

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

**VOLUME 3**

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

**Sec. 30. Answer to be returned within 2 months.**

**History of section.**—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

**Consideration with sections 23 and 29.**—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

**Written answer may be waived.**—Even though this section specifically provides for a written answer, such a written answer may be waived by the overseers of the poor. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

**Denial notice; when cause of action accrues.**—Under the provisions of this sec-

tion, it becomes the duty of the overseers receiving the notice to return a written answer within two months. This written answer is usually described as the denial notice. As the town alleged to be chargeable is allowed a period of two months in which to file a denial notice, manifestly the cause of action does not accrue until the expiration of the two month period, and then the town furnishing the assistance, may within two years, commence an action to recover. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

**Burial of Honorably Discharged Soldiers and Sailors.**

**Sec. 45. State to pay burial expenses of destitute soldiers and sailors and their widows.**—Whenever any person who has served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of his death a resident of this state and in destitute circumstances, the state shall pay the necessary expenses of his burial; or whenever the widow of any person who served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of her death a resident of this state and being in destitute circumstances and having no kindred living within this state and of sufficient ability legally liable for her support, the state shall pay the necessary expenses of her burial. Such expenses shall not exceed the sum of \$200 in any case and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead. (R. S. c. 82, § 45. 1957, c. 243.)

**Effect of amendment.**—The 1957 amendment made this section into two sentences and increased the sum men-

tioned in the second sentence from \$100 to \$200.

**Chapter 96.****Forests. Parks. Ways. Sewers and Drains. Fences.**

Section 1-A. State-Owned Lands.

**State-Owned Lands.**

**Sec. 1-A. Profits from state-owned lands.**—In towns where the state owns land as the result of acquisition of such land through the use of federal aid funds under the Pittman-Robertson Federal Aid to Wildlife Act and upon which natural products are sold or leased, 50% of the net profits received by the state from the sale or lease of such natural products shall be paid by the state to the town wherein such land is located. (1955, c. 405, § 43.)

**Public Parks, Squares, Playgrounds and Shade Trees.**

**Sec. 5. Land taken for parks, squares, public libraries and playgrounds.**—Any city or town upon petition in writing signed by at least 30 of its taxpaying citizens, directed to the municipal officers, describing the land to be taken as hereinafter provided, and the names of the owners thereof so far as they are known, may, at a meeting of such town or the city government, direct such municipal officers to take suitable lands for public parks, squares, playgrounds,

buildings for municipal purposes or a public library building; and thereupon such officers may take such land for such purposes, but not without consent of the owner if at the time of filing such petition with such officers or in the office of the clerk of such town or city such land is occupied by a dwelling house wherein the owner or his family reside. When land is taken under the provisions of this section for a public park, the fee of such land may be taken and compensation assessed and paid accordingly. Land in any town so taken for a public park may by authority of a majority vote at a town meeting be transferred and conveyed to the federal government so as to become a part of a national park. Nothing herein shall be held to deprive the former landowners from proceeding to restrain the use of such land for other than public park purposes. (R. S. c. 84, § 5. 1955, c. 216.)

**Effect of amendment.**—Prior to the 1955 cities and towns containing more than amendment this section applied only to 1,000 inhabitants.

### Town and Private Ways. Public Landings. Bridle Paths.

**Sec. 34. Damages for ways; appeal.**—The damages for a town way shall be paid by the town; for a private way, by those for whose benefit it is stated in the petition to be, or wholly or partly by the town, if under an article in the warrant to that effect it so votes at the meeting accepting such private way; or by cities, if it is proposed in the return laying out such way. Any person aggrieved by the estimate of such damages may have them determined as provided in chapter 89, section 42, by written complaint to the superior court, in the county where the land lies, within 60 days from the date of the establishment, alteration or discontinuance of such way by the town at its town meeting. Service shall be made upon the town where the land lies as in other actions, and by posting attested copies in 2 public and conspicuous places within said town and in the vicinity of the way; but the final judgment shall be recorded in said court and shall not be certified to the county commissioners. When any person, aggrieved by the estimate of damages for his land taken for a town or private way, honestly intended to appeal therefrom and has by accident or mistake omitted to take his appeal within the time provided by law, he may at any time within 6 months after the expiration of the time when said appeal might have been taken, apply to any justice of the court, stating in his said application the facts of his case. Said justice, after due notice and hearing, may grant to such petitioner permission to take his said appeal within such time as said justice shall direct and on such terms as said justice shall order, and the subsequent proceedings thereon shall be the same and with the same effect as if said appeal had been seasonably taken. (R. S. c. 84, § 33. 1959, c. 317, § 60.)

