

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

*Maine*  
REVISED STATUTES  
1964

*Prepared Under the Supervision  
of the  
Committee on Revision of Statutes*

Being the Tenth Revision of the  
Revised Statutes of the State  
of Maine, 1964

Volume 3  
Titles 14 to 20



**Boston, Mass.**  
Boston Law Book Co.

**Orford, N. H.**  
Equity Publishing Corporation

**St. Paul, Minn.**  
West Publishing Co.

Text of Revised Statutes  
Copyright © 1964  
by  
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

## CHAPTER 305

## JURIES

Subch.	Sec.
I. General Provisions .....	1201
II. Commissioners .....	1251
III. Challenges .....	1301
IV. Verdicts .....	1351

## SUBCHAPTER I

## GENERAL PROVISIONS

- Sec.
1201. Persons exempt from jury service.
1202. Fine for juror's failure to attend.
1203. Juror's fees.
1204. Impaneling of jury; challenges; alternate jurors.
1205. Supernumeraries, transfers and excuses.
1206. Juror's oath.
1207. Foreman.
1208. Talesman, returned.
1209. New jurors summoned during term.
1210. Payment of taxes as disqualification.

**§ 1201. Persons exempt from jury service**

The following persons are exempt from serving as jurors and their names shall not be placed on the list: The Governor, Councilors, judges, clerks and deputy clerks of common-law courts, Secretary and Treasurer of State, all officers of the United States, judges and registers of probate, registers of deeds, settled ministers of the gospel, officers of colleges, school teachers, physicians and surgeons, dentists, nurses, cashiers of incorporated banks, sheriffs and their deputies, counselors and attorneys at law, county commissioners, county treasurers and constables. Enginemen of fire departments shall be excused from serving as jurors in any court, unless their towns otherwise decide.

R.S.1954, c. 116, § 7.

**§ 1202. Fine for juror's failure to attend**

Any person summoned and in court as a juror shall, if satisfactory to the court, be competent to sit as a juror, and no ver-

dict shall be attacked by reason of any irregularity or informality in selecting or summoning a juror. Any juror who, after being notified, unnecessarily fails in his attendance shall be fined as for contempt, not exceeding \$20.

R.S.1954, c. 116, § 6.

### **§ 1203. Juror's fees**

Grand and traverse jurors attending the Superior Court and jurors attending on any other occasion prescribed by law shall be allowed \$12 for each day's actual attendance and 10¢ a mile for their travel out and home for the first day of attendance and 5¢ a mile for their travel out and home for each day's attendance thereafter, to be paid out of the county treasury.

R.S.1954, c. 116, § 8; 1955, c. 412, § 1; 1961, c. 232; 1963, c. 312.

### **§ 1204. Impaneling of jury; challenges; alternate jurors**

When venires for jurors are returned to court the clerk shall, at the commencement of each term, prepare an alphabetical list of the names of the several persons returned as traverse jurors. Before they are impaneled, the court shall cause it to be ascertained whether all so returned are present, and any juror desiring to be excused shall make application therefor when his name is called and thereupon be heard on said application. The clerk shall then place separately upon tickets in a box, the names of all jurors legally summoned and in attendance and not excused, and the names shall be drawn from the box by the clerk, after having been thoroughly mixed, one at a time, and the first 12 persons whose names are drawn from the box shall compose the first jury and shall be impaneled by the first 2 being sworn, and then the other 10 in succession as they were drawn and in such divisions as the court directs or all at the same time. The next 12 so drawn shall be impaneled and sworn in like manner and shall compose the second jury. Before proceeding to the trial of any civil or criminal case, other than for an offense punishable by imprisonment for life, the clerk may, under direction of court, at the request of either party, place the names of all jurors legally summoned and in attendance, and not engaged in the trial of any other cause, separately upon tickets in a box and the names shall be drawn from the box by the clerk after having been thoroughly mixed, one at a time, for the purpose of constituting a jury. Each party may peremptorily challenge 4 jurors, but in such case

all peremptory or other challenges and objections to a juror drawn, if then known, shall be made and determined and the juror sworn or set aside before another name is drawn, and so on until the panel is completed. The right to challenge peremptorily any person called or returned to serve as a juror may be exercised after it has been determined that the person so called or returned stands indifferent. A new jury shall be thus drawn for the trial of each cause. After the panel is thus completed, the presiding justice shall appoint a foreman for the trial of the case.

Whenever by reason of the prospective length of a trial or other cause the court in its discretion shall deem it advisable, it may direct that not more than 2 jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Such alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Such alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges and be subject to the same obligations and penalties as jurors on the regular panel. An alternate juror who does not replace a juror on the regular panel shall be discharged when the jury retires to consider its verdict. If one or more alternate jurors are called, each party shall be entitled to one peremptory challenge in addition to those otherwise allowed by law, except as already provided as to alternate jurors under Title 15, section 1258.

R.S.1954, c. 113, § 95; 1961, c. 17, § 1.

