

# MAINE STATE LEGISLATURE

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# L A W S

OF THE

## STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....  
VOL. I.  
.....

Published according to a resolve of the State, passed  
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....  
1821.

**ERRATA:**

**The following leaf is  
inserted because one or more pages  
in this chapter have errors  
noticed and corrected here.**

VOLUME THE FIRST.

Page.	
40	L. 12 of the page for 'preceding' read 'presiding'
54	Sec. 4 L. 14 of Sec. for 'time' read 'term'
55	7 2 for 'a' read 'or'
55	7 9 before the word 'said' insert 'the'
56	9 3 for 'the' read 'her'
57	1 6 for 'to' read 'in'
58	1 5 for 'and' after the word 'house' read 'or'
61	in the title of the act, ch. vi. insert 'the' before the word 'crimes'
62	Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
69	16 8 for 'Treasurer' read 'Treasury'
73	1 15 after the word 'for' insert 'the'
77	13 6 for 'to' read 'of'
78	first line of the page, dele the word 'by'
80	L. 2 of the p. after the word 'willingly' insert 'aid or'
80	17 for 'counterfeited' read 'counterfeit'
82	1 after the word 'in' insert 'all'
82	Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or' and insert ' , '
83	Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
84	10 6 for 'and' read 'or'
90	1st L. of p. for 'Commissioner' read 'Commissioners'
90	L. 20 before the word 'Commissioner' insert 'said'
97	6 for 'assumst' read 'assumpsit'
97	14 for 'cover, read 'covin'
98	at the end of the act for 'January' read 'February'
99	L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and'
100	15 at the end of the line insert 'the'
105	at the end of the Act for '1820' read '1821'
108	L. 14 of page, for 'nuisances' read 'nuisance'
108	20 after the word 'each' insert 'one'
111	25 after the word 'fail' insert 'of'
113	11 for 'on' read 'or'
144	last for 'performance' read 'performing'
145	Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
147	7 6 before the word 'release' for 'to' read ' a '
150	Sec. 6. L. 2 of Sec. for 'in' read 'is'
151	in the title, before the word 'Lands' insert 'reserved'
153	1st line of the p. for 'whenever' read 'wherever'
155	last before the word 'Court' for 'a' read 'any'
156	Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
159	9 8 for 'purpose' read 'purposes'
167	14 5 for 'votes' read 'vote'
193	4 10 dele 'such'
199	17 1 for 'when' read 'where'
202	22 6 after the word 'near, dele 'to'
202	23 10 for 'be' read 'he'
203	24 16 for 'of' read 'in'
203	25 16 for 'meeting' read 'meetings'
205	L. 18 of p. before the word 'estate' insert 'other'
210	2 before the word 'tenement' insert 'other'
215	4 before the word 'guardians' insert 'guardian or'
226	Sec. 73 L. 6 of Sec. dele 'a'
229	3 last for 'agreeably' read 'agreeable'
230	7 19 for 'agreeably' read 'agreeable'
231	8 6 for 'resided' read 'reside'
242	2 5 for 'sentence' read 'sentences'
245	7 3 after the word 'herein' insert 'before'
247	L. 7 of the act, ch. 56, after the word 'otherwise' insert 'interested'
247	11 for 'statement' read 'statements'
247	Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
248	3 1 for 'whenever' read 'wherever'
248	3 14 for 'Justice' read 'Justices'

