

# MAINE STATE LEGISLATURE

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THE  
**REVISED STATUTES**

OF THE  
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

**THE CONSTITUTIONS**

OF THE

*United States and of the State of Maine,*

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

**APPENDIX.**

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PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

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**Augusta:**

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1841.

## CHAP. 5.

## CHAPTER 5.

## OF TOWN MEETINGS AND TOWN OFFICERS AND BOUNDARIES.

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| <p>SECT. 1. Town meetings to be called by the selectmen.</p> <p>2. First meeting after incorporation, and when a town is destitute of officers.</p> <p>3. If selectmen unreasonably refuse, ten or more voters may apply to a justice. The same number may require an article to be inserted in the warrant.</p> <p>4. Form, and articles specified in the warrant.</p> <p>5. Directed to a constable.</p> <p>6. Mode of notice.</p> <p>7. Of the return.</p> <p>8. Who are qualified voters.</p> <p>9. Annual meetings and choice of officers.</p> <p>10. Certain officers to be chosen by ballot.</p> <p>11. Clerk, or other officer, to preside at the choice of moderator; and a clerk pro tem. in certain cases.</p> <p>12. Oath of the town clerk.</p> <p>13. Mode of summoning officers elect to take the oaths.</p> <p>14. Penalty for neglecting to be sworn.</p> | <p>SECT. 15. Certificates and record of oaths administered.</p> <p>16. Vacancies may be filled at special meetings.</p> <p>17. Choice of moderator and his duties.</p> <p>18, 19. Powers of the moderator.</p> <p>20. Meeting for the choice of state officers.</p> <p>21. Folded votes not to be received. Votes not to be examined to ascertain the candidate's name till the poll is closed.</p> <p>22. Powers of towns to raise money and make by laws. Penalties. Costs to be defrayed by the towns.</p> <p>23. Towns declared to be corporations.</p> <p>24. Town boundaries to be preserved.</p> <p>25. Of perambulations. How notice shall be given, and a record made.</p> <p>26. When towns erect stone monuments, lines may be perambulated once in ten years only.</p> <p>27. Commissioners appointed by the supreme judicial court to settle lines. Their proceedings.</p> <p>28. Their compensation.</p> |
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Town meetings to be called by the selectmen. 1821, 114, § 5. 10 Mass. 105. 13 Maine, 466.

First meeting after incorporation and when a town is destitute of officers. 1826, 338.

SECTION 1. Every town meeting, except in the cases mentioned in the two following sections, shall be called by a warrant, signed by the selectmen of such town.

SECT. 2. The first town meeting held in any town shall be called and notified in the manner prescribed in the act incorporating such town; and if no mode is therein prescribed, by any justice of the peace in the same county, or when a town, though it has been organized, is destitute of officers, a meeting may be called on application to him for his warrant for the purpose, made in writing by any three of the inhabitants thereof; but when, by reason of death, removal or resignation of selectmen, a major part shall not remain in office, a major part of those remaining in office shall have the same power to call a town meeting, as a majority of those chosen.

SECT. 3. In case the selectmen shall unreasonably refuse to call a town meeting, on any public occasion, any ten or more legal voters in said town may apply to a justice of the peace in the same county, who is hereby authorized to issue his warrant, under his hand, for calling such meeting. And when ten or more of the qualified voters in town shall request in writing, that the selectmen should insert a particular matter or thing in a warrant for calling a town meeting, they shall insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of the consideration thereof.

If selectmen unreasonably refuse, ten or more voters may apply to a justice.

The same number may require an article to be inserted in the warrant. 1821, 114, § 5.

Form, and articles specified in the warrant.

SECT. 4. In either case the warrant shall specify the time and place, at which the meeting is to be held; and in distinct articles,

shall state the business to be acted upon at such meeting ; and no other business, matter or thing shall be there acted upon, so as to have any binding effect, or legal operation.

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SECT. 5. The warrant may be directed to any constable of the town, or any individual by name, directing him to warn and notify all persons, by law qualified to vote at such meeting, to assemble at the time and place appointed.