### § 1205. Supernumeraries, transfers and excuses

Supernumerary jurors may be excused from time to time until wanted, and they may be placed on either jury as occasion requires. Jurors may be transferred from one jury to the other when convenience requires it. For good reason any juror may be excused.

R.S.1954, c. 113, § 96.

### § 1206. Juror's oath

The following shall be the form of oath, administered to traverse jurors in civil causes:

"You, and each of you swear, that in all causes betwixt party and party, committed to you, you will give a true verdict

therein according to the law and the evidence given you. So help you God.”

When a juror is conscientiously scrupulous of taking an oath, the word “affirm” shall be used instead of “swear” and the words “this you do under the pains and penalties of perjury” instead of the words “so help you God.”

R.S.1954, c. 113, § 97.

### **§ 1207. Foreman**

Each jury, after being thus impaneled and sworn, shall retire and choose their foreman by ballot or make the choice upon retiring with the first cause with which they are charged. When a foreman is absent or excused from service, a new foreman shall be chosen, subject in each case to appointment by the court, as provided in section 1204.

R.S.1954, c. 113, § 98.

### **§ 1208. Talesman, returned**

When, by reason of challenge or other cause, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a cause, the court shall cause jurors to be returned from the bystanders or from the county at large to complete the panel if they are on the jury not less than 7 jurors drawn and returned as provided. Such jurors shall be returned by the sheriff or his deputy or such other disinterested person as the court appoints.

R.S.1954, c. 113, § 99.

### **§ 1209. New jurors summoned during term**

The court may, in term time, issue venirens for as many jurors as are wanted, to be drawn, notified and returned forthwith or on a day appointed. When in any county the business requires a protracted session, the court may, during the term, excuse all or any of the jurors originally returned and issue venirens for new jurors to supply their places, who shall be drawn and notified to attend at such time as the court directs.

R.S.1954, c. 113, § 100.

### **§ 1210. Payment of taxes as disqualification**

In prosecutions for recovery of money or other forfeiture, it is not a cause of challenge to a juror that he is liable to pay



taxes in a county, town or plantation which may be benefited by the recovery.

R.S.1954, c. 113, § 108.

## SUBCHAPTER II

### COMMISSIONERS

Sec.

1251. Appointment.

1252. Salaries.

1253. Vacancies.

1254. Preparation of list of prospective jurors.

1255. Selection of jurors.

#### § 1251. Appointment

The Chief Justice of the Supreme Judicial Court shall appoint in the several counties of the State 2 residents of each county who shall be jury commissioners within and for their respective counties and who shall serve for a term of 4 years from their appointment, subject to earlier removal at the pleasure of the Chief Justice. It shall be the duty of said jury commissioners to prepare a jury list, summon jurors for attendance at the several terms of the Superior Court in their respective counties and to revise said list as often as they may deem it necessary.

R.S.1954, c. 116, § 1.

#### § 1252. Salaries

The jury commissioners for the several counties shall each receive for their services the following sums per year, and expenses: Androscoggin, \$150; Aroostook, \$100; Cumberland, \$250; Franklin, \$75; Hancock, \$75; Kennebec, \$100; Knox, \$75; Lincoln, \$75; Oxford, \$75; Penobscot, \$100; Piscataquis, \$50; Sagadahoc, \$75; Somerset, \$75; Waldo, \$75; Washington, \$75; York, \$100.

Said salaries shall be paid by the respective counties in quarterly payments on the last day of each quarter, and their expenses shall be paid from time to time by the respective counties on bills approved by a Justice of the Superior Court.

R.S.1954, c. 116, § 2; 1959, c. 181; 1963, c. 343.

**§ 1253. Vacancies**

If at any time one of the jury commissioners in any county shall die, resign or be removed or by reason of absence, sickness or other disability shall be unable to perform the duties of his office, the other jury commissioner for that county shall have all the powers and perform all the duties of the jury commissioners for that county until such vacancy shall have been filled by the Chief Justice or such absent or disabled jury commissioner shall resume the performance of the duties of his office. If such vacancy is filled by appointment by the Chief Justice, the appointment shall be only for the remainder of the term for which the jury commissioner, whose vacancy is to be filled, was originally appointed.

In filling the vacancy as provided in this section or in filling a vacancy created through the expiration of the term of office of any jury commissioner heretofore appointed, the Chief Justice shall appoint as said jury commissioners, from among the residents of said respective counties as provided, only those who do not hold a state or county office for which they receive a salary from the State or county. Should any jury commissioner during the tenure of his office accept any other state or county office, he shall forfeit the office of jury commissioner.

R.S.1954, c. 116, § 3.

**§ 1254. Preparation of list of prospective jurors**

The municipal officers of the several municipalities shall, on request, send forthwith to said jury commissioners in their respective counties a list of such persons only as are of good moral character, of approved integrity, of sound judgment and well-informed, and qualified as the Constitution directs to vote for Representatives in such town, with their full names, occupations and post-office addresses, whom they deem qualified for service as jurors. From the list received or from such persons as may be known personally or by reputation to the commissioners, said commissioners shall select persons who, in their judgment, are deemed qualified for jury service, and the names of persons finally selected shall be placed on a list kept by said commissioners. A copy of said list shall be deposited with the clerks of courts for their respective counties and shall, at all times during business hours, be open to public inspection.