**Effect of amendment.**—The 1959 amendment changed the form of the reference in the second sentence, substituted "in" for "returnable at the term thereof next to be held within" following "superior court" and substituted "within" for "after" preceding "60 days" in such sentence, rewrote the third sentence, divided the former last sentence into two sentences, deleted "in term time or vacation" following "court" in the present fourth sentence and substituted "within such time" for "to such term of said court" in what is now the last sentence.

**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. 48. Location of ways crossing railroad tracks; expense; appeal.**—Town ways and highways may be laid out across, over or under any railroad track or through or across any land or right-of-way of any railroad corporation,

except that no such location shall be legal or effective, nor shall any such way be constructed, unless the public utilities commission, on application of the municipal officers of the city or town wherein such way is located, the state highway commission or the parties owning or operating the railroad shall, upon notice and hearing, determine that such way shall be permitted to cross such track or land or right-of-way of any railroad corporation. Said public utilities commission shall have the right to refuse its said permission or to grant the same upon such terms and conditions as it may prescribe, including the manner and conditions in accordance with which the way may cross such track or land or right-of-way of any railroad corporation and may determine whether the expense of building and maintaining so much of said way as is within the limits of such railroad corporation shall be borne by such railroad corporation, or by the city or town in which such way is located, or by this state, or said public utilities commission may apportion such expense equitably between such railroad corporation and the city, town or state. Said public utilities commission shall make a report in writing of its decision thereupon, file the same in its office and cause to be sent by mail or otherwise to each of the railroad corporations and the municipal officers of the city or town as the case may be, interested therein, and the state highway commission when interested, a copy of such decision. Such decision shall be final and binding upon all parties unless an appeal therefrom shall be taken to the superior court, in the county where the crossing is located. Said public utilities commission shall be made a party defendant in such appeal and entitled to be heard in all subsequent proceedings had upon such appeal. The appellant shall within 14 days from the date of the filing of such report, file in the office of the public utilities commission its reasons for appeal, and it shall forthwith cause to be served upon such other interested corporations or municipality or the state highway commission a copy of such reasons for appeal, certified by the clerk of the public utilities commission. The presiding justice shall make such order or decree thereon as law and justice may require. An appeal may be taken to the law court as in other actions. The final adjudication shall be recorded as provided in section 50 and a copy of such final decision sent to the public utilities commission by the clerk of the court where such final adjudication is made. Costs may be taxed and allowed to either party at the discretion of the court. (R. S. c. 84, § 47. 1959, c. 96; c. 317, § 61.)

**Effect of amendments.**—This section was amended twice by the 1959 legislature. P. L. 1959, c. 96, deleted the words “used for station purposes”, formerly appearing three times in the first two sentences. Chapter

317, § 61, rewrote the fourth, fifth, sixth and seventh sentences of the section. Chapter 317 became effective December 1, 1959. See note to § 34 of this chapter.

**Sec. 49. Maintenance of ways already laid out.**—Notwithstanding the provisions of any section of chapter 45, in case of ways already laid out which cross over or under any railroad track or tracks and not at grade, the allocation of the expense of maintaining so much thereof as is within the limits of such railroad shall be determined, de novo, as provided by section 48, by the public utilities commission upon application to it by any corporation whose track is or tracks are so crossed, or upon application by the municipal officers of any town in which the crossing is located, or upon application by the state highway commission. (R. S. c. 84, § 48. 1945, c. 293, § 17. 1947, c. 22. 1957, c. 356, § 1.)

**Effect of amendment.** — The 1957 amendment deleted the words “rebuilding, reconstructing and” formerly preced-

ing the word “maintaining” near the middle of the section and substituted “section 48” for “the preceding section”.