1821, 114, § 5.  
9 Pick. 97.  
21 Pick. 64.  
Directed to a constable.  
1821, 114, § 5.

SECT. 6. Such meeting shall be notified by the person, to whom the warrant is directed, by his posting up an attested copy of such warrant, in some public and conspicuous place in said town, seven days before the meeting ; unless the town has appointed, or shall appoint, by vote, in legal meeting, a different mode; which any town is hereby empowered to do.

Mode of notice.  
1821, 114, § 5.

SECT. 7. In either case, the person, who notifies the meeting, shall make his return on the warrant, stating the manner of notice, and the time it was given.

Of the return.  
12 Pick. 206.  
13 Pick. 305.

SECT. 8. Every person, who is qualified, by the constitution of this state, to vote for governor, senators and representatives, in the town or plantation, in which he resides, shall be entitled to vote in the election of all town or plantation officers, and in all the business affairs of the same.

Who are qualified voters.  
1833, 49, § 1.  
1838, 348, § 2.

SECT. 9. The annual town meetings in the state shall be held in the month of March or April, and the qualified voters in each town shall then choose, by a major vote, a clerk, three, five or seven persons, inhabitants of the town, to be selectmen, and overseers of the poor, when other persons shall not be chosen to that office, three or more assessors, two or more fence viewers, treasurer, surveyors of highways, surveyors of lumber, tythingmen, sealers of leather, measurers of wood and bark, constables, and collectors of taxes, and other usual town officers, who shall be duly sworn.

Annual meetings and choice of officers.  
1821, 114, § 1.  
1824, 260, § 3.  
10 Mass. 105.

SECT. 10. The election of moderator, town clerk, selectmen, assessors, treasurer, school committee and town agent, shall be by ballot ; and all other of said officers may be by ballot, or other method agreed on by a vote of the town.

Certain officers to be chosen by ballot.  
1821, 114, § 1.

SECT. 11. During the election of moderator of any town meeting, the clerk shall preside ; but whenever he shall be absent from any such meeting, either of the selectmen or of the assessors ; and, if neither of those be present, any constable may lawfully do all the duties of clerk, in receiving and counting the votes for moderator : and the moderator, when chosen, may call on the voters to give in their ballots for a clerk pro tempore, who shall be sworn by the moderator, or a justice of the peace.

Clerk, or other officer, to preside at the choice of moderator ; and a clerk pro tem. in certain cases.  
1824, 260, § 1, 2.  
9 Mass. 262.

SECT. 12. The town clerk, before entering on the duties of his office, shall be sworn before the moderator or a justice of the peace, truly to record all votes passed in such, and other town meetings during the ensuing year, and until another clerk shall be chosen and sworn in his stead ; and also faithfully to discharge all the other duties of said office.

Oath of the town clerk.  
1821, 114, § 1.  
13 Pick. 229.

SECT. 13. The town clerk, or two of the selectmen shall forthwith make out a list of the names of all those, who shall have been chosen into office, of whom an oath is required by law, and deliver the same to a constable, with a warrant to him directed ; and he

Mode of summoning officers elect to take the oaths.  
1821, 114, § 1.

**CHAP. 5.** shall be required, within three days from the day of receiving it, to summon each of the persons therein named, to appear before the town clerk, within seven days from the time of notice, to take the oath of office, by law required; and, at the end of ten days after receiving his warrant, the constable shall return the same, or forfeit six dollars for the use of the town; and the town shall allow him a reasonable compensation for his services.

Penalty for neglecting to be sworn.  
1821, 114, § 1.  
10 Mass. 105.

**SECT. 14.** Every person so notified, and neglecting so to appear, and take the oath required of him, within said seven days, which said clerk is authorized to administer, shall forfeit and pay five dollars to him, who shall inform and prosecute therefor (except those officers, for whose neglect a different penalty is provided,) two thirds for the use of the town, and the other third to the use of the prosecutor.

Certificates and record of oaths administered.  
1821, 114, § 1.  
1837, 269, § 1, 2.

