

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Sec. 7-A. Permits for foreign co-promoters.—No foreign co-promoter, meaning a promoter who has no place of business within the state of Maine, shall directly or indirectly participate in the promotion of or receive any remuneration from or render any services in connection with any such boxing contest or exhibition held within the state of Maine unless he first shall have been granted a permit by the commission. No promoter shall be associated with any foreign co-promoter in promoting any boxing contest or exhibition unless the foreign co-promoter has first secured a permit. Such permit shall expire one year from date of issue and the fee therefor shall be fixed by the commission at a figure between \$10 and \$100, depending upon the probable income of the applicant for a permit to be derived from the conducting of such boxing contests and exhibitions.

A foreign co-promoter by accepting a permit agrees to be subject to all the provisions of this chapter and the rules and regulations promulgated thereunder.

Any foreign co-promoter who violates any provision of this chapter or any rule and regulation promulgated thereunder shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10 nor more than \$1,000, or by imprisonment for not more than one year, or by both. (1957, c. 40, § 2.)

Sec. 9. Repealed by Public Laws 1961, c. 394, § 56.

Sec. 11. Tax.—The promoter or promoters of all boxing contests or exhibitions held under the provisions of this chapter shall pay to the treasurer of state, for credit to the general fund, a tax of 3% of the gross receipts from such contest or exhibition. This tax shall have been paid to the treasurer of state by the last day of the month following the month in which such contest or exhibition is held. Upon failure to pay such tax to the treasurer of state, such promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty shall be recovered by a civil action brought in the name of the said commission, and the said penalty is recovered shall be paid to the treasurer of state to be credited to the general fund. On the failure of any promoter or promoters to pay such a tax, the commission shall revoke the promoter's license. (R. S. c. 78, § 11. 1945, c. 297, § 29. 1953, c. 244, § 6. 1961, c. 317, § 214.)

Effect of amendment.—The 1961 amendment on the case" in the third sentence of this section.

Sec. 12. Decisions. — In all boxing contests or exhibitions conducted under the provisions of this chapter, there may be a decision as to the winner by 2 judges and the referee, or by 3 judges, licensed under the provisions of this chapter. (R. S. c. 78, § 12. 1953, c. 244, § 7. 1957, c. 40, § 3.)

Effect of amendment. — The 1957 amendment inserted the words "or by three judges" in this section.

Chapter 89.

County Officers.

County Commissioners.

Sections 71-A to 71-C. Fire Protection and Public Services for Townships.
Sections 89 to 94-A. Meridian Lines and Standards of Length.

County Attorneys.

Sections 112 to 125-C. Elections, Salaries, Powers, Duties, etc.

Sheriffs and Their Deputies.

Sections 142 to 173-A. Election, Powers, Duties, Salaries, Fees, etc.

County Offices.

Sections 254 to 255. Salaries of Officers and Clerk Hire.

Section 258. Fees in Penobscot County.

Section 259. Fees in Kennebec County.

Salary Increases.

Section 260. Salary Increases.

County Commissioners.

Election and Tenure of Office. Salaries.

Sec. 2. Vacancies at expiration of term.—Vacancies to occur by expiration of the term of office at the end of any year in which a biennial election is held shall be filled by election on the Tuesday following the first Monday of November in such year. The terms of office for a county commissioner shall be 6 years, except when one is elected to fill out an unexpired term when it shall be for the remainder of the unexpired term. Where but one county commissioner is so to be elected, the nomination papers and official ballot shall specify simply the office of county commissioner. When, however, two or more county commissioners are so to be elected, the nomination papers and ballots shall by apt words designate the respective terms for which they are to be nominated or elected. (R. S. c. 79, § 2. 1959, c. 204, § 29.)

Effect of amendment.—The 1959 amendment substituted in the first sentence “Tuesday following the first Monday of November” for “2nd Monday of September.”

Sec. 3. Vacancies happening otherwise.—When no choice is effected or a vacancy happens in the office of county commissioner by death, resignation, removal from the county or for any other reason, the governor with the advice and consent of the council shall appoint a person to fill the vacancy, who shall hold office until the first day of January after another has been chosen to fill the place. (R. S. c. 79, § 3. 1963, c. 210, § 1.)

Effect of amendment.—The 1963 amendment added “or for any other reason” preceding “the governor.”

Sec. 5. Mode of election. — County commissioners shall be elected on the Tuesday following the first Monday of November in each even-numbered year by the written votes of electors qualified to vote for representatives. The votes shall be received, sorted, counted and declared as votes for representatives are: The names of the persons voted for, the number of votes for each and the whole number of ballots received shall be recorded by the clerk in the town records, and true copies thereof, sealed and attested as returns of votes for senators, shall be transmitted to the secretary of state. (R. S. c. 79, § 5. 1959, c. 204, § 30. 1963, c. 414, § 92.)

Effect of amendments. — The 1959 amendment substituted in the first sentence “Tuesday following the first Monday of November” for “2nd Monday of September.”

The 1963 amendment deleted “within 30 days” formerly appearing at the end of the section.

Sec. 6. Salaries. — The county commissioners in the several counties shall receive annual salaries as set forth in section 254 from the treasurer of the counties in monthly, semi-annual or annual payments, as determined by the county com-

missioners. If such payments are made monthly, they shall be made on the last day of each month; if semiannually, they shall be made on the last day of June and the last day of December; if annually, they shall be made on the last day of December.

Said salaries shall be in full for all services, expenses and travel to and from the county seat, including the management of the jails and workshops and the sale of their products, except that when outside of the county seat on official business, including public hearings, inspection and supervising construction, snow removal and maintenance of roads in unincorporated townships in their respective counties, they shall be allowed all necessary traveling and hotel expenses connected therewith. All bills for such expenses shall be approved by the clerk of courts and the county attorney of their county and paid by the treasurer of said county; and with the further exception of such expenses as are provided for in section 33. (R. S. c. 79, § 6. 1945, c. 167, § 1; c. 186; c. 280, § 1. 1947, c. 154, § 1; c. 157, § 1; cc. 201, 295. 1949, c. 214, § 1; c. 308, § 1. 1951, c. 246; c. 311, § 1; c. 312, § 1; c. 313, § 1; c. 326, § 1. 1953, c. 102, §§ 1, 2; c. 135, § 1; c. 142, § 1; c. 179, § 1; c. 216, § 1; c. 269, § 1; c. 276, § 1; c. 278, § 1. 1955, c. 270; c. 319, § 1; c. 445, § 1; c. 459, § 1; c. 470, § 1. 1957, c. 416, §§ 1, 10, 18, 23, 31, 49, 55, 65; c. 429, § 77. 1959, c. 372, § 1. 1963, c. 80.)

Effect of amendments.—Prior to the 1959 amendment, the salaries were set out in this section. The amendment also divided the last paragraph into two sentences.

The 1955 and 1957 amendments all related to particular salaries.

The 1963 amendment added the portion of the first paragraph that follows the figure "254."

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such sal-

aries as established by the Revised Statutes of 1954, Chapter 89, section 254, as amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the Counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

Effective date.—Chapter 429, P. L. 1957, amending this section became effective on its approval, October 31, 1957.

General Powers and Duties.

Sec. 12. Duties.—The county commissioners shall make the county estimates and cause the taxes to be assessed. All assessments under this chapter made by the county commissioners which include sums assessed for an illegal object shall not be void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county commissioners void so much of the assessment as is assessed for legal purposes. Any person paying such tax may bring a civil action against the county in the superior court for the same county and shall recover so much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which he has sustained by reason of the mistakes, errors or omissions of such commissioners. They shall also examine, allow and settle accounts of the receipts and expenditures of the moneys of the county; represent it; have the care of its property and management of its business; by an order recorded, appoint an agent to convey its real estate; lay out, alter or discontinue ways; keep their books and accounts on such forms and in such manner as shall be approved by the state department of audit; and perform all other duties required by law. (R. S. c. 79, § 1. 1945, c. 41, § 31. 1961, c. 317, § 215.)

Effect of amendment.—The 1961 amendment divided the former second sentence of this section into two sentences, deleted “the provisions of” preceding “this chap-

ter” in the present second sentence and substituted “a civil action” for “an action of debt” in the present third sentence.

Sec. 13. Annual estimates for county taxes; Androscoggin and York counties.

Such estimates shall be drawn so as to authorize the appropriation to be made to each department or agency of the county government for each year of the biennium. Such estimates shall provide specific amounts for personal services, contractual services, commodities and capital expenditures. Whenever any specific appropriation of a department or agency of the county government shall prove insufficient to pay the expenditures required for the statutory purposes for which such appropriation was made, the county commissioners, at the request of such department or agency, may transfer from any other specific appropriation of such department or agency such amount as may be deemed necessary to meet such expenditure. This paragraph shall apply to Androscoggin county and York county only. (R. S. c. 79, § 13. 1951, c. 80. 1953, c. 379. 1963, c. 211, § 1.)

Effect of amendment.—The 1963 amendment deleted “The provisions of” at the beginning of the last sentence and added “and York county” therein.

As the first paragraph was not affected by the amendment, it is not set out.

Effective date.—Section 2 of c. 211, P. L. 1963, provides that the act as it applies to York county shall become effective for the calendar years 1965 and 1966 and thereafter.

Sec. 15. County tax apportioned; warrants.—When a county tax is authorized, the county commissioners shall, in March in the year for which such tax is granted, apportion it upon the towns and other places according to the last state valuation and fix the time for the payment of the same, which shall not be earlier than the first day of the following September. They may add such sum above the sum so authorized, not exceeding 2% of said sum, as a fractional division renders convenient and certify that fact in the record of said apportionment, and issue their warrant to the assessors requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection, and the county treasurer shall immediately certify the millage rate to the state tax assessor. (R. S. c. 79, § 15. 1963, c. 344, § 3.)

Effect of amendment.—The 1963 amendment added “and the county treasurer shall immediately certify the millage rate

to the state tax assessor” at the end of the section.

Sec. 15-A. County audit.—Every county shall have an audit made of its accounts annually covering the last complete fiscal year by either the state department of audit or by qualified public accountants, recognized as competent auditors by their training and experience. Choice of such auditor may be made by the county commissioners.

The audit shall be performed in accordance with generally accepted auditing standards and procedures pertaining to governmental accounting, and in case of dissatisfaction with the audit made by others than the state department of audit, upon petition by the municipal officers of three or more municipalities, the state department of audit shall make another audit, and the parties making such audits shall have access to all necessary papers, books and records.

Upon completion of an audit, the auditor shall render a report to the county commissioners and a certified copy thereof to the state auditor, embodying the results of his findings with such suggestions as he may deem advisable for the proper administration of the county, and he shall also render to the state department of audit a certified copy of an audit procedural form as prescribed by the state department of audit for governmental audits. (1955, c. 269.)

Sec. 15-B. Androscoggin county contingent account.—There is hereby established a contingent account for Androscoggin county. The county commissioners of Androscoggin county, after public hearing, may allocate from such contingent account amounts not to exceed in total the sum of \$15,000 in any fiscal year. Such allocations may be made to meet any expense necessarily incurred under any requirement of law. Said county commissioners shall determine the necessity for such allocations. At the close of each fiscal year there shall be transferred from county funds an amount sufficient to restore the county contingent account to \$15,000. (1955, c. 293.)

Sec. 15-C. Capital reserve accounts.—Section 18 and subsections I and II of section 17 of chapter 90-A, which contain the capital reserve account provisions for municipalities, apply equally to counties. The county commissioners have the powers and duties of municipal officers. (1957, c. 405, § 12.)

Sec. 15-D. Insurance for firemen.—Any county may expend county funds to be accounted for as other moneys of the county for the purchase of accident and disability insurance on a county-wide basis, protecting all persons, whether voluntary or full time, and whether paid or unpaid, while acting as firemen for any fire department within the county, whether such fire department be a municipal or an independent department. (1963, c. 90.)

Effective date.—The 1963 act adding this section became effective on its approval, March 21, 1963.

Sec. 16. Advertising or promoting appropriation.—Any county may expend not exceeding the sum of \$5,000 annually under the direction of the county commissioners, to be accounted for as other moneys of the county, for advertising or promoting the natural resources, advantages and attractions of such county. (1945, c. 238. 1947, c. 215. 1949, c. 349, § 113. 1959, c. 166.)

Effect of amendment.—The 1959 amendment added "or promoting" near the end of the section.

Sec. 16-A. Washington county economic advisory committee.—There shall be a Washington county economic advisory committee consisting of 7 members, one each to be appointed by the governor from and on the recommendation of the following organizations: Washington county commissioners, Washington county development authority, Washington county chamber of commerce, Washington county rural area development committee, Washington county agricultural extension service and 2 who shall be citizens and residents of Washington county. Each member shall serve for 2 years, or until his successor is duly appointed and qualified. Vacancies shall be filled for the unexpired term. The members of the committee shall serve without compensation. The governor shall select one of the citizen members as chairman. The member appointed from the Washington county agricultural extension service shall serve as secretary. The committee shall work with the county commissioners and economic development agents of Washington county and the commissioner of economic development, and advise them on any and all matters pertaining to the economic and industrial development policy of Washington county. (1961, c. 412, § 1.)

Editor's Note.—Chapter 412, P. L. 1961, effective on its approval, December 1, 1961, repealed former § 16-A and enacted the present section in place thereof. The former section, which derived from P. L. 1961, c. 314, authorized the state department of economic development to assign personnel to Washington county to aid in planning its industrial growth and development and provided for payment of the expenses and salary of such personnel.

Sec. 16-B. Washington county economic development agents.—The county commissioners of Washington county are authorized to select and employ,

subject to the approval of the Washington county economic advisory committee and the commissioner of economic development, economic development agents to aid in planning of the county's economic growth and development. The county commissioners shall fix the salaries of said agents; the terms of said agents not to exceed 2 years. Said agents shall be under the joint supervision of the county commissioners and the commissioner of economic development. The expenses and salaries of such persons shall be paid for by county funds but shall not exceed \$12,500 annually. (1961, c. 412, § 2.)

Effective date.—The 1961 act adding this section became effective on its approval, December 1, 1961.

Sec. 16-C. Buildings for education of retarded children.—The county commissioners may expend county funds for construction or acquisition of buildings for educational programs for retarded children operated with approval of the state department of education and receiving state subsidies therefor. If the buildings for which county funds have been expended under this section shall not be used for the operation of such programs, the buildings shall revert to the county. Nothing contained in this section shall be construed to authorize counties to operate such programs. This section shall apply to Oxford county only. (1963, c. 154.)

Effective date.—The 1963 act adding this section became effective on its approval, April 2, 1963.

Sec. 17. Repealed by Public Laws 1957, c. 397, § 42.

Sec. 18. Courthouses, temporary courtrooms, jails and rooms for records and papers of county officers; acquired land; files and records; parking areas.—The county commissioners shall, in the shire town of their county, provide and keep in repair courthouses with a suitable room in each for the county law library; fireproof buildings of brick or stone for the safe-keeping of records and papers belonging to the offices of registers of deeds, and of probate and insolvency, and of the clerk of courts, with separate fireproof rooms, and suitable alcoves, cases or boxes for each office, and any other necessary buildings. The county commissioners may, in their respective shire towns, provide jails with apartments for debtors separate from criminals, and shall keep such jails in proper repair. They may also in any town in which a nisi prius term of the superior court is held contribute such amount as in their judgment seems proper to the repair and upkeep of any room used for the holding of such term of court and acquire land by purchase or by condemnation proceedings for the enlargement of the grounds around county buildings; such condemnation proceedings shall be in conformity with the provisions of sections 35 to 42, inclusive. If in the judgment of the county commissioners public convenience so requires, they may, at the expense of the county, cause the files and records of the probate and other county courts to be rearranged, indexed and docketed, the dockets which are worn or defaced to be renewed and the indexes to be consolidated under the direction of their respective registers and clerks of said courts. Said county commissioners may lay out parking areas on county lands presently owned by a county near county buildings, and may enact ordinances and enforce them by suitable penalties for the reasonable use of such areas. (R. S. c. 79, § 16. 1945, c. 268. 1959, c. 138. 1961, c. 18, §§ 1, 2.)

Effect of amendments. — The 1959 amendment added the last sentence in the section.

The 1961 amendment eliminated "jails, with apartments for debtors separate from

criminals; and" following the semicolon in the first sentence, eliminated "also" following the last "and" in that sentence and added the present second sentence.

Sec. 18-A. Destruction of county records.—The old records of any county department which in the opinion of the head of such department are no longer of value to the county may be destroyed upon approval in writing of the county commissioners, the county attorney, the executive committee of the county bar association and the state librarian; but not otherwise. If any old record appears to have sufficient value, approval to destroy shall be withheld until said old record has been copied at the expense of the county by any photostatic, photographic, microfilm or other process which produces a clear, accurate and permanent copy or reproduction thereof and satisfactory provision is made for the permanent storing of such copies or reproduction in fireproof containers. (1955, c. 170.)