### Abolishment of Grade Crossings.

**Sec. 51. Petition to abolish, reconstruct or alter crossings; damages; expenses; temporary ways.**—The state highway commission or the municipal officers of a city or town whenever a public way over which they have

jurisdiction crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, or any railroad company may file a petition in writing with the public utilities commission alleging that safety or public convenience either to the traveling public or in the operation of the railroad requires the abolishment of or the reconstruction of or an alteration of such crossing or its approaches; or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered. Whereupon said commission shall appoint a time and place for a hearing thereon after notice of not less than 10 days to the petitioners, the state highway commission, the railroad corporation, the municipality in which such crossing is situated, the owners or occupants of the land adjoining such crossing or adjoining that part of way to be changed in grade, and to the attorney general of the state whose duty it shall be, by himself or through the county attorney of the county wherein the crossing is located to represent the interests of the state at such hearing. After such notice and hearing the commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, shall be made to insure safety or public convenience and by whom such abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction and authority of said commission as conferred by this section shall exist whether the change or alteration in such crossing is within or without the located limits of a public way. To facilitate such abolishment, reconstruction, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to pass at the side thereof. For the purposes aforesaid land may be taken and damages awarded as provided for laying out highways. The commission shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way. Appeal from any decision, order or award of the commission may be had as provided in section 53. The commission shall apportion the expenses pertaining thereto and damages as follows: if the way involved is a state highway, 50% to the state highway commission and 50% to the corporation operating the railroad; if the way involved is a state aid highway, 50% to the state highway commission and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the corporation operating the railroad; if the way involved is a town way, 35% to the state, to be paid out of the general fund, 15% to the town, or in cases under the provisions of the last paragraph of this section, 15% to the county commissioners of the county, in which the way is located and over which the county commissioners have jurisdiction, and 50% to the corporation operating the railroad; provided, however, that the public utilities commission may vary the aforesaid percentages of expenses and damages as it may deem proper after due consideration of the relative benefits to be derived from such abolishment, alteration or reconstruction; and provided, further, that the amount ordered to be paid by the corporation operating the railroad shall not in any event exceed 50% of said expenses and damages. The commission may approve agreements made by the corporation or other parties interested, including the state, acting by and through the state highway commission, in respect to the work, or varying the above percentages provided the amount to be paid by the town by agreement shall not exceed the 15% herein specified unless the town shall otherwise vote. As to any elimination or alteration made under the provisions of this section, the commission may determine what work fairly and properly should be regarded as highway construction.

The commission may make such order relative to the maintenance of crossings at grade or otherwise as it may deem necessary, and may determine whether

such expense shall be borne by such railroad corporation, by the municipality in which any such crossing is located or by the state acting by or through the state highway commission; or said commission may apportion such expense equitably between such railroad corporation, such municipality and the state acting by or through the state highway commission.

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the commission may order. The commission shall not make any order upon any petition filed under the provisions of this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

The county commissioners shall have the same right of petition under the provisions of this section, with respect to roads in unorganized places laid out by them under the provisions of section 55 of chapter 89, as have municipal officers of a municipality under the foregoing provisions of this section. In case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the public utilities commission of the filing of such petition and given opportunity to appear and be heard thereon. (R. S. c. 84, § 50. 1953, c. 13. 1957, c. 356, § 2.)

**Effect of amendment.** — The 1957 amendment rewrote this section.

**Sec. 52. Public way crossing tracks of more than one railroad.—**

Whenever the public utilities commission, upon an application or petition brought under the provisions of section 51, finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public safety or convenience requires the work of abolishment, reconstruction, alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application. After such notice and hearing said commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, of said crossing shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations between such corporations in such manner as said commission shall deem just and proper. (R. S. c. 84, § 51. 1957, c. 356, § 3.)

**Effect of amendment.** — The 1957 amendment inserted the words "safety or" preceding the word "convenience", inserted the word "reconstruction" in two places, and made other minor changes.

**Sec. 54. Amount paid by state or railroad corporation limited.—**The amount to be paid in any year by the public utilities commission acting for the state under the provisions of sections 51, 52 and 53, except as herein provided, shall not exceed \$25,000 for work in connection with town ways, and said amount shall be appropriated from the general fund for each fiscal year. The said appropriation shall be cumulative and any part of said sum of \$25,000 not expended during the year for which it is appropriated shall be added, at the close of said year, to the sums subsequently appropriated and may be expended in any subsequent year or years. No railroad corporation shall be required to expend, under the provisions of the 3 preceding sections, more than \$110,000 during any period of 3 consecutive calendar years. (R. S. c. 84, § 53. 1957, c. 356, § 4.)