**SECT. 15.** When any town, plantation or parish officer, shall be sworn by the clerk of such corporation, he shall record his own certificate thereof formally and at full length; and when any such officer shall be sworn before any other person or magistrate, he shall give a formal and full certificate of the oath administered by him, officially signed, to the person sworn; and such person shall, within seven days, deliver such certificate to the clerk of the town, plantation or parish, and he shall record the same at full length, within seven days after receiving it, and if the clerk, or the person sworn, shall neglect his duty in the above particulars, he shall forfeit and pay five dollars to the use of the town. The clerk's fee for recording each certificate shall be five cents, to be paid by the town. Provided, that where a certificate of any town, plantation or school district clerk, entered on the record, is, that he has been duly elected into the office of clerk, or any other office, requiring an oath to be administered to him, and that he has taken the oath by law required, it shall be sufficient evidence that he holds such office, and has been duly sworn.

Vacancies may be filled at special meetings.  
1821, 114, § 2.

**SECT. 16.** Whenever, by reason of non-acceptance, death or removal of any person, chosen into any town office, at any annual meeting, or at any other time, or by reason of insanity, or other incompetency, there may be a vacancy, or want of officers, the town may proceed to a new choice of officers; and they shall be duly sworn, if an oath is required, and have the same power as if elected at the annual meeting.

Choice of moderator, and his duties.  
1821, 114, § 3.

**SECT. 17.** At every town meeting a moderator shall be first chosen, and sworn to the faithful and impartial discharge of the duties of his office, by a justice of the peace, or by the person presiding at the meeting when he is chosen: said moderator shall regulate the business of the meeting; and when a vote declared by him shall, immediately after such declaration, be questioned by seven or more, he shall make the vote certain by polling the voters, or in such other way, as the meeting may direct.

Powers of the moderator.  
1821, 114, § 3.

**SECT. 18.** No person shall speak in meeting before leave is obtained of the moderator, nor when any other person is speaking; and all shall be silent at the command of the moderator, on pain of forfeiting one dollar for every breach of such order, for the use of the town.

SECT. 19. If any person, after notice from the moderator, persist in any disorderly conduct, the moderator may direct him to withdraw from the meeting, and, by his refusal, he shall forfeit three dollars to the use of the town; and the moderator may cause him to be removed from the meeting by a constable, and detained in confinement for three hours, unless the meeting shall be sooner dissolved or adjourned.

SECT. 20. Town meetings for the choice of governor, senators and representatives, shall be as the constitution directs: and the foregoing sections are not to be deemed applicable to such meetings.

SECT. 21. The moderator, or other person presiding at any town meeting, shall not receive any vote folded or doubled, and shall not permit any person, without the consent of the voter, to read or examine the name or names written on his ballot, with a view of ascertaining the name of the candidate, before the poll is closed by the moderator, on penalty of twenty dollars, to be recovered on indictment.

SECT. 22. The qualified voters of any town, at any legal town meeting, may grant and vote such sums, as may be necessary for the maintenance and support of schools and the poor; and for making and repairing highways and town ways and bridges, purchasing and fencing burying grounds, and other necessary charges, arising within the same; and may make such orders and by laws for managing the prudential concerns of the town, as they may judge conducive to the good order and peace of the same, and annex penalties, not exceeding five dollars for any one offence; provided, such orders or by laws shall be approved by the county commissioners, and provided, that in all prosecutions for penalties for the breach of the by laws of any city or town, the costs of prosecution shall be a proper charge against such city or town, and shall be paid out of the treasury thereof.

SECT. 23. The inhabitants of every town are declared to be a body corporate and politic, and, as such, may sue and be sued, and appoint agents or attorneys.

SECT. 24. The bounds of all townships shall remain as heretofore granted, settled and established, and the lines between towns shall be run once in every five years, except as mentioned in the twenty sixth and twenty seventh sections.

SECT. 25. The selectmen of the most ancient town shall give ten days notice, in writing, to the selectmen of the adjoining towns, of the time and place of meeting for perambulation; and the selectmen, who shall neglect their duty in notifying or attending in person, or by substitutes, shall forfeit and pay ten dollars, two thirds to the use of the town, which shall comply with their duty, and the other third to any two or more of the selectmen of the town complying, to be recovered, at any time within two years after the forfeiture is incurred; and the proceedings of such selectmen, after every such renewal of boundaries, shall be recorded in their respective town books.