Sec. 19. Saturday closing.—County offices may in the discretion of the county commissioners of each county be closed in part or in whole on Saturdays. (1953, c. 388. 1955, c. 236. 1957, c. 291.)

Effect of amendments. — The 1955 amendment, which became effective on its approval, April 19, 1955, deleted the words "except that of the clerk of courts" after the word "offices" near the beginning of the section.

The 1957 amendment inserted the words "in part or in whole" in this section and deleted the words "in the months of June, July, August and September" which formerly appeared after the word "Saturdays".

Sec. 28-A. Payment of costs upon change of venue in criminal cases.—Whenever a criminal case has been transferred for trial from one county to another, the county commissioners of the county from which the case has been removed are authorized and shall pay to the other county all costs of court incurred by the trial. (1961, c. 233.)

Sec. 29. Loans.—The county commissioners may obtain loans of money for the use of their county and cause notes or obligations, with coupons for lawful interest, to be issued for payment thereof at such times as they deem expedient; but such loans shall not exceed \$10,000, except in Franklin county and in Washington county as provided in section 29-B, without first obtaining the consent of the county, substantially as provided in section 27. (R. S. c. 79, § 26. 1957, c. 442, § 1. 1963, c. 416, § 1.)

Effect of amendments. — The 1957 amendment added "except in Franklin county."

The 1963 amendment added "and in Washington county as provided in section

29-B."

Effective date of 1957 amendment.—The 1957 act amending this section became effective on its approval, January 16, 1958.

Sec. 29-A. Loans by Franklin county. — The county commissioners of Franklin county may obtain loans of money for the use of Franklin county, not to exceed \$50,000, and cause notes or obligations, with coupons for lawful interest, to be issued for payment thereof at such times as they deem expedient. Any loans of money in excess of the sum of \$10,000 shall be incurred only for the purpose of building, rebuilding, altering or otherwise improving county owned real estate and personal property contained therein. (1957, c. 442, § 2.)

Effective date.—The 1957 act adding this section became effective on its approval, January 16, 1958.

Sec. 29-B. Loans by Washington county.—The county commissioners of Washington county may obtain a loan of money for the use of Washington county, without first obtaining the consent of the county, not to exceed the principal sum of \$50,000, to be paid within 10 years from the date said sum is borrowed, and they are hereby authorized to issue and sell notes or other obligations with interest at such rate and upon such other and further terms as the county

commissioners may determine. The proceeds from said loan shall be used solely for the purpose of payment of bank loans outstanding on April 1, 1963. (1963, c. 416, § 2.)

Sec. 30. Temporary loans.—The county commissioners of Cumberland, Washington and Kennebec counties may, without obtaining the consent of their respective counties, raise, by temporary loan to be paid within 1 year from the time when the same is contracted out of money raised during the current year by taxes, sums not exceeding \$500,000, \$75,000 and \$100,000, respectively, in any year for use of their respective counties and cause notes or obligations of their respective counties with coupons for lawful interest to be issued for payment thereof as aforesaid. The county commissioners of each and every other county may without obtaining the consent of their county raise by temporary loans to be paid within 1 year from the time when the same is contracted out of money raised during the current year by taxes not exceeding 1/5 of 1% of the assessed valuation of their respective counties. (R. S. c. 79, § 27. 1951, c. 380. 1955, c. 438. 1959, c. 296. 1961, c. 77.)

Effect of amendments.—The 1955 amendment substituted in the first sentence “\$400,000” for “\$250,000” and the 1959 amendment substituted “\$100,000” for

“\$50,000” in that sentence.

The 1961 amendment substituted “\$500,000” for “\$400,000” in the first sentence.

Sec. 30-A. Surplus funds.—The county commissioners of any county may authorize the transfer of an amount from unencumbered surplus funds at the end of any fiscal year for the purpose of reducing the tax levy in the ensuing year or to supplement estimated revenues for the same purpose. (1955, c. 262. 1959, c. 172.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 30-B. Bonds. — A county having occasion to issue bonds may make them payable in installments extending over a period of not more than 50 years. (1957, c. 405, § 13.)

Sec. 31. Warrants of distress; actions.—Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within 2 years after judgment and made returnable to the clerk's office within 90 days from their date. New warrants may be issued within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied. No warrant shall be originally issued against a town until 20 days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages shall be included and collected by such warrants as in executions. A party, for whose benefit a judgment is rendered by them, may recover the amount in a civil action founded on such judgment. (R. S. c. 79, § 28. 1961, c. 317, § 216.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt” in the last sentence of this section.

Sec. 31-A. Property taken for debt due from county.—The personal property of the residents and the real estate within the boundaries of a county may be taken to pay any debt due from the county. The owner of property so taken may recover from the county under section 32 of chapter 118. (1957, c. 405, § 14.)

Ways.

Sec. 38. Proceedings before county commissioners; returns; durable monuments erected.

I. GENERAL CONSIDERATION.

Cited in *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

Sec. 39. Return filed; appeal.—The return of the commissioners, made at their next regular statute session after the hearing provided for in the preceding section, shall be placed on file and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regular term of record, and at any time on or before the 3rd day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under the provisions of sections 35 to 47, inclusive, paid out of the county treasury except as provided in section 45. If an appeal from the location be taken in accordance with section 59, then notice of appeal on damages may be filed with the clerk of the county commissioners within 60 days after the final decision of the appellate court in favor of such way as has been certified to him, to the superior court in the county where the land is situated, which court shall determine the same in the same manner as is provided in section 42, when no appeal on location is taken. (R. S. c. 79, § 36. 1959, c. 317, § 37.)

Effect of amendment.—The 1959 amendment eliminated “first held” which formerly followed “superior court” in the last sentence and eliminated “more than 30 days after such notice of appeal is filed” formerly appearing before the words “which court” in the same sentence.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: “This shall become effective December 1, 1959. It shall apply to all actions brought

after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail.”

Cited in *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

Sec. 41. Damages; estimated; awarded; paid.

Cited in *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

Sec. 42. Appeal.—Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time within 30 days after the commissioners’ return is made, to the superior court, in the county where the land is situated, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and shall include in the complaint a statement setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record and order the damages therein recovered to be paid as provided in section 41. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. (R. S. c. 79, § 39. 1959, c. 317, § 38.)

Effect of amendment.—The 1959 amendment substituted in the first sentence “within 30 days after” for “before the 3rd day of the regular term succeeding that at which”,

changed the former phrase “the term of the superior court first held” to “the superior court” and eliminated “more than 30 days after the expiration of the time

within which such appeal may be taken, excluding the 1st day of its session" formerly appearing after the words "is situated" in such sentence. The amendment also substituted "shall include in the complaint a statement" for "at the 1st term of the court shall file a complaint" in the second sentence.

Effective date of 1959 amendment.—See note to § 39.

When service of complaint without sanction of court order is effective.—The

service of a complaint in accordance with this section, but without the sanction of any court order, is effectual when the respondent appears generally and the court has jurisdiction over the subject matter of that category of cases to which the controversy belongs, with the power and authority to compel respondent's attendance. *Howard v. Saco*, 153 Me. 252, 153 A. (2d) 124.

Cited in *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

Sec. 42-A. Discontinuance of portions of county roads when reconstructed.—When the state highway department has constructed a highway over substantially the same route as that of a county road and has recorded the plans of same in the registry of deeds, the county commissioners may, on their own motion, after notice and hearing, proceed to alter or discontinue the portion of said county road not within the limits of said highway. They shall give notice and proceed as provided in sections 36, 38, 39, 40, 41 and 42, including serving any public utility having facilities located in said portion to be discontinued, and any aggrieved person shall have an appeal as therein provided. The plans prepared by the state highway department and on record in the registry of deeds may be referred to in describing those portions of the county road to be discontinued. (1959, c. 136.)

Sec. 43. Removing growth and opening way.—The owners of land taken under sections 35 to 42-A shall be allowed not exceeding one year after the proceedings regarding the location are finally closed to take off timber, wood or any erection thereon. A time not exceeding 2 years shall be allowed for making and opening the way. (R. S. c. 79, § 40. 1959, c. 378, § 58.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "sections 35 to 42-A" for "the provisions of the preceding 8 sections".

Sec. 52. Record location of highway when lost or disregarded by agent; proceedings to stop work.—When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto or said agent is not making said highway according to the record location, the municipal officers or town agent may file a complaint in the superior court setting forth the facts and praying an injunction to stay the proceedings of said road agent. The court shall issue a summary notice to said road agent to appear before him to answer said complaint and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable. Subsequent proceedings on the complaint shall be similar to proceedings in other civil actions in which equitable relief is sought. (R. S. c. 79, § 49. 1961, c. 317, § 217.)

Effect of amendment.—The 1961 amendment rewrote this section, which formerly consisted of one sentence.

Sec. 54. Damages.—A person entitled to receive payment of damages or costs may, after 30 days from demand on the treasurer of the county or town or on the party liable therefor, recover them in a civil action. (R. S. c. 79, § 51. 1961, c. 317, § 218.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" at the end of this section.

Sec. 56. Appeal; appointment of committee; duties; report. — Any party interested in such decision under section 55 may appeal therefrom to the superior court in said county within 30 days. All further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. If no person appears to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appellant appears, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court shall appoint another in his place and they shall cause notice to be given of the time and place of hearing before them by publication thereof in the state paper for 6 successive weeks, the last publication to be 14 days at least before the day of hearing, and personal notice to the appellant and to the chairman of the county commissioners, 30 days at least before the time set for hearing. They shall view the route, hear the parties and make their report to the court within 60 days or such further time as the court allows after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. If the judgment of the commissioners in favor of laying out, grading or altering a way as prayed for is wholly reversed on appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party to be paid out of the county treasury. The committee shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed to the prevailing party and the fees of the committee shall be collected as provided in section 37. (R. S. c. 79, § 53. 1949, c. 349, § 114. 1959, c. 317, § 39.)

Effect of amendment.—The 1959 amendment eliminated “the provisions of” formerly appearing before “section 55” in the first sentence and substituted “within 30 days” for “to be entered at the term thereof first held after such decision” at the end of that sentence, eliminated “at that term” following the word “appears” in the third sentence, and substituted “appellant appears” for “appeal is then entered, not

afterwards” near the beginning of the present fourth sentence. The amendment also divided the former fourth sentence into two sentences and substituted “to the court within 60 days or such further time as the court allows” for “at the next or 2nd term of the court” in the present fifth sentence.

Effective date of 1959 amendment.—See note to § 39.

Sec. 58. Highways laid out, altered or discontinued on same petition; appeal. — County commissioners in their counties may, upon the same petition, lay out, alter or discontinue highways through a town or towns or a plantation or plantations and tracts of land not in any town or plantation; and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section 55. In case of an appeal to the superior court, the appeal may be made within 30 days after the return of the commissioners has been placed on the files. The proceedings upon the appeal shall be according to section 56. If no appeal

is made, the case shall be continued to the next regular term after the regular term to which the return is made. (R. S. c. 79, § 55. 1959, c. 317, § 40.)

Effect of amendment.—The 1959 amendment divided the former second sentence into three sentences, eliminated “the provisions of” preceding “section 55” in the present second sentence, substituted “within 30 days” for “at any time” and eliminated “and before the next term of said

court in the county” at the end of the present third sentence, and eliminated “the provisions of” preceding “section 56” in the present fourth sentence.

Effective date of 1959 amendment.—See note to § 39.

Sec. 59. Petition for laying out highway; appeal; stay of proceedings.—Parties interested may appear, jointly or severally, at the time of hearing before the commissioners on a petition for laying out, altering, grading or discontinuing a highway. Any such party may appeal from their decision thereon within 30 days after it has been placed on file to the superior court in said county, which appeal may be prosecuted by him or by any other party who so appeared. All further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. (R. S. c. 79, § 56. 1959, c. 317, § 41.)

Effect of amendment.—The 1959 amendment divided the former first sentence into two sentences and substituted “within 30 days” for “at any time”, and “to the superior court in said county, which appeal may be” for “and before the next term of

the superior court in said county, at which term such appeal may be entered and” in the present second sentence.

Effective date of 1959 amendment.—See note to § 39.

Sec. 60. Proceedings on appeal.—If no person appears to prosecute the appeal provided for in section 59, the judgment of the commissioners may be affirmed. If the appellant appears, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court may appoint some suitable person in his place. They shall give such notice as the court has ordered, view the route, hear the parties and make their report to the court within 60 days or such further time as the court allows after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners. (R. S. c. 79, § 57. 1959, c. 317, § 42.)

I. GENERAL CONSIDERATION.

Effect of amendment.—The 1959 amendment eliminated “at that term” following “appears” in the first sentence, divided the former second sentence into two sentences, substituted “appellant appears” for “appeal is then entered, not afterwards” in the present second sentence and substituted

“to the court within 60 days or such further time as the court allows” for “at the next or 2nd term of the court” in the last sentence.

Effective date of 1959 amendment.—See note to § 39.

Stated in *Hughes v. Black*, 156 Me. 69, 160 A. (2d) 113.

Sec. 63. Assessment on lands for opening roads in unorganized territory; lien; part of expense on county; appeal; agent to superintend building of road.—When a road is laid over lands under the provisions of section 55, the county commissioners shall at their first regular session thereafter assess thereon and on adjoining townships benefited thereby, such an amount as they judge necessary for making, opening and paying expenses attending it; and such assessment shall create a lien thereon for the payment thereof; and they may make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and may assess upon each a sum proportional to the value thereof and the benefits likely to result to the same by the establishment of the road; when such assessment would be unreasonably burdensome to such owners, they shall assess an equitable sum on the county and the balance only on such land. Any person aggrieved by an assessment may ap-

peal to the superior court within 30 days. The presiding justice shall, on hearing the case, determine what part of said assessment shall be paid by the owners of the tract or township, and what part, if any, by the county, and there shall be no appeal from such decision. They shall, at the same time, fix the time for making and opening such road, not exceeding 2 years from the date of the assessment, and appoint an agent or agents, not members of their board, to superintend the same, who shall give bond to the treasurer of the county, with sureties approved by them, to expend the money faithfully and to render account thereof on demand; and they shall publish a list of the townships and tracts of land so assessed, with the sum assessed on each, and the time in which the road is to be made and opened, in the state paper, and in some paper, if any, printed in the county where the lands lie, 3 weeks successively, the last publication to be within 3 months from the date of the assessment. (R. S. c. 79, § 60. 1959, c. 317, § 43.)

Effect of amendment.—The 1959 amendment divided the former second sentence into two sentences, substituted “within 30 days” for “at the term thereof first held after such assessment; and the” at the end

of the present second sentence and substituted “justice” for “judge at that term” in what is now the third sentence.

Effective date of 1959 amendment.—See note to § 39.

Sec. 65. Roads in unorganized territory and deorganized towns inspected; assessments for repairs; agent to superintend repairs.—Such county commissioners in September or October annually, by one or more of their board, shall make an inspection of all county roads, state and state aid highways and other roads originally located as town roads in the unorganized territory, deorganized towns and tracts of land in their counties and shall thereupon make an estimate of the amount needed for repairs, cutting bushes, maintenance, snow removal and improvements, so as to comply with the provisions of the state highway laws, and to otherwise make them safe and convenient for public travel for the following year and assess thereon not exceeding 3% of the valuation thereof, and shall assess on the county the balance of such amount if such amount of 3% is not sufficient to properly comply with the above requirements. Such assessments shall be made upon the total valuation of each unorganized township, deorganized town and lot or parcel of land not included in any township, according to the last state valuation, and shall not exceed 3% of the value thereof on the landowners. Such county commissioners shall cause so much thereof, as they deem necessary for the purpose aforesaid, to be expended on said roads within 5 years from the date of assessment, which assessment shall create a lien thereon for the payment thereof. They shall make such assessment not later than April 1st of the following year and lists containing the road repair tax millage rate and the total amount of such tax assessed upon each unorganized township, deorganized town and lot or parcel of land not included in any township, according to the last state valuation, shall immediately be certified and transmitted by the county treasurer to the state tax assessor. The state tax assessor shall determine the amount of tax due, in accordance with the provisions of section 79 of chapter 16, and shall include such amounts in the statements referred to in section 82 of chapter 16. Collection of such road repair taxes shall be enforced in the same manner as provided for the enforcement of collection of county taxes. The county commissioners at the time the taxes provided for by this section are assessed may appoint an agent or agents, skilled in road building, not members of their board, to superintend the expenditure thereof, who shall give bonds as provided in section 63. (R. S. c. 79, § 62. 1945, c. 41, § 32; c. 111; c. 378, § 64. 1951, c. 144. 1953, c. 156, § 7. 1957, c. 227.)