The list shall contain such a number of names of persons, male and female, qualified for jury service as the commissioners shall deem necessary.

In the selection of persons for jury service due regard shall be given to their mental, moral and physical fitness. Persons rejected by said commissioners shall not be placed on said jury list for a period of at least 3 years.

The commissioners may add names to such list as often as may be necessary to maintain the number herein provided. They may drop from the list names of persons who, by reason of age, infirmity, death or other disability, could not reasonably be expected to serve as jurors if called, and shall drop therefrom names of persons engaged in the unlawful traffic in intoxicating liquors or who are known to be habitually addicted to the use of intoxicating liquors or who have been convicted of any scandalous crime or gross immorality. No person shall be qualified or selected for traverse jury service who has served as such at any term of the Superior Court in his county held within 3 years next preceding the reselection of said person by the jury commissioners.

R.S.1954, c. 116, § 4; 1957, c. 248; 1959, c. 13.

### § 1255. Selection of jurors

On receipt of written or verbal notice from the clerk or deputy clerk of courts of their respective counties designating the number of jurors required and date on which they are to report for duty, said commissioners shall forthwith select, by such method as will give a fair and just distribution according to population, a sufficient number of persons to perform jury service at the prospective term. Such selection shall be made with reasonable allowances for supernumeraries and for unforeseen causes of inability to attend. Summonses for those so elected shall be prepared by said commissioners and mailed by registered mail, postage prepaid, to each person selected at his regular place of abode. A returned registered receipt shall be sufficient evidence that the person or persons so selected have received the summons. Additional jurors may be drawn and summoned at any time during a term of court by direction of the presiding justice, and they may be summoned to attend in a manner and at such time as the court may direct. When, by reason of challenge or other cause, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a cause, the court shall cause jurors to be returned from the bystanders or from the county at large to complete the panel. Such jurors shall be returned by the sheriff or his deputy or such other disinterested person as the court appoints. Grand jurors shall be selected in like manner prior to the first term of the Superior Court to be held for the

transaction of criminal business on or after the first day of September annually, and grand jurors shall serve at each criminal term during the year. When the number of grand jurors is reduced by death or otherwise, additional grand jurors may be selected and summoned under direction of the court at any time.

R.S.1954, c. 116, § 5; 1955, c. 405, § 51; 1961, c. 16.

### SUBCHAPTER III

#### CHALLENGES

Sec.

1301. For cause.

1302. Peremptory.

1303. Objections not stated before trial waived.

#### **§ 1301. For cause**

The court, on motion of either party in an action, may examine, on oath, any person called as a juror therein, whether he is related to either party, has given or formed an opinion or is sensible of any bias, prejudice or particular interest in the cause. If it appears from his answers or from any competent evidence that he does not stand indifferent in the cause, another juror shall be called and placed in his stead.

R.S.1954, c. 113, § 101; 1961, c. 317, § 371.

#### **§ 1302. Peremptory**

In addition to challenges otherwise provided, either party may, before the trial commences, peremptorily challenge one juror from the panel unless the right of challenge provided in section 1204 and Title 15, section 1258 has been exercised. The court may, by rules, prescribe the manner in which such right shall be exercised.

R.S.1954, c. 113, § 102; 1961, c. 17, § 2.

#### **§ 1303. Objections not stated before trial waived**

If a party knows any objection to a juror in season to propose it before trial and omits to do so, he shall not afterwards make it, unless by leave of court for special reasons.

R.S.1954, c. 113, § 109.

## SUBCHAPTER IV

## VERDICTS

Sec.

1351. Separate verdicts as to defendants.

1352. Verdict not affected by irregularities.

1353. Verdict set aside for improper practices with jurors.

**§ 1351. Separate verdicts as to defendants**

In actions of contract against more than one defendant, the jury may return a separate verdict as to each defendant or as to 2 or more defendants jointly, and judgments shall be entered accordingly. In case of separate judgment against defendants in the same action, the court shall apportion the costs to be taxed against each defendant.

R.S.1954, c. 113, § 105.

**§ 1352. Verdict not affected by irregularities**

No irregularity in the venires or drawing, summoning, returning or impaneling jurors is sufficient to set aside a verdict, unless the party objecting was injured by the irregularity or unless the objection was made before the return of the verdict.

R.S.1954, c. 113, § 110.

**§ 1353. Verdict set aside for improper practices with jurors**

If either party, in a cause in which a verdict is returned, during the same term of the court, before or after the trial, gives to any of the jurors who try the cause any treat or gratuity or purposely introduces among the papers delivered to the jury when they retire with the cause, any papers which have any connection with it but were not offered in evidence, the court on motion of the adverse party may set aside the verdict and order a new trial.

R.S.1954, c. 113, § 111.