Page.	
252	L. 3 of p. for 'where' read 'wherein'
257	5 after the word 'have' insert 'his or'
265	Sec. 39 L. 3 of Sec. for 'when' read 'where'
271	L. 1 and 3 of p. for 'affect' read 'effect'
271	Sec. 6 L. 2 of Sec. before the word 'execution' insert 'the'
278	19 4 for 'on' read 'in'
280	L. 2 of p. for 'have' read 'had'
281	22 for 'of' read 'on'
283	13 for 'lies' read 'lays'
283	last before the word 'defendant' insert 'the'
284	Sec. 32 L. 2 of Sec. for 'a' read 'any'
288	5 18 for 'whenever' read 'wherever'
291	9 4 for 'as' read 'or'
292	L. 4. of p. for 'examinations' read 'examination'
293	Sec. 13 L. 5 of Sec. after the word 'article' insert 'or articles'
297	7 5 for 'and' read 'or'
301	L. 8 of p. for 'he' read 'be'
309	24 between the words 'the' and 'day' should be a ' , '
310	20 for 'debt' read 'debtor'
311	2 for 'with' read 'and of'
312	7 for 'summon' read 'summons'
312	9 between the words 'our' and 'Court' should be a ' , '
318	31 for 'writs' read 'writ a'
328	Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
353	L. 14 of p. at the end of the line insert 'the'
361	Sec. 1 L. 18 of Sec. for 'cause' read 'case'
370	3 10 for 'to' read 'of'
371	2 7 dele 'to'
373	L. 15 of p. before the word 'require' insert 'to'
376	Sec. 1 L. 10 of Sec. dele 'the' before the word 'payment'
378	at the end of the act, for '17' read '20'
378	in the title, for 'selection' read 'selecting'
379	Sec. 4 L. 5 of Sec. before the word 'divide' insert 'shall'
394	1 9 for 'part' read 'parts'
395	1 8 for 'acceptances' read 'acceptance'
404	1 34 before the word 'authorized' insert 'hereby'
407	7 4 dele 'the'
414	last word of the 1st act on the page, for 'therein' read 'thereon'
423	Sec. 3 L. 15 of Sec. after the word 'assignments' insert 'thereof, and also of the assignments'
424	Sec. 6. L. 13 of S. after the word 'papers' insert 'as'
425	L. 7 of p. before the word 'action' insert 'an'
428	22 for 'twelve' read 'twenty'
431	8 for 'fifteen' read 'fifty'
432	first line of the page should be put after the third
432	L. 5 of the p. dele 'entering'
432	between the 28th and 29th lines of the p. insert 'Every blank writ of attachment, with a summons thereon, fifteen cents'
432	L. 37 of p. for 'judgment' read 'jurymen'
435	9 for 'appear' read 'appears'
435	10 for 'make' read 'makes'
435	18 for 'taking' read 'taxing'
444	Sec. 1 L. 6 of Sec. before the word 'records' insert 'the'
445	1 9 for 'within' read 'of'
445	1 19 after the word 'escape' insert 'sickness'
455	11 1 after the word 'of' insert 'the'

fine, imprisonment, or by solitary imprisonment for a term not exceeding three months, and confinement to hard labour for a term, not exceeding five years, and binding to the good behaviour; or one or more of these punishments, to be inflicted according to the degree and aggravation of the offence, if such conviction be had in the Supreme Judicial Court; and if such conviction be had before the Circuit Court of Common Pleas, shall be punished by fine not exceeding one hundred dollars, and binding to good behaviour.

[Approved February 20, 1820.]

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CHAPTER XXIV.

An Act for the Prevention and Removal of Nuisances.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Selectmen of every town in this State, where the Selectmen thereof, together with any two Justices of the Peace in the same County, shall judge such regulation to be necessary, shall from time to time, as occasion shall be, assign some certain places for the exercising of any of the trades or employments of killing creatures for meat, distilling of spirits, trying of tallow or oil, currying of leather, and making earthen ware, and forbid and restrain the exercise of either of them in other places not so approved and allowed; and all assignments of such houses or places by Selectmen, with the assent of two or more Justices, for the exercise of any of the occupations aforesaid, shall be entered in the town book where such Selectmen respectively belong; and also made known by having notifications thereof posted up in some public places in the same town.

Selectmen, with two Justices may assign places for slaughter-houses, distilleries, &c.

Such assignments to be entered on town book and notice thereof posted.

SEC. 2. *Be it further enacted,* That if any distiller, tallow chandler, manufacturer of oil, carrier, butcher or potter, shall make use of any house or place, other than such as are or may be assigned and permitted, in consequence of this act, for the exercise of the employments aforesaid, or any of them, the person so offending shall forfeit and pay a fine of twenty dollars, one half thereof for the use of this State, and the other half part for the use of him or them that shall prosecute and sue therefor, by action of debt,

Penalty for carrying on any such business except in places so assigned.

Mode of recovery and appropriation of the penalty.

Offender to recognise not to pursue the business, &c. for three years, or be committed—

or the buildings may be taken down as a nuisance, & the materials sold.

When any house, assigned as aforesaid becomes a nuisance, it may be suppressed by the C. C. Com. Pleas.