Effect of amendment.—The 1957 amendment made the necessary changes in wording to replace the former first sentence with the present first three sentences, substituted “unorganized territory,

deorganized towns” for “unincorporated townships” and increased the percentage mentioned from 2% to 3% in the present first sentence, inserted the words “deorganized town” and increased the per-

centage from 2% to 3% in the present the former last sentence which related to second sentence, inserted "deorganized assessments in deorganized towns. town" in the fourth sentence, and deleted

Sec. 66. When owner fails to pay his assessments.—If any owner fails to pay the sum so assessed on his land for the expenses of making and opening such new roads within 2 months from the time fixed therefor as provided in section 64, the county treasurer shall proceed to sell the lands so assessed by advertising the lists of unpaid taxes, with the date of assessment and the time and place of sale in the state paper and in some paper, if any, printed in the county where the lands lie, 3 weeks successively, the last publication to be at least 30 days before the time of sale. No bid shall be received at such sale for less than the amount due for the tax, costs and interest at 6% a year from the time prescribed for the payment of said tax; and the treasurer shall sell so much of said land as is necessary to pay the unpaid tax, costs and interest and give a deed thereof to the purchaser, if any; and if no one becomes a purchaser at such sale, it shall be forfeited to the county; and such owner or part owner or tenant in common may redeem his interest therein at any time within 2 years from the sale or forfeiture by paying to the purchaser or the county the sum for which it was sold or forfeited, with interest at 6% a year and any sums subsequently paid for state and county taxes thereon. Any owner of lands so sold shall receive his share in any overplus of the proceeds of such sale, on exhibiting to the treasurer satisfactory evidence of his title. In addition to the foregoing method for the collection of highway taxes, the county commissioners of any county may, in writing, at any time subsequent to that when the lands so assessed might be sold for nonpayment of the taxes assessed thereon, direct the treasurer of such county to commence a civil action in the name of the inhabitants of said county against the party liable to pay such taxes. No such defendant shall be liable for any costs in such action, unless it appears by the declaration and proof that payment of said tax had been duly demanded by said treasurer before the action was commenced. (R. S. c. 79, § 63. 1945, c. 41, § 33; c. 378, § 65. 1961, c. 317, § 219.)

Effect of amendment.—The 1961 amendment divided the former last sentence of this section into two sentences, substituted "a civil action" for "an action of debt" in the present fourth sentence, deleted "of suit" formerly following "costs" and substituted "action" for "suit" in the present last sentence.

Sec. 67. Prima facie proof of title by purchase at such sale.—In any trial involving the validity of any sale or forfeiture of such lands, as provided in section 66, it shall be prima facie proof of title for the party claiming under it to produce in evidence the county treasurer's deed, duly executed and recorded, the assessments signed by the county commissioners and certified by them or their clerk to the county treasurer, and to prove that the county treasurer complied with the requirements of law in advertising and selling. (R. S. c. 79, § 64. 1961, c. 317, § 220.)

Effect of amendment.—The 1961 amendment deleted "at law or in equity" preceding "involving" near the beginning of this section and substituted "section 66" for "the preceding section" therein.

Sec. 71. State highway commission notified when location of certain highways changed.—Whenever the location of any state, state aid or town way that was designated as a 3rd class highway at the time the 3rd class highway designations were rescinded is changed, added to, discontinued or a new location is established within a county, the county commissioners of said county shall place on file the description of such change and shall notify the state highway commission of such change with an accurate description of the courses and distances within 3 months from such action. Provided, however, that whenever the state highway commission has previous record of such action, no notification by

the county commissioners to the state highway commission shall be deemed necessary. (R. S. c. 79, § 68. 1949, c. 322, § 3. 1963, c. 414, § 93.)

Effect of amendment.—The 1963 amendment substituted “town way that was designated as a 3rd class highway at the time the 3rd class highway designations were rescinded” for “third class highway” in the first sentence.

Fire Protection and Public Services for Townships.

Sec. 71-A. Assessment for fire protection tax.—The county commissioners of Aroostook county are authorized, on behalf of the inhabitants of Connor and Silver Ridge townships, of Township 17, R. 4 and Township 17, R. 5, and the county commissioners of Franklin county are authorized, on behalf of Township 3, R. 2, BKPWKR (Jerusalem), Township 4, R. 2, BKPWKR (Crocker-town) and the townships of Salem and Freeman, and the county commissioners of Piscataquis county are authorized, on behalf of the inhabitants of Medford and Orneville townships, and the county commissioners of Oxford county are authorized on behalf of the inhabitants of Albany and Milton townships, and the county commissioners of Penobscot county are authorized, on behalf of the inhabitants of Argyle and Kingman townships and the county commissioners of Somerset county are authorized on behalf of the inhabitants of Rockwood Township to enter into contracts on such terms as they deem fit with one or more persons, associations or municipalities, or to take such other steps as they deem advisable, to provide fire protection, other than forest fire protection, for the townships of Connor, Silver Ridge, Township 17, R. 4, Township 17, R. 5, Township 3, R. 2 (Jerusalem), Township 4, R. 2 (Crocker-town), Salem, Freeman, Medford, Orneville, Albany, Milton, Argyle, Kingman and Rockwood. The county commissioners shall annually assess upon the townships an amount sufficient to provide for such protection, and said assessment shall be certified and transmitted by the county treasurers to the state tax assessor not later than April 1st of each year, provided said assessment in respect to Township 17, R. 4 and Township 17, R. 5 shall not exceed \$505 each in any one year. The state tax assessor shall determine the amount of tax due, in accordance with chapter 16, section 79, and shall include such amounts in the statements referred to in chapter 16, section 82. Collection of such fire protection tax shall be enforced in the same manner as provided for the enforcement of collection of county taxes. (1955, c. 405, § 37. 1957, cc. 173, 446. 1959, c. 363, § 41. 1961, c. 395, § 30. 1963, cc. 169, 206.)

Effect of amendments. — Chapter 173, P. L. 1957, inserted “and Township 17, R. 5,” in two places in the first sentence and inserted the proviso as to maximum assessment in Township 17, R. 4 and Township 17, R. 5 in the second sentence.

The 1959 amendment made the section applicable to Argyle and Kingman townships in Penobscot county.

Chapter 446, P. L. 1957, also made the section applicable to these areas but referred to them as “Argyle Township and

Kingman Plantation.”

The 1961 amendment, effective on its approval, June 17, 1961, added Milton township to this section.

Chapter 169, P. L. 1963, made the section applicable to Rockwood township in Somerset county and c. 206, P. L. 1963, which did not refer or give effect to c. 169, made the section applicable to Township 3, R. 2, Township 4, R. 2 and Salem and Freeman townships in Franklin county.

Sec. 71-B. Assessment for public services tax.—The county commissioners of Washington county are authorized, on behalf of the inhabitants of Trescott, Marion and Edmunds townships, to enter into contracts on such terms as they deem fit with one or more persons, associations or municipalities, or to take such other steps as they deem advisable, to provide fire protection, other than forest fire protection, and public dumps for said townships. Said commissioners are authorized on behalf of the inhabitants of Lambert Lake and Brookton townships to enter into similar contracts or to take similar steps to provide public dumps for said townships. The county commissioners of Franklin county are authorized

on behalf of the inhabitants of Township 3, R. 2, BKPWKR (Jerusalem) and Township 4, R. 2, BKPWKR (Crockertown) to enter into similar contracts or to take similar steps to provide public dumps for said townships. The county commissioners shall annually assess upon said townships an amount sufficient to provide for such services, said tax not to exceed $\frac{1}{2}$ of 1% of the valuation of said townships, and said assessment shall be certified and transmitted by the county treasurer to the state tax assessor not later than April 1 each year. The state tax assessor shall determine the amount of tax due, in accordance with the provisions of section 79 of chapter 16, and shall include such amount in the statements referred to in section 82 of chapter 16. Collection of such tax shall be enforced in the same manner as provided for the enforcement of collection of county taxes. (1955, c. 405, § 37. 1963, c. 209; c. 414, § 94.)

Effect of amendments.—Chapter 414, P. L. 1963, deleted "Topsfield" in the second sentence and deleted the former third sentence relating to fire protection, public dumps, public sewers and street lighting in Baring township. Chapter 209, P. L. 1963, added the present third sentence.

Sec. 71-C. Repealed by Public Laws 1961, c. 395, § 31.

Editor's note. — The repealed section, which derived from P. L. 1955, c. 288, provided for an assessment for fire protection in Milton township, Oxford county. See § 71-A re present provisions for such as-

essment.

Effective date.—P. L. 1961, c. 395, § 31, repealing this section, became effective on its approval, June 17, 1961.

Ferries and Toll Bridges.

Sec. 73. Ferries; tolls; bond; property appraised.

Cited in *Beals v. Beal*, 150 Me. 80, 104 A. (2d) 530.

Sec. 75. Safe boats; prompt attendance.—Every keeper of a ferry shall keep a suitable and safe boat or boats for use on the waters to be passed and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat he forfeits \$20, and for neglect of attendance, \$1, to the prosecutor in a civil action; and is liable in a civil action to the party injured for his damages. (R. S. c. 79, § 79. 1961, c. 317, § 221.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" near the middle of the last sentence of this section and substituted "a civil action" for "an action on the case" near the end of such sentence.

Sec. 76. Action on ferryman's bond.—Anyone injured in person or property by the negligence or default of a ferryman may commence a civil action on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs. (R. S. c. 79, § 80. 1961, c. 317, § 222.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" near the middle of this section.

Sec. 78. Keeping ferry or conveying passengers or property contrary to law.—A person who keeps a ferry contrary to sections 73 or 74, or without authority transports passengers or property across any licensed or established ferry for hire or furnishes for hire a boat or other craft for such purpose, forfeits \$4 for each day such ferry is kept or for each time of transportation, and is liable to the party injured and keeping the ferry at or near the place for damages sustained by him in a civil action. (R. S. c. 79, § 82. 1961, c. 317, § 223.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action on the case" at the end, of this sec-

tion and made other minor changes therein.

Sec. 80. Ferryman's neglect of duty.—The ferryman or person so contracting forfeits \$10 for each day's neglect to perform such duty and is liable, in a civil action, for damages to any person injured thereby. (R. S. c. 79, § 84. 1961, c. 317, § 224.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action on the case" in this section.

Sec. 83. Obstruction to ferries.—Whoever places a weir or other obstacle or without necessity anchors or places a raft, vessel or water craft so as to obstruct the ordinary passageway of any boat at a ferry licensed or established forfeits \$20 to the proprietor of the ferry, to be recovered in a civil action, unless such obstruction was inadvertently made and removed within 30 minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing or dock, without unreasonable delay or willful misconduct. (R. S. c. 79, § 87. 1961, c. 317, § 225.)

Effect of amendment.—The 1961 amendment substituted "a civil action," for "an action on the case;" in this section.

Meridian Lines and Standards of Length.

Sec. 94. Injuring meridians.—Whoever willfully displaces, alters, defaces, breaks or otherwise injures any of the pillars or points, plates, enclosures, bars, locks, bolts or any part of the structure of any meridian line or standard of length shall forfeit not more than \$100, to be recovered by indictment, half to the prosecutor and half to the county, and shall be liable in a civil action for the amount necessarily expended in repairing damages caused by his act. (R. S. c. 79, § 110. 1961, c. 317, § 226.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" and deleted "also" preceding "be liable" in this section.

Sec. 94-A. Exception.—The provisions of sections 89 to 94, inclusive, shall not apply to the county of Kennebec. (1955, c. 108.)

Clerks of the Judicial Courts.

Election, Powers, Duties, Salaries, Fees, etc.

Sec. 98. Salaries.—The clerks of the judicial courts in the several counties shall receive annual salaries as set forth in section 254.

The salaries of the clerks of the judicial courts shall be in full compensation for the performance of all duties required of clerks including those performed by them as clerks of the supreme judicial court, the superior court and the county commissioners, or by clerks pro tempore employed by them. The sum provided for the clerk in Lincoln county shall be in full for all such services and also in full for services as clerk of Lincoln municipal court, except as provided in chapter 103, section 13. They shall account quarterly under oath to the county treasurer for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly on the 15th days of January, April, July and October of each year. (R. S. c. 79, § 114. 1945, c. 167, § 2; c. 170; c. 206, § 1; c. 262, § 1; c. 263; c. 280, § 2; c. 322, § 1. 1947, c. 157, § 2; cc. 202, 210, 287. 1949, c. 185; c. 186, § 1; c. 198; c. 214, § 2; cc. 220, 287, 307, 330; c. 424, § 1. 1951, cc. 221, 224; c. 312, § 2; c. 313, § 2. 1953, c. 38, § 1; cc. 53, 61, 76; c. 135, § 2; c. 142, § 2; c. 149, § 1; c. 170; c. 216, § 2; c. 247, § 1; c. 269, § 2; c. 276, § 2; c. 278, § 2. 1955,

c. 266, § 1; c. 327, § 1; c. 394, § 1; c. 445, § 7; c. 447, § 1; c. 459, § 2; c. 464, § 1; c. 470, § 2. 1957, c. 179; c. 416, §§ 2, 11, 19, 24, 32, 40, 42, 50, 56, 63, 66, 72, 82. 1959, c. 372, § 2.)

Effect of amendments.—Prior to the 1959 amendment, the salaries were set out in this section. The amendment also divided the former first sentence in the last paragraph into two sentences and substituted "The salaries of the clerks of the judicial courts" for "The sums above mentioned" at the beginning of that paragraph.

The 1955 and 1957 amendments, with the exception of P. L. 1957, c. 179, all related to particular salaries. Chapter 179, P. L. 1957, changed the time of payment in the last sentence of this section from the "1st" to the "15th" day of the months enumerated.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges

and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, K e n n e b e c, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

Sec. 99. Fees.—The fees of clerks of the judicial courts shall be as follows:

For every blank writ of attachment with a summons, or an original summons, 10¢.

Blank writs of replevin with the seal, signature and blank bond, 20¢.

Entry of an action, or entering up and recording the judgment, \$2.

Copies, minimum of \$1, for first 500 words if the writing contains that number and 20¢ for each 100 words or fraction thereof in excess of 500 words.

Recording the complaint in an action for partition, and any order thereon, at the rate of 25¢ a page of 224 words.

Recording petition and proceedings for release of attachment and making copy and certificate, \$2.

Making certificate of dissolution of attachment by judgment for defendant, 50¢.

Entry of a rule of court upon the parties submitting a cause to referees, 25¢.

Proving a deed in court and certifying the same, \$1.

Making certificate of approval by judge, of sale of real estate and price, when husband or wife refuses to release interest and right by descent, \$1.

Authenticating the official signature of a magistrate, 50¢.

Original or other writ of execution in personal matters and filing the same when returned, 50¢.

Writ of possession in real actions, 50¢.

Writ of protection or habeas corpus, 50¢.

Subpoena for one witness or more or with a duces tecum, 10¢.

Recording certificate of discharge of a soldier or seaman from the army or navy of the United States, 25¢ and a copy of such record, 25¢.

Recording certificate of registration in veterinary surgery, \$1.

For making up the record in a civil action in which equitable relief is sought, the court may allow a further sum, not exceeding \$1 for the first 500 words if the writing contains that number, and 20¢ for each 100 words or fraction thereof in excess of 500 words, to be taxed by the clerk.

For each certificate or copy of judgment or decree, 50¢ for the first page and 25¢ for each additional page which, together with the fees of the register

of deeds for recording such certificate or copy, may be taxed in the costs of a civil action.

Warrant to make a partition, \$1.

Process to enforce a lien on personal property, \$2.

Commission to referee, auditor, surveyor or other officer appointed by the court, \$1.50.

Writ of review, \$1.

Every writ and seal other than before-mentioned, \$1.

For each filing each warrant for state sales or use tax, \$1. (R. S. c. 79, § 115. 1949, c. 413. 1959, c. 190, § 2. 1961, c. 307; c. 317, § 227; c. 417, § 172.)

Effect of amendments. — The 1959 amendment added the last paragraph of the section.

Chapter 307, P. L. 1961, deleted "whether on a verdict, demurrer, nonsuit or default" following "judgment" in the fourth paragraph and increased the fee in that paragraph from \$1 to \$2. Chapter 317, P. L. 1961, deleted "or of scire facias," preceding "or an original summons" in the second paragraph of this section, also deleted "whether on a verdict, demurrer, nonsuit or default" following "judgment" in

the fourth paragraph, substituted "the complaint in an action" for "a petition" in the sixth paragraph, substituted "a civil action in which equitable relief is sought" for "an equity case" in the nineteenth paragraph, deleted "in equity" following "decree" and substituted "a civil action" for "suit" in the twentieth paragraph, and deleted the former twenty-fifth paragraph which read "Writ of scire facias, \$1."