**Effect of amendment.** — The 1957 amendment rewrote this section.

### Assessments upon Abutters on City Streets.

**Sec. 59. Collection of assessments.**—All assessments and charges made under the provisions of sections 56 to 58, inclusive, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected. (R. S. c. 84, § 58. 1957, c. 397, § 46.)

**Effect of amendment.**—The 1957 amendment rewrote this section.

### Liability for Repair of Ways and for Injuries.

#### **Sec. 70. Snow removed; repair; damage.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

#### **Sec. 72. Materials taken from lands not enclosed or planted.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 73-A. Recording of eminent domain proceedings.**—No taking, lay-out or acceptance of land or any interest therein by a municipality or other municipal corporation, or the discontinuance of same, after the effective date of this act, shall be effectual against persons without actual notice thereof, unless there is recorded in the registry of deeds for the county where the land lies, either a deed or certificate attested by the clerk of said municipal corporation, describing the land, and setting forth the final action of the municipal corporation in regard thereto. (1959, c. 91.)

#### **Sec. 74. Duties of road commissioners.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

#### **Sec. 75. Repair of roads by road machines after August 10th.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

#### **Sec. 77. Watercourses not made to injure; remedy.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 81. Damages by raising or lowering streets.**—When a way or street is raised or lowered by a road commissioner or person authorized to the injury of an owner of adjoining land, he may within a year apply in writing to the municipal officers, and they shall view such way or street and assess the damages, if any have been occasioned thereby, to be paid by the town; and any person aggrieved by said assessment may have them determined, on complaint to the superior court, in the manner prescribed in section 34. Said complaint shall be filed in the superior court, in the county where the land is situated within 60 days from the date of assessment. (R. S. c. 84, § 80. 1959, c. 317, § 62.)

**Effect of amendment.**—The 1959 amendment substituted “in” for “at the term of” preceding “the superior court” and for “next to be held within” following such words in the last sentence and substituted

“within” for “after” preceding “60” in the same sentence. Chapter 317 became effective December 1, 1959. See note to § 34.



**Sec. 82. When appropriation insufficient.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 83. Money raised for ways and bridges.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 84. Expenditure of money.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 85. Powers and duties of road commissioner.**

Cited in *Wardwell v. Inhabitants of Castine*, 154 Me. 123, 144 A. (2d) 530.

**Sec. 87. Repealed by Public Laws 1955, c. 424, § 6.****Sec. 89. Persons injured by highway defects; damages; notice.**

Applied in *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Sec. 92. Slippery sidewalk no cause of action.**

This section is not unconstitutional as denying equal protection of the laws, in violation of § 1 of the fourteenth amendment to the constitution of the United States, and the guaranties under § 1 of art. 1 of the constitution of Maine. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Exemption is unrestricted and absolute.**—Whatever may be the character of a ridge of ice or snow in a roadway, as distinguished from a sidewalk, as a defect therein, if the same be created by act of those having charge of the streets and allowed to remain therein, this section re-

lieves a municipality from liability to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk. This exemption is unrestricted, is absolute and there is no exception contained therein or thereto. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**And cannot be avoided even if snow or ice constitutes public nuisance.**—The effect of this section cannot be avoided even if the snow or ice on a sidewalk constitutes a public nuisance. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Sec. 95. Notice to company.**—The notice required in section 93 shall be by copy of the summons and complaint served upon the company at least 30 days before the action is in order for trial unless the court orders otherwise. (R. S. c. 84, § 94. 1959, c. 317, § 63.)

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

**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 fur-

ther 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. 104. Towns to maintain guide-posts at crossings of ways.**—Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, guide-posts and guideboards indicating the name of the next town on the route and of such other place as the municipal officers direct, with the number of miles thereto. Such guide-posts and guideboards shall be of such reasonable form, height and design as the state highway commission may direct; and for any neglect hereof towns are subject to a fine of not less than \$10 nor more than \$50, to be recovered by complaint or indictment. Trial justices within their county shall have jurisdiction concurrent with municipal courts and the superior court; and of all fines provided for by this section, and

recovered on complaint,  $\frac{1}{2}$  shall go to the prosecutor and  $\frac{1}{2}$  to the county where the town committing the offense is situated. (R. S. c. 84, § 103. 1959, c. 184.)