SECT. 26. All towns, which, since the twenty second day of March, in the year eighteen hundred and twenty eight, have perambulated, or hereafter shall perambulate their several lines, as by law

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Same subject.  
1821, 114, § 3.  
16 Mass. 385.

Meetings for  
the choice of  
state officers.  
1821, 114, § 3.

Folded votes  
not to be re-  
ceived. Votes  
not to be ex-  
amined to as-  
certain the cau-  
didate's name,  
till the poll is  
closed.  
1821, 114, § 4.

Powers of  
towns to raise  
money, and  
make by laws.  
1821, 114, § 6.  
1834, 130.  
13 Mass. 272.  
3 Greenl. 191.  
3 Pick. 462.  
6 Pick. 187.  
11 Pick. 396.  
12 Pick. 227.  
Penalties.

Costs to be de-  
frayed by the  
towns.

Towns declar-  
ed to be corpo-  
rations.  
1821, 114, § 7.

Town bounda-  
ries to be pre-  
served.  
1821, 114, § 8.

Of perambula-  
tions. How  
notice shall be  
given, and a re-  
cord made.  
1821, 114, § 8.  
15 Pick. 44.

Where towns  
erect stone  
monuments,  
lines may be

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perambulated  
once in ten  
years only.  
1838, 340.

Commissioners  
appointed by  
the S. J. C. to  
settle lines.  
1832, 43, § 1.

Their proceed-  
ings.

Their compen-  
sation.  
1832, 43, § 2.

prescribed, and have established, or shall establish and set up stone monuments, at least two feet high, at all the corners and several angles, and where the line shall cross highways, or on or near the banks of all rivers, bays, lakes or ponds, which said lines may cross, or which are the boundaries of said lines, shall be exempted from the duty of perambulating said lines, except once in every ten years, commencing in ten years from the time, the stone monument has been erected, in the manner above described.

SECT. 27. When a town shall petition the supreme judicial court, stating that a controversy exists between such town and an adjoining one, and praying, that the same may be run by commissioners, to be appointed by such court, the court may, after due notice being given to all parties concerned; appoint three commissioners, who shall, after giving notice to all persons interested of the time and place of meeting, ascertain and determine the line or lines in dispute, and describe the same by courses and distances, and make, set, and mention in their return, suitable monuments and marks for the permanent establishment of such lines, and make duplicate returns of their proceedings; one of which shall be returned to the court, and the other to the office of the secretary of state; and such line or lines, so established and accepted, shall be deemed, in every court of law, and for every purpose, the true dividing line or lines between such towns.

SECT. 28. The court may allow the commissioners a proper compensation for their services, and issue a warrant of distress for its collection, according to law, of said towns, in equal proportions.

## CHAPTER 6.

## OF THE REGULATION OF ELECTIONS.

## ARTICLE I. OF LISTS OF ELECTORS.

- SECT. 1. Lists of voters to be prepared by selectmen by eleventh of August, annually.
2. If selectmen are not assessors, previous lists to be made out by assessors.
3. Special meetings of selectmen to correct list of voters in certain cases. Notice of such meetings.
4. Such lists to be deposited with town clerk, and posted up.
5. Names of qualified voters to be inserted, whether they apply or not.
6. Subsequent alterations.
- 7, 8, 9. When selectmen shall meet to correct the lists.
10. Notice to be given of such meetings.
11. Lists of electors of town officers.

SECT. 12. Sessions of the selectmen for that purpose.

13. Foregoing provisions made applicable to cities.

## ARTICLE II. OF NOTIFYING MEETINGS, AND PROCEEDINGS AT ELECTIONS, AND RETURNS.

14. Meetings for general elections, how called.
15. When such meeting shall be opened.
16. Presiding officers empowered, as moderators.
17. When selectmen *pro tem.* may be chosen.
18. Who shall preside at such choice.
19. Duties of selectmen *pro tem.*
20. What votes may be offered on one list.
21. Check lists and suitable ballot boxes to be used.