Chapter 417, P. L. 1961, re-enacted the fourth paragraph without change.

Sec. 100. Account for moneys received; depository; accounts verified; deposits in name of court; forfeiture of unclaimed funds.

Proceeds of all sales of property made under the judgment or decree of the supreme judicial court or of the superior court and any and all other sums of money from whatever source derived in civil proceedings coming into the custody of the supreme judicial court or of the superior court shall be deposited in such depository as the court having custody of such money shall designate, and shall be withdrawn therefrom upon order of the clerk of courts, countersigned by any justice of the supreme judicial court or of the superior court. Any justice of either of said courts shall designate some proper depository for the funds referred to and such designation shall be minuted on the docket of the court. Clerks of courts in the several counties shall keep a regular record containing the account of such funds showing the deposits and all accumulations thereof and the amounts withdrawn therefrom, specifying the date of such withdrawal and the case to which such matters relate. All deposits shall be in the name of the incumbent clerk of courts as custodian.

Whenever any of said funds are ordered by the court to be paid to a person entitled to same, $\frac{1}{2}$ of the accrued interest, if any, shall be paid to the county treasurer for use of the county, and the other $\frac{1}{2}$ paid to the claimant unless otherwise ordered by the court. Whenever any of said funds remain unclaimed for 20 years from the date when payable under said court judgment or decree, the clerk shall obtain an order from the court, under whose judgment or decree said funds were placed in his custody, that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim said funds within 60 days after date of the last publication, the same shall become forfeited to the county and be paid by said clerk to the county treasurer for the use of the county. That portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961. (R. S. c. 79, § 116. 1961, c. 110.)

Effect of amendment.—The 1961 amendment inserted "judgment or" near the beginning of the second paragraph, substituted "or" for "and" in two places in the

first sentence of that paragraph, deleted "in term time or vacation" at the end of that sentence and also in the second sentence, deleted "bank or trust company as

the" in the second sentence, deleted the former third and fourth sentences of the second paragraph, substituted "record" for "book" near the beginning of the present third sentence, substituted "incumbent

clerk of courts as custodian" for "court" at the end of the second paragraph and added the third paragraph.

As the first paragraph was not affected by the amendment, it is not set out.

Sec. 106. Deputy clerks; special deputy clerks; clerk pro tempore.

—The clerk of the judicial court in each county shall appoint a deputy clerk whose appointment shall be approved by a resident justice of the superior court or by the chief justice of the supreme judicial court. The clerk in each county shall be responsible for all of the official acts of his deputy. Before entering upon his official duties, each deputy shall be sworn and shall give a bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of \$8,000, conditioned that he will faithfully perform all the duties required of his office. Whenever the clerk is unable to perform the duties of his office, his deputy shall have all the power and perform all the duties of clerk and be subject to the same penalties for any neglect thereof.

The clerk of the judicial court in each county may appoint one or more special deputy clerks to serve at the pleasure of the clerk, whose powers and duties shall be limited to those contained in the certificate of appointment. Each such appointment shall be approved by any justice of the superior court or by the chief justice of the supreme judicial court. The clerk in each county shall be responsible for all of the official acts of any special deputy so appointed. Before entering upon his official duties, each special deputy shall be sworn and if the clerk deems it advisable, he shall give bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of \$8,000, conditioned that he will faithfully perform the duties of his office. Such special deputy shall be paid for each day of actual service an amount set by the clerk and approved by the county commissioners.

Whenever the office of clerk shall be vacant by reason of death, resignation, removal from the county, failure of choice by election or any other reason, the chief justice of the supreme judicial court shall appoint a suitable person to act as clerk who shall be sworn and give such bond as said chief justice directs and who shall serve until an appointment is made by the governor and council and said appointee has qualified. Whenever a clerk is absent or temporarily unable to perform his duties as clerk and an existing or immediate session of the court renders it necessary, the chief justice of the supreme judicial court may appoint a clerk pro tempore who shall be sworn and give such bond as said chief justice directs. (R. S. c. 79, § 122. 1961, c. 417, § 172-A. 1963, c. 210, § 2; c. 232.)

Effect of amendments.—Chapter 417, P. L. 1961, substituted "court in each county" for "courts in the counties of Androscoggin, Cumberland, Kennebec and Penobscot" in the first sentence and deleted the former second sentence in the first paragraph, authorizing clerks to appoint a deputy. Chapter 232, P. L. 1963, added the present second paragraph. Chapter 210, P. L. 1963, added "removal from the county, failure of choice by election or any other reason" near the beginning of the first sen-

tence in the last paragraph, added "who shall be sworn and give such bond as said chief justice directs and who shall serve" in that sentence, added "and said appointee has qualified" at the end of that sentence, deleted the former second sentence in the last paragraph, providing that the appointee should be sworn and should give bond, and added "or temporarily unable to perform his duties as clerk" in the last sentence of the section.

Sec. 107. Record of civil actions.—After the rendition of final judgment or decree in any civil action, the clerk shall as soon as may be make such a record thereof in short form, except in such specific instances as the court by general rule or special order may direct. If either party files a request and tenders the fees therefor, a full, extended record shall be made. The court may establish the form of such short form record and full, extended record. (R. S. c. 79, § 123. 1957, c. 225. 1961, c. 317, § 228.)

Effect of amendments. — The 1957 amendment substituted the words “in short form, except in such specific instances as the court by general rule or special order may direct” for the words “as the court by general rule or special order may direct” in the first sentence

and inserted the words “short form record and” in the last sentence.

The 1961 amendment substituted “action” for “case at law or in equity” in the first sentence of this section and deleted “however” following “party” in the second sentence.

Sec. 108. Record of criminal cases; certain convictions not criminal records.—In indictments for felonies, clerks shall make extended records of the process, proceedings, judgment and sentence. In other indictments, it is sufficient to record the title of the case, the nature of the indictment, the term when it was found, the proceedings in brief thereon and the judgment and sentence of the court. In criminal prosecutions brought up by appeal from inferior courts, it is sufficient to record the title of the case, the nature and date of the complaint, the name and official character of the magistrate before whom the case was tried and the sentence appealed from and its date; to be followed by correct minutes of the proceedings and judgment in the appellate court. Such record may be made by microfilm process.

Convictions for violation of the fish and game laws or motor vehicle traffic laws or municipal ordinances where the fine imposed does not exceed \$50 shall not be deemed to constitute a criminal record against any person so convicted. This section shall not exempt any court from filing court abstracts as now required by law. (R. S. c. 79, § 124. 1947, c. 265, § 2. 1961, c. 108. 1963, c. 402, § 107.)

Effect of amendments. — The 1961 amendment added the last sentence of the first paragraph.

The 1963 amendment divided the last paragraph into two sentences and deleted “or trial justice” following “court” in the present second sentence of that paragraph.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 109. Examination and correction of records.—The chief justice of the supreme judicial court may cause the records of each clerk to be examined, and when found deficient, direct them to be immediately made or corrected, and when such order is not obeyed, the fact of such deficiency shall be certified to the treasurer of state, who shall cause the clerk’s bond to be sued. (R. S. c. 79, § 125. 1957, c. 209.)

Effect of amendment. — The 1957 amendment, which became effective on its approval, May 2, 1957, substituted the words “chief justice of the supreme judicial court may” for the words “superior

court shall” at the beginning of the section and deleted the words “at least as often as there is a change of clerk” formerly appearing after the word “examined.”

Sec. 110. Disposal of money collected by action on clerk’s bond.—The money recovered in such action shall be applied under direction of the court, to complete the deficient records. If more than sufficient, the balance inures to the state. If not sufficient, the balance may be recovered by the treasurer of state in an action founded on the bond and facts. (R. S. c. 79, § 126. 1961, c. 317, § 229.)

Effect of amendment.—The 1961 amendment substituted “action” for “suit” in the first sentence of this section and deleted

“on the case” preceding “founded” in the third sentence.

Sec. 111. No recording officer to be attorney or sue in his own court, nor draft or aid in drafting any paper which he is required to record.—No clerk, register or recording officer of any court of the state shall be attorney or counselor in any civil action or matter pending in such court; neither shall he

commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by indictment for the benefit of the county. (R. S. c. 79, § 127. 1963, c. 414, § 95.)

Effect of amendment.—The 1963 amendment substituted “civil action” for “suit.”

County Attorneys.

Election, Salaries, Powers, Duties, etc.

Sec. 114. Salaries.—County attorneys of the several counties shall receive annual salaries as set forth in section 254. (R. S. c. 79, § 130. 1945, c. 34; c. 161, § 1; cc. 168, 178, 187; c. 202, § 1; c. 229; c. 280, § 3; c. 322, § 2. 1947, cc. 113, 114, 121, 122; c. 154, § 2; cc. 383, 389. 1949, c. 214, § 3; cc. 334, 337, 338; c. 424, § 2. 1951, c. 311, § 2; c. 312, § 3; c. 313, § 3. 1953, c. 269, § 3; cc. 271, 272, 273, 275; c. 276, § 3; c. 277; c. 278, § 3. 1955, c. 440; c. 445, § 2; c. 447, § 6; cc. 448, 453; c. 459, § 3; c. 464, § 7; c. 469, §§ 1, 2; c. 470, § 3. 1957, c. 93, § 1; c. 353; c. 406, §§ 1-8. 1959, c. 41, § 1; c. 372, §§ 3, 11.)

Effect of amendments.—Chapter 372, § 3, P. L. 1959, rewrote this section.

The 1955 and 1957 amendments, as well as the first 1959 amendment (which was repealed by § 11, c. 372, P. L. 1959), related to the particular salaries which formerly were set out in the section.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

“Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries

set forth therein, ‘shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,’ and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act.”

Sec. 115. Duties in civil proceedings; compensation.—The county attorney in each county shall appear for the county, under the direction of the county commissioners, in all actions and other civil proceedings in which the county is a party or interested, or in which the official acts and doings of said county commissioners are called in question, in all the courts of the state, and in such actions and proceedings before any other tribunal when requested by said commissioners. All such actions and proceedings shall be prosecuted by him or under his direction. He shall prosecute to final judgment and execution all civil cases in which the state is a party in his county and shall institute proceedings against sureties on any recognizance upon which the principal and sureties have been defaulted, before the term next succeeding that at which such default was entered upon the docket of the court, unless by order in open court the presiding justice shall grant a delay in proceedings against such sureties. (1959, c. 317, § 44. 1961, c. 317, § 230. 1963, c. 414, § 96.)

Effect of amendments.—The 1959 amendment substituted “proceedings” for “scire facias” near the beginning of the last sentence of the first paragraph and substituted “proceedings against such sureties” for “matters of scire facias” at the end of that sentence.

The 1961 amendment substituted “ac-

tions” for “suits” in two places in the first sentence of this section.

The 1963 amendment substituted “actions” for “suits” in the second sentence of the section.

As the last paragraph was not affected by the amendments it is not set out.

Effective date and applicability of Public

Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the ex-

tent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 118. To enforce collection of fines and costs; as to examination of sheriff's bond.—The county attorney shall enforce the collection and payment to the county treasurer of all fines, forfeitures and costs accruing to the state and the faithful performance of their duties by sheriffs and constables and give information to the court of their defaults in this respect; and shall annually move the county commissioners, at their meeting next following the 3rd Tuesday of June, to examine and consider the sufficiency of the sheriff's bond. If he neglects either of said duties, he forfeits to the state, not more than \$100, to be recovered in a civil action in the name of the treasurer of state. (R. S. c. 79, § 134. 1961, c. 317, § 231.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the last sentence of this section.

Sec. 123. Assistant county attorneys for Cumberland county; duties.—The county attorney of the county of Cumberland may appoint 2 assistant county attorneys, one to be known as first assistant county attorney and the other to be known as second assistant county attorney, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court. Said assistants shall take the oath prescribed for county attorneys; and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. They shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before judges of the district court. They shall hold their office during the term of the county attorney by whom they were appointed, subject to removal at any time by the chief justice of the supreme judicial court. (R. S. c. 79, § 139. 1959, c. 41, § 2. 1963, c. 402, § 108.)

Effect of amendments.—Prior to the 1959 amendment, effective March 12, 1959, the section provided for only one assistant.

district court" for "municipal courts and trial justices" at the end of the next to the last sentence of the section.

The 1963 amendment substituted "the

Application of amending act.—See note to § 108.

Sec. 124. Assistant county attorney for Androscoggin county; duties; term of office.—The county attorney of the county of Androscoggin may appoint an assistant to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorneys and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before judges of the district court. The assistant county attorney shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. (R. S. c. 79, § 140. 1963, c. 402, § 109.)

Effect of amendment.—The 1963 amendment substituted "the district court" for "municipal courts and trial justices" at the end of the next to the last sentence of

the section.

Application of amending act.—See note to § 108.

Sec. 125. Assistant county attorney for Penobscot county; duties; term of office.—The county attorney of the county of Penobscot may appoint an assistant, who shall be a resident of the county and duly admitted to the practice of law in this state, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court, and who shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorney and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before the district court. (R. S. c. 79, § 141. 1963, c. 402, § 110.)

Effect of amendment.—The 1963 amendment substituted “the district court” for “municipal courts and trial justices” at the end of the section.
Application of amending act.—See note to § 108.

Sec. 125-A. Assistant county attorney for Kennebec county; duties; term of office.—The county attorney of the county of Kennebec may appoint an assistant to be approved by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorneys and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before judges of the district court. The assistant county attorney shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. (1955, c. 470, § 4. 1963, c. 402, § 111.)

Effect of amendment.—The 1963 amendment substituted “the district court” for “municipal courts and trial justices” at the end of the third sentence in the section.
Application of amending act.—See note to § 108.

Sec. 125-B. Assistant county attorney for Aroostook county; duties; term of office.—The county attorney of the county of Aroostook may appoint an assistant, who shall be a resident of the county and duly admitted to the practice of law in this state, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court, and who shall hold his office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorney and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before the district court. (1957, c. 93, § 2. 1963, c. 402, § 112.)

Effect of amendment.—The 1963 amendment substituted “the district court” for “municipal courts and trial justices” at the end of the section.
Application of amending act.—See note to § 108.

Sec. 125-C. Assistant county attorney for York county; duties; term of office.—The county attorney of the county of York may appoint an assistant, who shall be a resident of the county and duly admitted to the practice of law in this state, to be approved by a justice of the superior court resident in said county or by the chief justice of the supreme judicial court, and who shall hold office during the term of the county attorney by whom he was appointed, subject to removal at any time by the chief justice of the supreme judicial court. Said assistant shall take the oath prescribed for county attorney

and assist the county attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand jury and in the preparation and trial of criminal causes. He shall, when directed by the county attorney, act as counsel for the state in the trial of complaints before the district court. (1961, c. 388, § 1. 1963, c. 402, § 113.)

Effect of amendment.—The 1963 amendment substituted “the district court” for the end of the section.

Application of amending act.—See note to § 108.

County Treasurers.

Election, Salaries, Duties, etc.

Sec. 129. Repealed by Public Laws 1957, c. 180, § 2.

Sec. 129-A. Deputy treasurers. — The treasurers of the several counties may appoint deputy treasurers, with the approval of the county commissioners, for their respective counties. Such deputy treasurer shall assist the treasurer in performing the duties of his office. He shall give bond to the county for the faithful discharge of his duties in such sum as the county commissioners order and with such sureties as they approve in writing thereon, the premium of such bond to be met by the county. (1957, c. 180, § 1. 1963, c. 113.)

Effect of amendment.—Prior to the 1963 amendment the appointment was made by the county commissioners.

Sec. 130. Salaries. — County treasurers and their deputies shall receive annual salaries as set forth in section 254. (R. S. c. 79, § 146. 1945, cc. 33, 157; c. 161, § 2; c. 167, § 3; cc. 171, 190; c. 280, § 4; c. 314; c. 322, § 3. 1947, c. 120; c. 154, § 3; c. 157, § 3; cc. 203, 284, 297. 1949, c. 184; c. 186, § 2; c. 189; c. 214, § 4; c. 308, § 2; c. 361; c. 424, § 3. 1951, cc. 59, 247, 275; c. 311, § 3; c. 312, § 4; c. 313, § 8; c. 326, § 2. 1953, cc. 30, 52, 118, 119; c. 149, § 2; c. 179, § 2; c. 216, § 3; c. 247, § 2; c. 269, § 4; c. 276, § 4; c. 278, § 4; c. 288, § 1. 1955, c. 266, § 2; c. 287; c. 319, § 2; c. 394, § 2; c. 445, § 3; c. 459, § 4; c. 464, § 2; c. 470, § 5. 1957, c. 416, §§ 3, 12, 20, 25, 37, 43, 51, 57, 67, 77. 1959, c. 372, § 4.)

