the manufacture or sale of soda-water, mineral, and aerated waters, ginger ale, small beer, spruce beer, white beer, or other similar beverages, in syphons, boxes, cans, bottles, kegs, or other vessels, with their names or other marks or devices branded, stamped, engraved, etched, blown, impressed, or otherwise produced upon such syphons, boxes, cans, bottles, kegs, or anything connected therewith and appertaining thereto, may file in the office of the town or city clerk in which their principal place of business is situated, a description of the names and marks aforesaid used by them, and cause the same to be published once a week for 3 successive weeks, in any newspaper published in the county in which said notice may have been filed as aforesaid.

Sec. 204. Unlawful use, or defacing of containers marked as provided in §§ 165 and 203; penalty. R. S. c. 49, § 39. Whoever knowingly and wilfully, without the written consent of an owner who has complied with the provisions of the preceding section or of section 165, uses, buys, sells, fills, or traffics in any such syphon, box, can, bottle, keg, or other vessel, or any such can of a capacity of not less than 5 gallons, used in the sale of kerosene, refined petroleum, gasoline, or other burning or illuminating oils or fluids, so marked as aforesaid, or defaces, covers up, or obliterates the names, marks, or devices thereon with intent to use, fill, buy, sell, dispose of, or traffic therein, or to convert the same to his own use, shall, on complaint, be punished by imprisonment for not more than 30 days, or by a fine of not more than \$20, and 50c additional for each such syphon, box, can, bottle, keg, or other vessel or such can of a capacity of not less than 5 gallons, so used, bought, sold, filled, trafficked in, or disposed of, or by both such imprisonment and fine; and the said magistrate on finding such person or persons guilty shall award possession of the property taken to the owner thereof.

See §§ 168, 169.

Sec. 205. Search warrant may issue to search for such containers. R. S. c. 49, § 40. Whenever any person in his own behalf or in behalf of any corporation shall make complaint on oath to any magistrate or court authorized to issue warrants in criminal cases, that he has reason to believe and does believe that any of his or said corporation's syphons, boxes, cans, bottles, kegs, or other vessels, or any of his or said corporation's cans of a capacity of not less than 5 gallons, used in the sale of kerosene, refined petroleum, gasoline, or other burning or illuminating oils or fluids, a description of the names, marks, or devices whereon has been so filed and published as aforesaid, are being unlawfully used, filled, bought, sold, disposed of, or trafficked in, or unlawfully had by any person or corporation, manufacturing or selling said beverages, oils, fluids, or liquids, or by any junk dealer or dealer in second-hand articles, or by any vendor of such syphons, boxes, cans, bottles, kegs, or other vessels, or cans of a capacity of not less than 5 gallons, used for the purposes aforesaid, the said magistrate shall thereupon issue a search warrant to search therefor.

### Old Home Week

Sec. 206. Old Home Week. R. S. c. 5, § 53. The week commencing with the 2nd Sunday in August of each year, or any week a town may designate at its annual town meeting, is hereby designated and set apart as old home week.

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## CHAPTER 89.

### PLANTATIONS.

Sec. 1. Census of larger unincorporated townships, duty of county commissioners respecting. R. S. c. 5, § 192. Commissioners of counties containing unincorporated townships shall, at the expiration of every period of 5 years from March, 1861, determine from the United States census, when taken the preceding year, and by actual enumeration when not so taken, what townships