**Effect of amendment.**—The 1959 amendment substituted “guide-posts and guide-boards indicating” for “substantial guide-posts not less than 8 feet high, and fasten to the upper end of each a board on which shall be plainly printed in black letters on

white ground” in the first sentence, deleted “and a figure of a hand with the forefinger pointing thereto” at the end of such sentence and deleted “If erected on state or state aid highways” at the beginning of the second sentence.

### Closing of Ways in Winter.

#### **Sec. 125. Roads closed by county commissioners for part of winter months; notices; effect of order.**

The county commissioners may, without petition, give notice and hold public hearing to close roads for winter in unorganized territory. (R. S. c. 84, § 125. 1957, c. 211.)

**Effect of amendment.** — The 1957 amendment added the sentence set out above as the last paragraph of this section.

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

### Sewers and Drains.

**Sec. 130-A. Service charges for sewage disposal.** — A municipality may establish a schedule of service charges from time to time upon improved real estate with buildings on it connected with a municipal sewer or disposal system for the actual use of the system. The charges shall be collected according to section 134 of chapter 96. (1957, c. 405, § 18.)

**Sec. 134. Collection of assessments.**—All assessments and charges made under the provisions of sections 128 to 133, inclusive, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected. (R. S. c. 84, § 139. 1951, c. 343. 1957, c. 279, § 2.)

**Effect of amendment.** — The 1957 amendment repealed former section 134 and enacted the above section in lieu thereof.

### Improvement of Marshes, Meadows and Swamps.

**Sec. 168. Appeal from actions of commissioners.**—Any person, whether a party to the proceedings or otherwise interested therein or affected thereby, aggrieved by the doings of the commissioners, may appeal to the court at any time after their appointment and within 60 days after the return is made. (R. S. c. 84, § 173. 1959, c. 317, § 64.)

**Effect of amendment.**—The 1959 amendment substituted the words “within 60 days after the return is made” for the words “before the end of the term follow-

ing that at which the return is made” at the end of the section.

**Effective date of 1959 amendment.**—See note to § 95.

**Sec. 171. Appeal to law court.**—An appeal may be taken to the law court as in other actions. (R. S. c. 84, § 176. 1959, c. 317, § 65.)

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

**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."

## Chapter 97.

### Fire Departments and Fire Prevention.

#### Investigation of Fire Hazards and Causes of Fire.

##### **Sec. 22. Insurance commissioner upon complaint may inspect buildings; combustible or other dangerous matter removed; exitways.**

Every hospital, sanatorium, convalescent home, nursing home, rest home or other institution for the hospitalization or nursing care of human beings shall between sundown and sunrise maintain lighted exitways and all main exit doors shall be hung to swing outward. (R. S. c. 85, § 22. 1957, c. 37.)

**Effect of amendment.** — The 1957 amendment added the paragraph set out above as the second and last paragraph. As the first paragraph was not changed by the amendment, it is not set out.

**Sec. 23. Buildings repaired or demolished; petition to enforce order.**—If any person fails to comply with the order of any officer under the provisions of section 22 or with the decision of the insurance commissioner on review and within the time fixed, then such officer or the insurance commissioner may petition the supreme judicial court or the superior court in equity, in term time or vacation, in the county where the building or premises is located to enforce the order of said officer or the insurance commissioner. After notice and hearing the court shall make such order, judgment or decree as law and justice may require, or the court may authorize the town to cause such building or premises to be forthwith repaired, torn down or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the town in which such property is situated; and if the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects or refuses to repay said town the expense thereby incurred, a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses, and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected. (R. S. c. 85, § 23. 1957, c. 7.)

**Effect of amendment.**—Prior to the 1957 amendment the officer or insurance commissioner, on review, caused the repair, demolition, etc. The petition relative

to the enforcement of the order is new with the amendment, as is also the court order, judgment, etc.

**Sec. 29. Insurance commissioner may incur expense for administration of fire preventive laws; director of state fire prevention; state fire inspectors.**—The insurance commissioner may incur such expense and appoint a director of state fire prevention, an assistant director of state fire prevention and such supervising state fire inspectors, subject to the provisions of the personnel law, as may be necessary to carry out the provisions of all fire preventive and investigative laws, rules and regulations which he is by law empowered to administer. He may also incur reasonable expenses in educating the public in fire prevention and protection. The director of state fire prevention, the assistant director of state fire prevention and supervising state fire inspectors appointed