Effect of amendments.—Prior to the 1959 amendment the salaries were set out in this section.

The 1955 and 1957 amendments all related to particular salaries.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

“Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, ‘shall receive such sal-

aries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,’ and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act.”

Sec. 133. Receive costs in favor of state.—Costs in all civil actions in the name of the state, paid before execution issues, shall be paid to the clerk of the court where the action is pending and be by him paid, without deduction, to the county treasurer. (R. S. c. 79, § 149. 1959, c. 317, § 45. 1963, c. 414, § 97.)

Effect of amendments. — The 1959 amendment eliminated the words “on scire facias or other process” which formerly appeared after the word “state.”

The 1963 amendment substituted “action” for “suit” preceding “is pending.”

Effective date of 1959 amendment.—See note to § 115.

Sec. 135. Payments to county law libraries.—The treasurer of each county shall pay annually to the treasurer of the law library association of his county for the uses and benefits of the county law library, as follows:

Androscoggin, \$5,000 for the year 1961 and \$4,250 annually thereafter,

Aroostook, \$4,300 of which \$3,200 shall be for the use and benefit of the county law library in the court house at Houlton in said county and \$1,100 shall be for the use and benefit of the county law library in the court house at Caribou in said county.

Cumberland, \$3,000 for the year 1961 and \$3,000 annually thereafter which shall be paid to the treasurer of the Cumberland Bar Association for the Nathan and Henry B. Cleaves Law Library,

Franklin, \$1,750,

Hancock, \$3,000,

Kennebec, \$3,250,

Knox, \$1,700,

Lincoln, \$2,000,

Oxford, \$4,500 of which \$2,250 shall be for the use and benefit of the county law library at South Paris and \$2,250 shall be for the use and benefit of the county law library at Rumford,

Penobscot, \$2,250,

Piscataquis, \$1,500,

Sagadahoc, \$4,500 for the year 1963, \$4,500 for the year 1964 and \$2,000 annually thereafter,

Somerset, \$3,500,

Waldo, \$1,500,

Washington, \$1,500,

York, \$4,500 for the year 1961 and \$4,000 annually thereafter.

The treasurer of each county shall also pay to the treasurer of the law library association of his county all money received from persons admitted upon motion to practice in courts of record as attorneys without a certificate from the board of examiners of applicants for admission to the bar.

The treasurer of each law library association shall account to the county commissioners of his county for all receipts and disbursements made under this section. (R. S. c. 79, § 151. 1945, c. 253. 1947, cc. 52, 103. 1949, cc. 47, 128, 157. 1951, cc. 179, 216. 1953, cc. 12, 14, 28, 31, 51, 86, 116, 134, 182, 205. 1955, cc. 35, 91, 93, 225, 232. 1957, cc. 49, 88, 91, 137, 147, 434. 1959, cc. 4, 23, 24, 46, 49, 56, 89, 145, 193; c. 363, §§ 42, 52. 1961, c. 247. 1963, c. 233.)

Effect of amendments.—This section was amended five times in 1955, by P. L. cc. 35, 91, 93, 225 and 232, which increased the payments for the county law libraries in Piscataquis, Oxford, Androscoggin, Knox and Kennebec counties respectively.

This section was amended six times by the Public Laws of 1957. Chapter 49, retroactive in effect to January 1, 1957, increased the payments in Hancock county. Chapter 88 increased the payments in Piscataquis county. Chapter 91 increased the three sums mentioned in the paragraph relative to Aroostook county. Chapter 137 increased the payment in Kennebec county. Chapter 147 increased the payment in Penobscot county. Chapter 434, effective January 16, 1958, increased the payment in Androscoggin county.

The section was amended ten times by the Public Laws of 1959. Chapter 23 increased the payment in Somerset county. Chapter 24 increased the payment in Franklin county. Chapter 46 rewrote the portion of the section relating to Lincoln county. Chapter 49 increased the payment in Hancock county. Chapter 56 increased the payment in Kennebec county. Chapter 89 rewrote the portion relating to York county. Chapter 145 increased the payment in Washington county. Chapter 193 increased the payment in Penobscot county. Chapter 363, section 42, retroactive to January 1, 1959, rewrote the portion relating to Oxford county. Section 52 of c. 363 repealed P. L. 1959, c. 4, which had increased the payment in Oxford county and which also was retroactive in effect to January 1, 1959.

The 1961 amendment increased the payments for all the counties, added the direction as to the use of the payment in Oxford county and added the present last paragraph.

The 1963 amendment increased the payment in Sagadahoc county.

Sec. 137. Repealed by Public Laws 1963, c. 414, § 98.

Sheriffs and Their Deputies.

Election, Powers, Duties, Salaries, Fees, etc.

Sec. 146. Forfeiture for neglect to give bond.—Any sheriff for each month's neglect to give the security required in sections 142 or 145, which neglect shall be reported by the state auditor to the treasurer of state, forfeits \$150 to the state to be recovered in a civil action by the treasurer of state. The attorney general shall prosecute therefor. The clerk of courts of his county shall certify such sheriff's name to the governor and council and the attorney general. Unless reasonable cause therefor is shown, or within 20 days after the clerk has so certified, he gives or renews his security to the satisfaction of the governor and council, he thereby vacates his office. (R. S. c. 79, § 162. 1961, c. 317, § 232.)

Effect of amendment.—The 1961 amendment divided this section into four sentences, inserted "state" preceding "auditor"

and substituted "a civil action" for "an action of debt" in the present first sentence.

Sec. 149. Salaries.—The sheriffs of the several counties shall receive annual salaries as set forth in section 254, together with free rental of the house or living apartment connected with the county jail in each county, including the necessary light and fuel. Said salaries shall be in full compensation for services in attendance upon the supreme judicial court and upon the superior court, as jailer, master or keeper of the jail in each county, for receiving and committing prisoners therein and for the service of all criminal processes and the performance of all duties relating to the enforcement of all criminal laws. All actual and necessary expenses for travel and hotel bills within their respective counties and such necessary incidental expenses as are just and proper, incurred in the performance of their public duties, including all necessary expense for aid in keeping the jails, shall be allowed by the respective boards of county commissioners of said counties and paid from the county treasuries. (R. S. c. 79, § 165. 1945, c. 161, § 3; cc. 172, 241, 242, 243; c. 262, § 2; c. 280, § 5; c. 322, § 4; c. 352. 1947, c. 112; c. 154, § 4; c. 157, § 4; cc. 198, 207, 282. 1949, c. 178; c. 186, § 3; c. 214, § 5; cc. 255, 285; c. 308, § 3; c. 331; c. 424, § 4. 1951, cc. 226, 231; c. 311, § 4; c. 312, § 5; c. 313, § 9; cc. 335, 370. 1953, c. 38, § 2; c. 124; c. 179, § 3; c. 269, § 5; c. 276, § 5; c. 278, § 5. 1955, c. 266, § 3; c. 319, § 3; c. 336; c. 394, § 3; c. 445, § 4; c. 447, § 5; c. 459, § 5; c. 464, § 3; c. 470, § 6. 1957, c. 416, §§ 4, 13, 21, 26, 33, 38, 44, 58, 68, 74, 78. 1959, c. 372, § 5.)

Effect of amendments.—Prior to the 1959 amendment the first sentence specified the amounts of the respective salaries and provided for monthly or weekly payments.

Each of the 1955 and 1957 amendments increased the particular salaries.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges

and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox,

Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

Sec. 14. Effective date. The salaries as

Sec. 149-A. Superior court messenger of Cumberland county.—The superior court messenger of Cumberland county shall be appointed by the senior resident superior court justice and shall receive an annual salary of \$5,000 in full compensation for service and attendance. (1961, c. 308, § 1. 1963, c. 308.)

Effect of amendment.—The 1963 amendment increased the salary from \$4,250 to \$5,000.

Sec. 150. Fees.

I. Civil process. For service of all writs or complaints with summons, precepts, notices, executions, court orders, orders of service, copies and all other civil process or papers requiring service which are not specifically hereinafter enumerated, they shall receive therefor \$3 for each such service and \$5 if such service is required to be made in hand. (1957, c. 339. 1961, c. 317, § 233; c. 357. 1961, c. 417, § 173. 1963, c. 207, § 1)

II. Disclosure petition. For the service of subpoena, petition and subpoena for disclosure before commissioner or for the service of citation by copy to creditor as provided by chapter 120, §5. (1957, c. 339. 1961, c. 357)

III. Complaint for divorce. For the service of complaint for divorce with writ of attachment by serving summons and attested copy of writ and complaint, or for the service of complaint for divorce with order of court thereon by attested copy, \$5. (1957, c. 339. 1961, c. 317, § 233)

IV. For attachment of real estate at registry of deeds, which includes fee of 50¢ to registry, \$4. (1957, c. 339)

V. Attachment of personal property; replevin. For attachment of personal property or for the service of writ of replevin, \$6, and in addition thereto \$1.50 for each hour after the first required for such service. (1957, c. 339. 1961, c. 357. 1963, c. 207, § 2)

VI. Civil arrests and custody. The fee for civil arrests shall be \$3 for such arrest and \$3 shall be charged for custody thereunder, including arrest and custody under bastardy proceedings. (1961, c. 357)

IX. Redeeming mortgaged real estate. For advertising in a newspaper a right in equity of redeeming mortgaged real estate to be sold on execution, such sums as he pays the printer therefor; for posting notice of the sale of such equity in the town where the land lies and in 2 adjoining towns, \$6 and usual travel, and for a deed and return of the sale of such equity, \$3. (1961, c. 357)

XII. Warrant; mittimus. For the service of a warrant, the officer is entitled to \$2 and \$2 for the service of a mittimus to commit a person to jail and usual travel, except as limited by chapter 146, section 21-A, and his reasonable expenses incurred in the conveyance of such prisoner. (1963, c. 340, § 2)

XIV. Attending court and keeping prisoner. For attending court and keeping the prisoner in criminal cases, \$12 a day, and in that proportion for a greater or shorter length of time. (1959, c. 328, § 1. 1963, c. 330, § 1)

XV. Attendance upon supreme judicial and superior courts. Every deputy sheriff and court messenger, while in actual attendance upon a session of supreme judicial court or the superior court in their respective counties, except as provided in chapter 103, section 14, shall receive \$12 a day, plus actual travel at 16¢ a mile from their place of residence for each day's attendance. (1955, c. 267. 1959, c. 328, § 3. 1961, c. 308, § 2. 1963, c. 330, § 2)

XVI. Special duties. Every deputy sheriff while performing special duties

under order of the sheriff shall receive for such services \$12 a day, together with necessary, incidental expenses, to be paid from the county treasury, the bills for which shall be audited as provided in chapter 150, section 2. Such officers shall not be entitled to fees for any services rendered in criminal matters while acting as per diem officers. A chief deputy performing similar special duties shall receive an additional \$1 per day. (1953, cc. 32, 297. 1959, c. 328, § 2. 1961, c. 285. 1963, c. 330, § 3)

XIX. For the services of a sales or use tax warrant and arrest as provided by chapter 17, sections 33-A to 33-D, the same as for service of civil process, and for civil arrests. For collecting sales or use taxes, penalties and interest, pursuant to such warrants, for every dollar of the first \$100, 4¢; for every dollar above \$100 and not exceeding \$200, 3¢; and for every dollar above \$200, 2¢. Additional services, including travel, shall be charged as elsewhere in this section provided. [1959, c. 190, § 3]. (R. S. c. 79, § 166. 1945, c. 293, § 14; c. 318; c. 378, § 66. 1947, c. 313, §§ 1, 2, 3. 1951, c. 212, §§ 1, 2. 1953, cc. 32, 297, 312. 1955, c. 267. 1957, c. 339. 1959, c. 190, § 3; c. 328, §§ 1, 2, 3. 1961, c. 285; c. 308, § 2; c. 317, § 233; c. 357; c. 417, § 173. 1963, c. 207, §§ 1, 2; c. 330, §§ 1-3; c. 340, § 2.)

Effect of amendments. — The 1955 amendment rewrote subsection XV.

The 1957 amendment increased the fees in subsections I to V.

The section was amended twice by Public Laws of 1959. Chapter 328 substituted “\$11” for “\$10” in subsections XIV and XVI and in the former last sentence of subsection XV, substituted “chapter 150, section 2” for “section 2 of chapter 150” in subsection XVI and eliminated “Provided, however, that” formerly appearing at the beginning of the next to last sentence in subsection XVI. Chapter 190 added subsection XIX.

The section was amended five times by Public Laws 1961. Chapter 317 substituted “equitable proceedings” for “bills in equity” in subsection I of this section. It also substituted “complaint” for “libel” in three places and substituted “with” for “inserted in” in subsection III. Chapter 337 deleted “subpoenas” following “notices” in subsection I, inserted “subpoena” near the beginning of subsection II, increased the fee from \$4 to \$5 at the end of subsection II, substituted “\$6” for “\$5” in subsection

V, substituted “\$3” for “\$2” twice in subsection VI and substituted “\$3” for “\$2” at the end of subsection IX. Chapter 308 deleted the former last sentence of subsection XV, relating to the fees of the superior court messenger of Cumberland county. Chapter 285 added the present last sentence in subsection XVI. Chapter 417 added “or complaints” following “writs” in subsection I and deleted “equitable proceedings with subpoena issued thereon” which formerly followed “copies” in that subsection.

Chapter 207, P. L. 1963, added “and \$5 if such service is required to be made in hand” at the end of subsection I and substituted “\$1.50” for “\$1” in subsection V. Chapter 340, P. L. 1963, substituted “except as limited by chapter 146, section 21-A, and his” for “with” in subsection XII. Chapter 330, P. L. 1963, substituted “\$12” for “\$11” in subsection XIV, rewrote subsection XV and substituted “\$12” for “\$11” in subsection XVI.

As the rest of the section was not changed by the amendments, it is not set out.

Sec. 151. Deputies; list; uniforms.—Every sheriff, elected or appointed, may appoint deputies for whose official misconduct and neglect he is answerable. Their appointment and discharge shall be in writing, signed by him, and recorded in the office of the clerk of courts in his county and are not valid until so lodged and recorded, except by operation of law or by vacancy in the office of sheriff. He shall also furnish to the clerk of courts in each county the names of the deputies by him appointed from time to time, with the residence and post-office address of each. He shall require any of said deputies, while engaged in the enforcement of the provisions of section 153 of chapter 22, to wear a uniform sufficient to identify themselves as officers of the law. Upon approval of the county commissioners, uniforms required by this section, but not exceeding 4 for any one county, shall be furnished by the county. (R. S. c. 79, § 167. 1951, c. 123. 1959, c. 271.)

Effect of amendment.—The 1959 amendment substituted “4” for “2” in the last sentence.

Necessity of wearing uniform is limited to purposes set forth in c. 22, § 153. State v. Steckino, 158 Me. 186, 181 A. (2d) 247.

The provisions of this section and c. 22, § 153, which require police officers to be in uniform, only apply when vehicles are stopped merely for purposes of examina-

tion, State v. Steckino, 158 Me. 186, 181 A. (2d) 247.

Hence, officer out of uniform can arrest intoxicated driver.—An officer, out of uniform, has a right and duty to arrest a defendant for operating a vehicle while under the influence of intoxicating liquor by virtue of c. 147, § 4. State v. Steckino, 158 Me. 186, 181 A. (2d) 247.

Sec. 152. Special deputies.—Sheriffs may at any time appoint and train as special deputies citizens more than 18 years of age. The sheriff or his chief deputy shall order any or all of said special deputies to active duty when a state of war exists, or when the governor shall proclaim an emergency under chapter 12, or when the state director of civil defense and public safety declares that a state of emergency is imminent. Such special deputies shall exercise all the powers of deputy sheriffs appointed under the general law except the service of civil process, for the duration of the emergency that exists or which has been proclaimed or during the time for which they have been ordered to active duty. Such special deputies shall be personally responsible for any unreasonable, improper or illegal acts committed by them in the performance of their duties, but the sheriffs shall not be liable upon their bonds or otherwise for any neglect or misdoings of such deputies. (R. S. c. 79, § 168. 1955, c. 393. 1959, c. 179.)

Effect of amendments.—The 1959 amendment rewrote the former first sentence, dividing it into three sentences. The 1955 amendment had inserted in such former

first sentence a provision as to a declaration of a state of emergency under chapter 12. The last sentence of the section was not changed by either amendment.

Sec. 153. Notification of appointment; compensation.—Any sheriff appointing such special deputy sheriffs shall notify the clerk of courts and the county commissioners for the county in which such appointments are made, giving the name of such deputies and the date of their appointments, and the county commissioners shall fix and order paid from the treasury of the county to such deputies a reasonable compensation, not exceeding the per diem compensation to deputy sheriffs for attending court, together with actual and necessary expenses incurred in the performance of duty. (R. S. c. 79, § 169. 1961, c. 15.)

Effect of amendment.—Prior to the 1961 amendment, the compensation was “not exceeding \$3.50 per day for the time actually employed”.

Sec. 164. Person injured by misdoings of sheriff may sue his bond; indorsement of writ, summons or complaint; costs; judgment.—Any person injured by the neglect or misdoings of a sheriff, who has first ascertained the amount of his damages by judgment in a civil action against him, his executors or administrators, or by a decree of the probate court allowing his claim, may, at his own expense in the name of the treasurer of state, institute a civil action on his official bond in the county where he was authorized to act and prosecute it to final judgment and execution. His name and place of residence or that of his attorney shall be indorsed on the writ, summons or complaint and the indorser alone is liable for costs. If judgment is rendered for the treasurer of state, it shall be for the damages ascertained as aforesaid, or so much thereof as remains unpaid, with interest. The party's name for whom the action was brought shall be expressed in the execution issued thereon. If the judgment is for the defendant, it shall be against the party for whom the action was brought. (R. S. c. 79, § 180. 1959, c. 317, § 46. 1961, c. 317, § 234.)

Effect of amendments.—The 1959 amendment added “summons or complaint” in the second sentence. The 1961 amendment substituted “civil

action" for "suit" in two places in the first sentence of this section, divided the former third sentence into two sentences and substituted "action" for "suit" in both the present fourth and fifth sentences.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought

after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 165. Actions on sheriff's bond; proceedings.—Any other person having a right of action on such bond may file an additional complaint in the same action in the office of the clerk of courts, who shall issue a summons, directed to the defendant, specifying the cause of action and the amount demanded, returnable to the same court and indorsed by the name and place of residence of such other person or his attorney. Such indorser is liable for costs like indorsers of writs, summonses and complaints. (R. S. c. 79, § 181. 1959, c. 317, § 47.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, substituted "complaint" for "declaration" in the present first sentence and

added "summonses and complaints" at the end of the present second sentence.

Effective date of 1959 amendment.—See note to § 164.

Sec. 166. Service; right of person filing complaint; answer.—The summons shall be served on the defendant and attachment may be made, as in an original action. Thereupon such person has all the rights of a plaintiff in the action. The defendant shall answer to said complaint, and judgment may be rendered thereon as if it were filed in an action originally instituted for the same cause. (R. S. c. 79, § 182. 1959, c. 317, § 48.)

Effect of amendment.—The 1959 amendment rewrote this section.

Effective date of 1959 amendment.—See note to § 164.

Sec. 167. Damages assessed on rendition of judgment; issue of executions.—When judgment is rendered against the defendant in such action, damages shall be assessed on each complaint for the amount which the party filing it would recover in an action on the bond, with costs. Executions shall issue therefor in the name of each party so recovering in the order in which the complaints were filed, but not beyond the amount of the bond. If judgment is for the defendant on any such complaint, execution for costs shall issue against the party filing it. No such action shall be dismissed, except by order of court, without the consent of all parties interested as plaintiffs. (R. S. c. 79, § 183. 1959, c. 317, § 49.)

Effect of amendment.—The 1959 amendment divided the former first sentence into two sentences, substituted "complaint" for "declaration" and "an action" for "a suit" in the present first sentence, substituted "complaints" for "declarations" in the present second sentence and "complaint"

for "declaration" in the present third sentence, and eliminated "discontinued or non-suited" following "dismissed" in the last sentence.

Effective date of 1959 amendment.—See note to § 164.

Sec. 173. Full-time deputies in all counties; compensation.—The sheriffs of all counties shall respectively appoint full-time deputy sheriffs, who shall serve at the pleasure of said respective sheriffs and whose special duty shall be to enforce the criminal laws in said counties and who shall receive as compensation therefor the sum of \$12 per day and such additional pay as the respective county commissioners may approve, to be paid from the respective county treasuries, together with such incidental expenses as may be necessary for the proper enforcement of said laws; bills for which shall be audited as provided in chapter 150, section 2. Such full-time deputy sheriffs shall not receive more

than \$84 and chief deputies shall not receive more than \$91 in the aggregate for any one week, except that this limitation shall not apply to Cumberland county and York county. (R. S. c. 79, § 189. 1947, c. 313, § 4. 1951, c. 212, § 3. 1959, c. 326. 1961, c. 358. 1963, c. 330, § 4.)

Effect of amendments. — The 1959 amendment substituted "full-time" for "3" near the beginning of the section, substituted "\$11" for "\$8" near the middle of the section and substituted "chapter 150, section 2" for "section 2 of chapter 150" at the end of the present first sentence.

Prior to the 1961 amendment, this section applied only to Cumberland county.

The amendment also added the last sentence.

The 1963 amendment substituted "\$12" for "\$11" in the first sentence, substituted "\$84 and chief deputies shall not receive more than \$91" for "\$77" in the second sentence and added "and York county" at the end of the section.

Sec. 173-A. Pensions for dependents.—If a sheriff or deputy sheriff shall die as a result of injury received in line of duty, except while engaged in the duty of serving civil process, his widow, or, if none, his minor child or children, shall receive a pension equal to $\frac{1}{2}$ of the pay of such sheriff or deputy sheriff at the time of his death, but in no case shall such pension be less than \$1,000. Such pension shall be paid to the widow until she dies or remarries and to a child or children until they die or reach the age of 18 years. The provisions of this section shall apply to deputy sheriffs who are not employed at regular salaries.

The county commissioners of each county are authorized and directed to pay such pensions from county funds. (1955, c. 362, § 2.)

Jails and Jailers.

Sec. 174. Custody of jail and prisoners; jailer.

Section 255 shall apply to sick leave and vacation of the full-time employees of the sheriff's department of each county. (R. S. c. 79, § 190. 1963, c. 66.)

Effect of amendment.—The 1963 amendment added the last paragraph in the section.

As the first paragraph was not changed by the amendment, it is not set out.

Sec. 178. Jailer to live in jail.—Except for Cumberland county every keeper of a jail shall reside constantly with his family, if he has any, in the house provided for him, if in the opinion of the county commissioners it is good and sufficient. If he neglects to do so, he forfeits not more than \$300 to be recovered for the county by indictment. (R. S. c. 79, § 194. 1959, c. 63.)

Effect of amendment.—The 1959 amendment divided the section into two sentences

and added "Except for Cumberland county" at the beginning of the section.

Sec. 183. Deductions from sentence.—Each convict, who, in the opinion of the sheriff, has faithfully observed all the rules and requirements of the jail, shall be entitled to a deduction of 2 days a month from the term of his sentence, commencing on the first day of his arrival at the jail. An additional one day a month may be deducted from the sentence of those convicts who are assigned duties outside the jail, or those convicts within the jail who are assigned to work deemed by the sheriff to be of sufficient importance and responsibility to warrant such deduction. This section shall apply to the sentences of all convicts now or hereafter confined within the jail. (R. S. c. 79, § 199. 1961, c. 97.)

Effect of amendment.—The 1961 amendment rewrote this section.

Sec. 189-A. Prisoners to attend funerals.—Prisoners at the several county jails may, at the discretion of the sheriff, attend funerals of their legally considered mother, father, husband, wife, son or daughter, if the funeral is held

within the state of Maine. Prisoners shall pay the cost of transportation and the fee and expenses of the officer who takes them to the funeral. (1959, c. 1.)

Sec. 191. If escape happens through insufficiency of jail, sum paid, reimbursed.—When such escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to such party. If they do not make such order within 6 months after the demand is laid before them, the sheriff may bring his action against the inhabitants of such county, to be tried therein or in an adjoining county, and service shall be made as in other actions. (R. S. c. 79, § 207. 1959, c. 317, § 50.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, deleted “on the case” following “action” in the second sentence and substituted “service shall be made as in other actions” for “an attested copy of the writ

left with the county treasurer, 30 days before the sitting of the court to which it is returnable, is a sufficient service” at the end of that sentence.

Effective date of 1959 amendment.—See note to § 164.

Sec. 192. Agent to defend county appointed by commissioners; execution.—The commissioners may appoint an agent to appear and defend the action. If they have no meeting between the time of service and the time within which the answer is required to be served, it shall be continued for such time as the court directs, saving all advantages to the defendants. If judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied. (R. S. c. 79, § 208. 1959, c. 317, § 51.)

Effect of amendment.—The 1959 amendment divided this section into three sentences, substituted “action” for “suit” at the end of the first sentence and substituted “time within which the answer is required to be served” for “return day there-

of” and “for such time as the court directs” for “to the next term” in the second sentence.

Effective date of 1959 amendment.—See note to § 164.

Sheriffs and Constables.

Sec. 199. Service of precepts by constables; right of pursuit. — A warrant issued by the district court for an offense under the laws for the maintenance of bastard children may be directed to and executed by a constable of any town within his county. If the accused has gone into another county before or after the warrant was issued, a sheriff or his deputy or a constable having the warrant may pursue and arrest him in any county and carry him to the county where the act complained of was committed. When such officer arrests a person to commit to the jail of his county, he may convey him by the most convenient and suitable route, although it pass through other counties. Except for the purpose of retaking a prisoner whom he has arrested and who has escaped, or for the purpose of taking a person before such a court, or for the purpose of executing a mittimus given to him by such a court, or for the purpose of pursuing a person who has gone into another town and for whose arrest a constable or a city marshal has a warrant, no constable of the several towns or city marshal of the several cities shall have any authority in criminal matters beyond the limits of the town or city in which he is elected or chosen. (R. S. c. 79, § 215. 1963, c. 402, § 114.)

Effect of amendment.—The 1963 amendment divided the former first sentence of the section into three sentences, substituted “the district court” for “a municipal court or a trial justice” near the beginning of the present first sentence, deleted “committed in his county or” following “of-

fense” in such sentence, substituted “within his county” for “therein” at the end of the present first sentence and deleted “or trial justice” following “court” at two places in the last sentence.

Application of amending act.—See note to § 108.

Sec. 203. Copy of writ delivered to defendant on request; neglect.—Every officer, plaintiff or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof, and if he unreasonably refuses or neglects to do so for 24 hours, he forfeits \$5 and \$5 additional for every subsequent 24 hours that he so refuses or neglects. Such forfeit shall be recovered by the debtor to his own use, in a civil action. (R. S. c. 79, § 219. 1961, c. 317, § 235.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “a civil action” for “an action of debt” at the end of the present second sentence.

Sec. 205. No officer to be attorney or draw papers; no employee of jailer to act as magistrate or attorney.—No such officer shall appear before any court or justice of the peace as attorney or adviser of any party in an action or draw any writ, complaint, declaration, citation, process or plea for any other person, and all such acts done by either of them are void. No person employed by the keeper of a jail in any capacity shall exercise any power or duty of a magistrate or act as attorney for any person confined in the jail, and all such acts are void. (R. S. c. 79, § 221. 1961, c. 317, § 236.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “such officer” for “officer aforesaid” near the beginning of the present first sentence and substituted “an action” for “a suit” near the middle of such sentence.

Sec. 206. Service in actions against officers for breach of duty, where principal defendant out of state.—In actions against sheriffs, deputy sheriffs and constables for breach of official duty where the principal defendant is out of the state, service may be made on such defendant by delivering a copy of the summons and of the complaint to each of the sureties on his official bond 14 days before the return day thereof, and the superior court may order further notice to the defendant by publication of an abstract of the complaint and order thereon in some newspaper published in the county where the complaint is returnable, or in the state paper or in such other manner as the court directs. If the order is complied with and proved, the defendant shall answer to the action and judgment in such case has the same effect as if personal service was made upon the principal defendant. (R. S. c. 79, § 222. 1961, c. 317, § 237; c. 417, § 174.)

Effect of amendments.—The first 1961 amendment rewrote this section, which formerly consisted of only one sentence. The second 1961 amendment substituted “complaint” for “writ” near the end of the first sentence.

Registers of Deeds.

Election, Duties, Salaries, Fees, etc.

Sec. 212. Register of deeds; how elected; vacancies.

Vacancies shall be filled for the unexpired term by election as provided for in section 213 at the next November election after their occurrence. In the meantime, the governor with the advice and consent of the council may fill vacancies by appointment, and the person so appointed shall hold his office until the first day of January, next after the election last mentioned. (R. S. c. 79, § 228. 1949, c. 349, § 115. 1959, c. 204, § 31.)

Effect of amendment.—The 1959 amendment divided the last paragraph into two

of that paragraph.

sentences and substituted “November” for “September” in the present first sentence

As the first paragraph of the section was not changed by the amendment, it is not set out.

Sec. 213. Election; governor and council to examine lists of votes; certificates of election; tenure of office. — The meetings for such election shall be notified, held and regulated and the votes received, sorted, counted, declared and recorded in the same manner as votes for representatives, and fair copies of the lists of votes shall be attested by the municipal officers and clerks of towns and sealed up in open town meeting, and town clerks shall cause them to be delivered into the office of the secretary of state. The governor and council shall open and examine the same and the list of votes of citizens in the military service returned to said office. They have the same power to correct errors as is conferred by chapter 3-A. They shall forthwith issue certificates of election to such persons as have a plurality of all the votes for each county or registry district. The person thus elected and giving the bond required in section 214 approved by the county commissioners shall hold his office for 4 years from the 1st day of the next January and until another is chosen and qualified. (R. S. c. 79, § 229. 1961, c. 360, § 5. 1963, c. 414, § 99.)

Effect of amendments. — The 1961 amendment divided the former last sentence into three sentences, substituted "chapter 3-A" for "section 50 of chapter 5" at the end of the present third sentence and substituted "section 214" for "the following section" in the present last sentence.

The 1963 amendment deleted "within 30 days next succeeding such meeting" at the end of the first sentence and deleted "by the 1st day of December following" preceding "open" in the second sentence.

Sec. 215. Salaries.—Registers of deeds in the several counties shall receive annual salaries as set forth in section 254.

The salaries of the registers of deeds shall be in full compensation for the performance of all official duties and no other fees or compensation shall be allowed them. All registers, except in the western district of Oxford county, shall devote their entire time to the duties of the office. They shall account quarterly under oath to the county treasurers for all fees received by them or payable to them by virtue of the office, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly on the 15th days of January, April, July and October of each year. They may make abstracts and copies from the records and furnish the same to persons calling for them and may charge a reasonable fee for such service, but shall not give an opinion upon the title to real estate. (R. S. c. 79, § 231. 1945, c. 141; c. 161, § 4; c. 167, § 4; c. 260, § 1; c. 280, § 6; c. 332, § 5. 1947, c. 110; c. 154, § 5; c. 157, § 5; cc. 200, 212, 288, 307, 309. 1949, c. 187, § 1; c. 214, § 6; c. 253; c. 286, § 1; c. 288; c. 308, § 4; c. 353, § 2; c. 424, § 5. 1951, cc. 58, 230; c. 311, § 5; c. 312, § 6; c. 313, § 4. 1953, c. 29; c. 38, § 3; c. 142, § 3; c. 151, § 1; c. 216, § 4; c. 247, § 3; c. 269, § 6; c. 276, § 6; c. 278, § 6; c. 288, § 2. 1955, c. 266, § 4; c. 319, § 4; c. 324; c. 327, § 2; 394, § 4; c. 411, § 1; c. 445, § 5; c. 447, § 2; c. 459, § 6; c. 464, § 6; c. 470, § 7. 1957, c. 416, §§ 5, 14, 27, 34, 39, 45, 52, 59, 69, 73, 79. 1959, c. 372, § 6. 1961, c. 323, § 3.)

Effect of amendments.—Prior to the 1959 amendment the first paragraph of the section specified the salaries and provided for monthly or weekly payments. The only change in the second paragraph was the substitution of "The salaries of the registers of deeds" for "The sums above mentioned" at the beginning thereof. Each of the 1955 and 1957 amendments increased the particular salaries.

The 1961 amendment deleted the former last sentence, relating to retention of fees for abstracts and copies.

Editor's note.—P. L. 1959, c. 372,

amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain coun-

ties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

Sec. 216. Fees.—Registers of deeds shall receive for:

Recording a deed or mortgage that fits the printed form currently in use in the registry, \$2.50.

Recording an assignment or discharge of mortgage, discharge of attachment or discharge of a municipal tax lien in the usual short form, \$1.

Entering in the margin of a record, a discharge of mortgage, attachment or tax lien, to be signed by the person discharging it, 50¢.

Receiving from an officer a copy of writ of attachment of real estate or a copy of writ of attachment of personal property in an unincorporated place, minuting it when it is received, keeping it on file and entering it in a book kept for that purpose, 50¢.

Receiving and filing a certificate of election of a clerk of a corporation, resignation of such clerk, or certificate of change of name or change of location of a corporation, \$1.

Filing and indexing copy of process against a domestic corporation, to be paid by the officer serving it, 50¢.

Recording certificates of organization of corporations and certifying copies thereof for filing with the secretary of state: corporation with capital stock, \$5; corporation without capital, \$2.

Recording and indexing notices and discharges of liens for internal revenue taxes of the United States of America under section 240 when paid by the United States, \$1.

Recording, indexing and preserving a plan, a minimum of \$3; plans requiring more than 1 page of the plan book shall be \$3 per page.

Recording abstracts of wills when received from registers of probate within the state, \$1.50.

Recording a municipal tax lien in accordance with provisions of section 88 of chapter 91-A, \$1.

Receiving, recording and indexing of any deed or mortgage, that will not fit the printed form, any assignment or discharge in long form or any other instrument by law entitled to record, the sum of \$2.50 for the first 500 words and the sum of 25c for each 100 words or a fraction thereof in excess of 500 words. If recording is done by photographic, photostatic or other mechanical methods as permitted by law the charge shall be \$2 for the first record page and \$1 per page for each additional page or fraction of a record page so recorded of same instrument. The fees provided by this paragraph shall not apply to the recording of instruments the fees for which are otherwise provided by law.

Making abstracts and copies from the records, a reasonable fee as determined by the county commissioners.

The above fees shall be paid when the instrument is offered for record, except that fees payable by the state shall be paid monthly by the department or agencies requesting the recording, upon rendition of bills by the register of deeds. Said bills shall be paid within 10 days of receipt of same by the department or agency. (R. S. c. 79, § 232. 1947, c. 380. 1949, c. 404, §§ 1, 2, 3. 1953, cc. 50, 150, 1955, c. 84, 1957, c. 397, § 43. 1959, c. 133. 1961, c. 323, §§ 1, 2. 1963, c. 291.)

Effect of amendments. — The 1955 amendment added all that part of the last paragraph that follows the word "record" in the first sentence.

The 1957 amendment substituted "sec-

tion 88 of chapter 91-A" for "section 98 of chapter 92" in the twelfth paragraph.

Prior to the 1959 amendment, the thirteenth paragraph consisted of one sentence. The present second sentence was a proviso,

imposing a fee of \$1 for each record page or fraction thereof. The third sentence in the paragraph is new.

The 1961 amendment substituted "\$2.50" for "\$1.50" in the second paragraph, substituted "\$1" for "50c" in the ninth para-

graph, substituted "\$2.50" for "\$2" in the thirteenth paragraph and deleted the former fourteenth paragraph.

The 1963 amendment added the next to the last paragraph.

Sec. 217. Deputy; oath and duties.—Each register may appoint a deputy register of deeds for whose doings and misdoings he shall be responsible, who shall be sworn. In case of sickness, absence or any temporary disability of the register, such deputy shall make and sign for him all certificates, and make all entries and minutes required to be signed or made by the register, and such certificates, entries and minutes shall be as valid as if made by the register. (R. S. c. 79, § 233. 1959, c. 36, § 1.)

Effect of amendment.—The 1959 amendment substituted "deputy register of deeds" for "clerk" in the first sentence and sub-

stituted "deputy" for "clerk" in the second sentence.

Sec. 221. Clerk of courts register, when necessary.—In case of vacancy in the office of register and of his deputy in any county or registry district, the clerk of the judicial courts of the same county, being first sworn, shall perform all duties and services required of a register of deeds during such vacancy; complete all unfinished business; receive the same compensation and be subject to the same liabilities as a register of deeds; and his certificate shall have the same effect as if made by the register. (R. S. c. 79, § 237. 1959, c. 36, § 2.)

Effect of amendment.—The 1959 amendment substituted "deputy" for "clerk" near the beginning of the section.

Sec. 224. Register's successors may complete records and grant certificates.—Such clerk as referred to in section 222, or his substitute, or the newly appointed or elected register, or any successor within 5 years after the original vacancy occurred shall complete, compare and certify any unfinished record or certificate required by law and make all requisite certificates upon deeds and other papers recorded, which his removed predecessor should have done if such records and certificates had been completed by him, which certificates shall be as effectual in law as if made by his predecessor; for doing this, the minutes made by his predecessor upon such deeds or other papers and the entries made by him in the books required to be kept for such purposes shall be sufficient authority. If payment for such services has been made to his predecessor, he shall be paid for them out of the county treasury, and the former register and his sureties shall refund such payments to the county treasury, to be recovered by a civil action upon his official bond. (R. S. c. 79, § 240. 1961, c. 317, § 238.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "suit" in the last sentence of this section.

Sec. 226. Recording officer not to draft or aid in drafting any document he is to record.—No city, town, county or state officer whose duty is to record conveyances of any kind, assignments, certificates or other documents or papers whatsoever shall draft or aid in drafting any conveyance, assignment, certificate or other document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by any complainant by a civil action for his benefit or by indictment for the benefit of the county. (R. S. c. 79, § 242. 1961, c. 317, § 239.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in this section.

Sec. 230. Miscellaneous records.—Registers shall receive and record all certificates in equitable proceedings, copies of judgments and decrees certified by the clerk of courts in the county where the complaint is pending or the judgment or decree is rendered, certified copies of the proceedings of any court, corporation, municipal body or other tribunal through or by which the right of eminent domain has been or may hereafter be exercised to affect the title to real estate, copies of portions of wills devising real estate situated in their respective counties or districts and all other instruments which they are by law required to record. They shall receive all copies of seizures on execution and special attachments made and attested by any officer of real property situate in their respective counties or districts and certify on them the time when they are received; also certificates of advertised stallions and copies of processes against domestic corporations filed for service by officers in the registry, keep them on file for the inspection of parties interested and enter them in suitable books, properly indexed. (R. S. c. 79, § 246. 1961, c. 317, § 240.)

Effect of amendment.—The 1961 amendment for “equity” and “complaint” for “bill” in ment substituted “equitable proceedings” the first sentence of this section.

Sec. 233. Plans of land lotted for sale filed; neglect.—Whoever lots or causes to be lotted for the purpose of sale any tract of land shall, before making any deed of such land or any part thereof, file with the register of deeds for the county or registry district wherein such land is situated an accurate plan of such property, which plan shall give such courses, angles and distances as will be sufficient to enable a skillful surveyor to locate any lot shown thereby. If such party, after request by any interested party or by the register of deeds, fails to comply with this section, he shall be liable to a penalty of not more than \$50, to be recovered in a civil action in the name of the register of deeds for the benefit of the county. (R. S. c. 79, § 249. 1961, c. 317, § 241.)

Effect of amendment.—The 1961 amendment deleted “the provisions of” preceding “this section” and substituted “a civil action” for “an action of debt” in the last sentence of this section.

Sec. 236. Plans of townships; copies; filing and indexing.—The county commissioners shall, at the expense of their respective counties, procure such plans of the townships in their counties as may be in existence; and if the original plans are not in existence or cannot be had at a reasonable price, they shall procure copies of the most authentic plans known to exist. All such copies shall be on the best quality of linen paper backed with cloth. Suitable filing cases shall be provided in each registry of deeds for the reception and preservation of such plans and a suitable index thereof shall be made, having at least both alphabetical and chronological arrangement, and shall be revised whenever new such plans for recording are received. (R. S. c. 79, § 251. 1959, c. 165.)

Effect of amendment.—The 1959 amendment added at the end of the section the language beginning with the words “having at least.”

Medical Examiners.

Appointment, Duties, Compensation, etc.

Sec. 243. Appointment of medical examiners; duties. — Medical examiners for each county in the state shall be appointed by the governor with the advice and consent of the council for a term of 4 years or during the pleasure of the governor and council. They shall be able and discreet men, learned in the science of medicine and anatomy, and bona fide residents of the county for which they are appointed. The number of medical examiners so to be appointed shall be as follows: For the counties of Knox, Piscataquis, Sagadahoc, and Waldo, 2 each; for the counties of Franklin, Hancock, Lincoln and Somerset, 3 each; for

the counties of Kennebec, Oxford, Washington and York, 4 each; for the county of Androscoggin, 5; for the counties of Aroostook, Cumberland and Penobscot, 7 each; and they shall be appointed with reference to territorial distribution. Each medical examiner before entering upon the duties of his office shall be duly sworn to the faithful performance of his duty. They shall make examinations whenever any person shall die from criminal violence, or by suicide or in any suspicious or unusual manner. (R. S. c. 79, § 258. 1947, c. 190, § 1. 1949, c. 339. 1957, cc. 283, 284, 429, § 78. 1959, cc. 231, 318; c. 378, § 59. 1961, cc. 228, 230, 237; c. 417, § 175. 1963, cc. 79, 167.)

Effect of amendments.—This section was amended three times in 1957. Chapter 283 increased the number of medical examiners in Cumberland county from 6 to 7 in the third sentence. Chapter 284, which did not refer to or give effect to c. 283, increased the number in Penobscot county from 6 to 7 in such sentence. Chapter 429, effective October 31, 1957, revised the third sentence so as to give effect to the two preceding 1957 amendments but made no other change.

Chapter 231, P. L. 1959, increased the number of medical examiners in Somerset county from 2 to 3 and c. 318, P. L. 1959, which did not refer or give effect to c. 231, increased the number in Lincoln county from 2 to 3. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, re-enacted the third sentence so as to give

effect to both chapters 231 and 318.

Chapter 228, P. L. 1961, increased the number of medical examiners in Washington county from 3 to 4. Chapter 230, P. L. 1961, increased the number of medical examiners in Aroostook county from 5 to 6. Chapter 237, P. L. 1961, increased the number of medical examiners in Franklin County from 2 to 3. Chapter 417, P. L. 1961, re-enacted the section without change except for the deletion of "as hereinafter provided" following "examinations" in the last sentence. None of these 1961 amendments referred to or gave effect to any of the others. Chapter 79, P. L. 1963, increased the number of medical examiners in Aroostook county from 6 to 7 and c. 167, P. L. 1963, which did not refer or give effect to c. 79, increased the number in Oxford county from 3 to 4.

Sec. 244. Notice of finding of body.—Whoever finds the body of any person who is supposed to have come to his death by violence or by the action of chemical, thermal or electrical agents or following abortion, or suddenly when not disabled by recognizable disease or who has come to his death unexplained or unattended, shall immediately notify one of the municipal officers, a police officer or constable if in a city or town; or a member of the board of assessors if in a plantation; and if in an unorganized place, the most readily accessible of such officials in any city, town or plantation within the county. Such official shall immediately take charge of such body and retain custody thereof without moving the same, except as hereinafter provided, until the arrival of a medical examiner, the county attorney, the sheriff or a member of the state police. The official taking charge of said body shall immediately notify the county attorney or sheriff, who shall in turn arrange for the attendance of the most readily accessible medical examiner. If the body, where found, is in danger of being destroyed or damaged by fire, vehicular traffic or otherwise, or of being lost in any body of water, any person may take steps as may seem necessary for its preservation or retention prior to the arrival of the medical examiner, sheriff, a member of the state police or the county attorney, but in such event shall first, whenever practicable, exactly mark the location and position of the body. If no such danger exists, the body shall not be moved until the arrival of the medical examiner, the sheriff, a member of the state police or the county attorney, and until photographs have been taken or measurements and drawings have been made to record the physical facts relative to the location and position of the body, under the supervision of the county attorney, the state police or sheriff, or unless the attorney general or the county attorney waives such requirements. After such photographs or such measurements and drawings have been made or have been waived as aforesaid and after the medical examiner has completed such examination as required of him in the following section, the body may be removed to a convenient place. The

body shall not be finally released for embalming or burial, except by order of the county attorney or sheriff. If and when it shall appear to the county attorney that the case is one of probable homicide, he shall notify the attorney general of the fact. (R. S. c. 79, § 259. 1947, c. 190, § 2. 1955, c. 326, § 1.)

Effect of amendment.—The 1955 amendment rewrote that part of the first sentence which precedes the first semicolon.

Sec. 244-A. Death without medical attendance. — When any person shall die without the attendance of a physician in his or her last sickness, the head of the household in which such death occurred, any funeral director called to remove the dead body, or any physician called to examine the dead body shall call a medical examiner to examine the body and shall give him all information which they may have concerning the death. (1959, c. 291, § 10.)

Sec. 245. Proceedings by medical examiner upon receiving such notice.—Upon notice that there has been found or is lying within his county the body of a person who is supposed to have come to his death by violence or by the action of chemical, thermal or electrical agents or following abortion, or suddenly when not disabled by recognizable disease, or any unexplained or unattended deaths, it shall be the duty of any person having knowledge of such death to notify the medical examiner of the county wherein the body lies and such medical examiner shall forthwith repair to the place where such body lies and take charge of the same, and before said body is removed, he shall reduce or cause to be reduced to writing a description of the location and position of the body and any and all facts that may be deemed important in determining the cause of death. He shall, upon authorization of the county attorney or the attorney general, make an autopsy in the presence of a physician and one other discreet person sufficient in his judgment to disclose such facts as may be attainable thereby which may be of assistance in determining the cause of death. He may compel the assistance of such physician and person, by subpoena if necessary, and he shall then and there at the time of such autopsy reduce or cause to be reduced to writing every fact and circumstance disclosed by such autopsy tending to show the manner and cause of death, which record shall be signed by himself and the witnesses who have attended, who shall in addition to their names subscribe their address and place of business. In case at the time of finding of such body there be no medical examiner available within the county by reason of vacancy in the office, incapacity or absence from the county, any medical examiner in an adjoining county may be notified, whose duty it shall be to attend and perform all duties prescribed by sections 243 to 253, inclusive, as though he were a medical examiner within the county. (R. S. c. 79, § 260. 1947, c. 190, § 3. 1955, c. 326, § 2.)

Effect of amendment.—The 1955 amendment rewrote the first sentence.

Sec. 252. Compensation of medical examiner. — Every medical examiner shall render an account of the expenses of each case, including his fees, to the county attorney, who shall audit and approve the same before it is submitted to the county commissioners for their approval, and the fees allowed the medical examiner shall not exceed the following: For a view and inquiry without an autopsy, \$20; for a view and autopsy, \$50; when the medical examiner performing an autopsy is a pathologist, \$100, whether he makes a view or not; for an inquest, \$10 per day for the time actually spent in holding such inquest and for all necessary travel at the rate of 10¢ per mile. Witnesses summoned to testify at such inquest shall be allowed the same fees as witnesses in the superior court. The physician and other person required to be present at an autopsy as provided in section 245 shall be allowed a reasonable compensation, to be audited by the

medical examiner and county attorney. (R. S. c. 79, § 267. 1947, c. 190, § 5. 1957, c. 399. 1961, c. 301.)

Effect of amendments. — The 1957 amendment inserted the provision as to compensation of a pathologist for an autopsy.

The 1961 amendment increased the fee for a view and inquiry without an autopsy from \$15 to \$20.

County Offices.

Salaries of Officers and Clerk Hire.

Sec. 254. Salaries of county officers.—The county commissioners, clerks of the judicial courts and their deputies, county treasurers and their deputies, sheriffs, registers of deeds, judges of probate, registers of probate, and judges and recorders of the municipal courts in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments as follows, except that the county attorneys and their assistants shall receive annual salaries from the state treasury in monthly payments on the last day of each month, in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, cost or emoluments shall be allowed them:

Androscoggin county: County commissioners, \$2,000; chairman, \$2,600; clerk of courts, \$5,800; county attorney, \$5,000; assistant county attorney, \$3,500; county treasurer, \$4,300; sheriff, \$5,500; register of deeds, \$5,800; judge of probate, \$5,000; register of probate, \$4,800; Auburn municipal court judge, \$3,600; associate judge, \$4,000; Lewiston municipal court judge, \$4,000; recorder, \$3,800; Lisbon municipal court judge, \$1,800; Livermore Falls municipal court judge, \$2,000.

Aroostook county: County commissioners, \$1,250, except that one member of the board, designated by the board as chief administrative officer, shall receive \$5,000; clerk of courts, \$5,500; county attorney, \$4,500; assistant county attorney, \$3,500; county treasurer, \$3,000; sheriff, \$5,500; register of deeds, northern district, \$4,000; southern district, \$4,500; judge of probate, \$4,000; register of probate, \$4,000; Caribou municipal court judge, \$4,000; recorder, \$2,000; Fort Fairfield municipal court judge, \$3,300; recorder, \$1,250; Houlton municipal court judge, \$4,000; recorder, \$2,000; Madawaska municipal court judge, \$3,300; recorder, \$1,250; Presque Isle municipal court judge, \$4,000; recorder, \$2,000; Van Buren municipal court judge, \$3,300; recorder, \$1,250; Northern Aroostook municipal court judge, \$3,300; recorder, \$1,250.

Cumberland county: County commissioners, \$4,000; clerk of courts, \$7,500; deputy clerk of courts, \$6,000; county attorney, \$6,500; first assistant county attorney, \$5,000; second assistant county attorney, \$4,500; county treasurer, \$5,500; sheriff, \$7,000; register of deeds, \$6,500; deputy register of deeds, \$5,000; judge of probate, \$8,000; register of probate, \$7,000; Brunswick municipal court judge, \$4,500; recorder, \$2,500; Northern Cumberland municipal court judge, \$2,500; recorder, \$600; Portland municipal court judge, \$6,500; recorder, \$6,000; South Portland municipal court judge, \$3,500; associate judge, \$2,000; Westbrook municipal court judge, \$3,500; recorder, \$1,500.

Franklin county: County commissioners, \$900; clerk of courts, \$3,700; county attorney, \$4,000; county treasurer, \$1,200; sheriff, \$4,000; register of deeds, \$4,100; judge of probate, \$2,000; register of probate, \$3,600; Franklin municipal court judge, \$3,000.

Hancock county: County commissioners, \$1,450; clerk of courts, \$3,750; deputy clerk of courts, \$2,600; county attorney, \$4,500; county treasurer, \$2,350; sheriff, \$4,250; register of deeds, \$3,750; judge of probate, \$4,250; register of probate, \$3,750; Bar Harbor municipal court judge, \$2,500; associate judge, \$1,000; Western Hancock municipal court judge, \$2,500; recorder, \$800; Ellsworth municipal court judge, \$3,000; recorder, \$1,000.

Kennebec county: County commissioners, \$1,850; chairman, \$2,100; clerk of courts, \$5,000; deputy clerk of courts, \$3,700; county attorney, \$5,000; assistant county attorney, \$3,500; county treasurer, \$3,750; sheriff, \$5,500; register of deeds, \$5,500; judge of probate, \$6,000; register of probate, \$4,000; Augusta municipal court judge, \$3,300; recorder, \$1,900; Gardiner municipal court judge, \$2,400; recorder, \$1,500; Hallowell municipal court judge, \$500; Waterville municipal court judge, \$4,200; recorder, \$1,900; Winthrop municipal court judge, \$1,800.

Knox county: County commissioners, \$1,100; clerk of courts, \$4,000; county attorney, \$4,000; county treasurer, \$1,400; sheriff, \$4,300; register of deeds, \$4,000; judge of probate, \$3,000; register of probate, \$3,000; Knox county municipal court judge, \$3,200; associate judge, \$2,000.

Lincoln county: County commissioners, \$1,000; chairman, \$1,100; clerk of courts, \$4,300; county attorney, \$4,000; county treasurer, \$1,000; sheriff, \$3,800; register of deeds, \$4,300; judge of probate, \$3,500; register of probate, \$4,000; Lincoln municipal court judge, \$3,000; recorder, \$2,000.

Oxford county: County commissioners, \$1,800; chairman, \$2,000; clerk of courts, \$4,200; county attorney, \$4,500; county treasurer, \$2,700; sheriff, \$4,300; register of deeds, eastern district, \$4,200; western district, \$2,400; judge of probate, \$4,000; register of probate, \$4,000; Norway municipal court judge, \$4,000; associate judge, \$800; Rumford municipal court judge, \$4,000; associate judge, \$800; Western Oxford municipal court judge, \$1,400.

Penobscot county: County commissioners, \$2,500; clerk of courts, \$5,500; deputy clerk of courts, \$4,500; county attorney, \$5,500; assistant county attorney, \$4,250; county treasurer, \$3,500; sheriff, \$5,800; register of deeds, \$5,000; judge of probate, \$5,500; register of probate, \$4,500; Bangor municipal court judge, \$4,800; associate judge, \$4,000; Brewer municipal court judge, \$3,000; associate judge, \$1,200; Dexter municipal court judge, \$2,000; town of Lincoln municipal court judge, \$3,200; recorder, \$2,000; Millinocket municipal court judge, \$3,000; recorder, \$1,600; Newport municipal court judge, \$1,700; Old Town municipal court judge, \$2,500; recorder, \$1,600.

Piscataquis county: County commissioners, \$1,000; chairman, \$1,100; clerk of courts, \$3,600; county attorney, \$4,000; county treasurer, \$1,200; sheriff, \$3,800; register of deeds, \$3,600; judge of probate, \$2,800; register of probate, \$3,400; Piscataquis municipal court judge, \$2,500; recorder, \$900.

Sagadahoc county: County commissioners, \$1,000; clerk of courts, \$4,200; county attorney, \$4,000; county treasurer, \$1,700; sheriff, \$4,100; register of deeds, \$4,200; judge of probate, \$3,000; register of probate, \$3,000; Bath municipal court judge, \$3,450; recorder, \$2,700.

Somerset county: County commissioners, \$1,000; chairman, \$1,200; clerk of courts, \$4,700; county attorney, \$4,500; county treasurer, \$2,100; sheriff, \$4,500; register of deeds, \$4,500; judge of probate, \$4,500; register of probate, \$4,500; Western Somerset municipal court judge, \$4,800; Pittsfield municipal court judge, \$2,500.

Waldo county: County commissioners, \$1,000; clerk of courts, \$3,800; county attorney, \$4,000; county treasurer, \$1,200; sheriff, \$4,000; register of deeds, \$3,200; judge of probate, \$3,000; register of probate, \$3,200; Waldo county municipal court judge, \$3,700; recorder, \$1,800.

Washington county: County commissioners, \$1,800; clerk of courts, \$3,600; county attorney, \$4,500; county treasurer, \$2,600; sheriff, \$4,300; register of deeds, \$3,300; judge of probate, \$3,000; register of probate, \$3,200; Calais municipal court judge, \$3,300; recorder, \$1,200; Eastport municipal court judge, \$2,200; recorder, \$400; Western Washington municipal court judge, \$3,300; recorder, \$1,200.

York county: County commissioners, \$1,750; clerk of courts, \$5,500; deputy clerk of courts, \$4,200; county attorney, \$5,000; assistant county attorney,

\$3,500; county treasurer, \$1,750; sheriff, \$4,750; register of deeds, \$5,200; judge of probate, \$6,500; register of probate, \$4,500; Biddeford municipal court judge, \$2,200; recorder \$1,500; Kennebunk municipal court judge, \$2,500; associate judge, \$1,200; Saco municipal court judge, \$1,800; associate judge, \$1,000; Sanford municipal court judge, \$2,000; recorder, \$1,350; Yorkshire municipal court judge, \$5,000; associate judge, \$3,000.

The salaries mentioned in this section shall be in full compensation for the performance of all official duties by said officers and judges. County commissioners shall allow to said officers all office expense, clerk hire and travel which are necessary, just and proper to the performance of their official duties.

All fees and charges of whatever nature, except charges for the publication of notices required by law, which may be payable to any county officer, shall be payable by them to the county treasurer for the use and benefit of the county, but preserving the right of sheriffs and their deputies to receive fees for service of civil process and of sheriffs and their deputies not on a salary of per diem basis to receive fees for service of criminal process, and no county officer shall receive a private benefit from the labor of any person in the employ of the county. (R. S. c. 79, § 269. 1945, cc. 32, 35, 37, 38, 140; c. 161, § 5; cc. 188, 201; c. 202, § 2; c. 205, § 1; c. 206, § 2; cc. 212, 215, 218, 224, 225, 226, 227; c. 260, § 2; c. 261, § 1; c. 280, § 7; cc. 287, 290; c. 319, § 1; c. 322, § 6; c. 339. 1947, c. 154, § 6; cc. 199, 204, 205, 209, 213, 254, 259, 293, 300, 301, 302, 303, 304, 315, 316, 318, 319, 341; c. 371, § 1. 1949, cc. 50, 175, 180; c. 186, § 4; c. 187, § 2; c. 214, § 7; cc. 228, 257; c. 260, § 1; c. 286, § 2; cc. 295, 306, 350; c. 353, §§ 1, 3. 1951, c. 274; c. 311, § 6; c. 312, § 7; c. 391. 1953, cc. 91, 120; c. 135, § 3; c. 149, § 3; c. 151, § 2; c. 269, § 7. 1955, c. 254; c. 266, § 5; c. 268, c. 319, § 5; c. 411, § 2; c. 459, § 7. 1957, c. 416, §§ 15, 22, 28, 60. 1959, c. 372, § 7; c. 378, §§ 60, 61. 1961, cc. 107, 286; c. 388, § 2; c. 390, § 1; c. 409, § 1; c. 417, §§ 176, 177. 1963, c. 59; c. 409, § 1.)

Effect of amendments.—Chapter 372, P. L. 1959, rewrote this section, which formerly contained provisions similar to those now found in the third and fourth sentences of § 255, provided for vacations and listed the maximum salaries for clerks. The earlier amendments specified the salaries for clerks in the office of county commissioners of Aroostook county and increased the salaries of certain other clerks. Chapter 378, P. L. 1959, added "recorder, \$800" at the end of the paragraph relating to Oxford county, ("recorder" was changed to "associate judge" in 1961) and increased the salaries of the Calais and Western Washington Municipal court judges in the paragraph relating to Washington county.

Chapter 107, P. L. 1961, substituted "except that one member of the board, designated by the board as chief administrative officer, shall receive" for "chairman" near the beginning of the paragraph relating to Aroostook county. Chapter 286, P. L. 1961, inserted "and of sheriffs and their deputies not on a salary or per diem basis to receive fees for service of criminal process" in the last paragraph. Chapter 388, P. L. 1961, inserted the assistant county attorney in the paragraph relating to York County. Chapter 390, P. L. 1961, rewrote the second to the seventeenth paragraphs,

increasing many of the salaries and making other changes. Chapter 390 did not refer to or give effect to c. 107 or c. 286 but did include the addition made by c. 388. Chapter 417, P. L. 1961, re-enacted the third and last paragraphs without change, giving effect to cc. 107, 286 and 390. Chapter 409, P. L. 1961, increased the salary of the register of deeds of Franklin county.

Chapter 59, P. L. 1963, added "in a sum which will, in the year's aggregate, most nearly equal the annual salary" near the end of the first paragraph. Chapter 409, P. L. 1963, again rewrote the section and carried appropriations for the fiscal years ending June 30, 1964 and 1965. Chapter 409 did not refer or give effect to c. 59 but the latter has been given effect in the section as set out above.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, providing salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as

amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

P. L. 1959, c. 378, § 62, provided that §§ 60 and 61 of the act, amending this section, should be retroactive to October 1, 1959.

Effective dates.—P. L. 1961, c. 390, as amended by P. L. 1961 c. 409, provided in §§ 3, 4 and 5 thereof as follows:

"Sec. 3. Effective date in certain counties. The salaries set forth in section I as

they relate to the Counties of Androscoggin, Aroostook, Knox, Lincoln, Somerset and York, except the salaries of the registers of deeds, registers of probate and county attorneys and assistant county attorneys of these counties, shall be retroactive to January 1, 1961.

"Sec. 4. Effective date in certain counties. The salaries set forth in section I as they relate to the Counties of Franklin, Waldo and Washington, except the salaries of county attorneys of these counties, shall be retroactive to January 1, 1961.

"Sec. 5. Effective date. The salaries as set forth in section I shall become effective October 1, 1961, except as otherwise provided in this act."

Section 3, c. 409, P. L. 1963, makes the salaries set forth in this section effective January 1, 1964.

Sec. 255. Clerk hire in county offices.—In all county offices there shall be allowed for clerk hire the amount authorized by the county commissioners of the various counties. The salary of all clerks shall be determined by the county commissioners after receiving a recommendation from the county officer under whom such clerk is employed. The several county treasurers shall pay weekly to the clerks employed by the county the wages to which they shall be entitled and take their individual receipts thereof. The county commissioners shall certify to the county treasurer the names of the clerks. The county commissioners may establish reasonable office hours for offices in the county building and provide for a county pay scale for clerical help, with paid vacations of 2 weeks per year after at least a year's service and with paid vacations of 3 weeks per year after at least 15 years' service.

Sick leave shall be earned by each county clerical employee at the rate of one working day for each completed full month of service. Unused sick leave may be accumulated to a total of 90 working days. When the maximum limitation has been accumulated, days that would normally thereafter be earned shall lapse. Every county treasurer shall maintain adequate records of the sick leave status of every county clerical employee. (1949, c. 341. 1959, c. 372, § 8. 1961, c. 14, §§ 1, 2. 1963, c. 114.)

Effect of amendments. — The 1959 amendment eliminated "by statute, together with such additional amounts as may from year to year be authorized" following "amount authorized" in the first sentence and added the second, third, fourth and fifth sentences.

The 1961 amendment eliminated from the last sentence of the present first paragraph a provision as to sick pay and added the second paragraph.

The 1963 amendment added "and with paid vacations of 3 weeks per year after at least 15 years' service" at the end of the last sentence in the first paragraph.

Editor's note.—P. L. 1959, c. 372, amending this section, provided in sections 12, 13 and 14 thereof as follows:

"Sec. 12. Private and special laws amended. All private and special laws, pro-

viding salaries and clerk hire for judges and recorders of municipal courts to be paid from the county treasury, shall be amended to read, in place of the salaries set forth therein, 'shall receive such salaries as established by the Revised Statutes of 1954, chapter 89, section 254, as amended,' and further amended by striking out all provisions for clerk hire.

Sec. 13. Effective date in certain counties. The salaries set forth in section 7 as they relate to the counties of Androscoggin, Aroostook, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Somerset, Waldo and York shall be retroactive to January 1, 1959.

Sec. 14. Effective date. The salaries as set forth in section 7 shall be effective October 1, 1959, except as otherwise provided in this act."

Fees in Waldo County.

Sec. 256. Fees in Waldo county.—All fees for copies of any public or official documents or records, of whatever nature, which may be payable to any county officer of Waldo county, shall be payable to the treasurer of Waldo county for the use and benefit of the county. (1953, c. 216, § 7. 1955, c. 231.)

Effect of amendment.—The 1955 amendment deleted the words “and charges for the publication of notices required by law” after the word “nature” in line two.

Fees in Penobscot County.

Sec. 258. Fees in Penobscot county.—All fees and charges of whatever nature provided for by state law, except charges for the publication of notices required by law, which may be payable to any county officer of Penobscot county, shall be payable to the treasurer of Penobscot county for the use and benefit of the county. The provisions of this section shall apply only to county officers who are receiving salaries or per diem pay, but shall not apply to the sheriff and deputy sheriffs engaged in the service of civil process. (1955, c. 394, § 5.)

Fees in Kennebec County.

Sec. 259. Fees in Kennebec county.—All fees and charges of whatever nature, except charges for the publication of notices required by law, which may be payable to any county officer of Kennebec county, shall be payable to the treasurer of Kennebec county for the use and benefit of the county. The provisions of this section shall apply only to county officers who are receiving salaries or per diem pay, but shall not apply to the sheriff and deputy sheriffs engaged in the service of civil process. (1955, c. 394, § 5.)

Salary Increases.

Sec. 260. Salary increases.—Increases in the salaries of county officers, authorized by the legislature, shall not become effective until January 1st of the next year succeeding the recess of the session of the legislature passing such salary increases. (1963, c. 353, § 1.)

Effective date.—Section 2 of c. 353, P. L. 1963, which added this section, makes the act effective January 1, 1965.

Chapter 90-A.

General Provisions Relating to Municipalities.

Editor's note.—P. L. 1957, c. 405, which inserted this chapter, provided in § 20 thereof as follows:

“Sec. 20. State tax assessor may print and distribute copies of chapter 90-A. The state tax assessor is specifically authorized, upon receipt of payment therefor by the Maine municipal association, to reproduce and distribute printed copies of chapter 90-A of the Revised Statutes

as part of the laws printed and distributed by the state bureau of taxation.”

Effect of revision of general laws relating to municipalities.—The revision of the general laws relating to municipalities enacted in 1957, did no more than to consolidate and codify the powers and duties of municipalities. *Squires v. Inhabitants of Augusta*, 155 Me. 151, 153 A. (2d) 80.

Section 1. Definitions.

Sections 2-11. Creation, General Powers and Duties of Municipalities.

Sections 12-23. Municipal Finance.

Sections 24-29. Accounting System and Postaudit.

Sections 30-36. Town Meeting.