Persons aggrieved by such nuisance may notify owner or occupant, and if on trial found to be a nuisance—penalty of \$20 per month if not removed.

in the Circuit Court of Common Pleas; and if convicted on the presentment of a Grand Jury in said Court, or Supreme Judicial Court, the whole penalty shall enure to the use of the State; and in either case the offender shall also enter into recognisance, in such sum as the same Court shall order, not to improve such building for either of the said purposes, for the term of three years then next; and in default of entering into such recognisance, to be committed to the common gaol; or such building may be taken down by the order of the same Court, as being a common nuisance; and the materials, or such part of them as may be necessary, sold at public auction, to defray the expense and charges; and in case the materials shall be insufficient, the residue of the charges to be levied by distress and sale of the offender's goods and chattels.

Sec. 3. *Be it further enacted*, That when any house, assigned for the exercising of either of the aforesaid trades or employments, becomes a nuisance by reason of offensive and ill stench proceeding from the same, or becomes otherwise hurtful or dangerous to the neighborhood or travellers, it shall and may be lawful to and for the Circuit Court of Common Pleas within the County, to cause inquiry to be made thereinto by a jury, and to suppress such nuisance by prohibiting and restraining the further use thereof for the exercise of either of the aforesaid trades or employments, under a fine not exceeding ten dollars a month, to the use of the poor of the town; or by causing such nuisance to be removed or prevented, as the Justices of said Court, in their discretion, shall think expedient and necessary. And it shall also be lawful for any person or persons, who may be aggrieved by reason of such offensive and ill stench, to give notice thereof to the proprietor or occupant of such house, so deemed to be a nuisance; and if the proprietor or occupant shall not forthwith remove the same nuisance, and if upon trial as hereinafter provided, the same shall be considered and deemed a nuisance, the owner, proprietor or occupant of such house, shall forfeit and pay the sum of twenty dollars, for each and every month which the said nuisance shall continue, after such notice as aforesaid; to be recovered by action of the case, by any person who shall first sue for the

same; and in such action it shall be lawful for the defendant to tender the general issue, and give any special matter in evidence: And, if, upon such trial, it shall appear to the Jury, who shall try the same cause, that the said house so complained of, is not a nuisance, it shall be their duty to acquit the defendant, and he shall be entitled to his costs.

SEC. 4. *Be it further enacted*, That any person or persons, who may be injured by any such nuisance, either in his comfort or the enjoyment of his estate, may have and maintain his special action on the case, for the injury and damage which he or they may sustain, by reason of such nuisance; in which action it shall and may be lawful for the defendant to plead the general issue, and give any special matter in evidence.

Persons injured may recover damages.

SEC. 5. *Be it further enacted*, That all fences or buildings set up and erected on lands now used and improved as public landing places, or such as may be hereafter laid out and appropriated to that use, without lawful permission therefor, shall be esteemed nuisances, and may be abated as such. And whereas the laws now in force are inadequate to so speedy a removal of nuisances as the exigencies of the public may require: Therefore,

Fences on public landing places to be considered nuisances.

SEC. 6. *Be it enacted*, That any two Justices of the Peace, *quorum unus*, shall be, and they hereby are authorized to inquire, by a Jury, as is hereinafter directed, into all nuisances erected, or which may hereafter be erected by any person or persons; and if it be found, upon such inquiry, that a nuisance shall have been erected, created or continued by any person or persons, then, that such Justices shall cause the same to be abated and removed.

Two Justices quorum unus may inquire by a Jury into all nuisances,

and cause them to be abated.

SEC. 7. *Be it further enacted*, That any person or persons may make out his or their complaint in writing, directed to any two Justices of the Peace, *quorum unus*, of any existing nuisance; and they shall as soon as such complaint is exhibited to them, make out their warrant, under their hands and seals, directed to the Sheriff of the same county, commanding him, in behalf of the State, to cause to come before them, twelve good and lawful men of the same county, who shall be drawn in equal proportion out of the Jury box, by the Selectmen of the three towns next adjoining to the town

Complaint in writing to be made to such Justices,

who may issue their warrant to Sheriff to empanel a Jury.

in which such nuisance may be, at a meeting of such Selectmen, to be holden forthwith for that purpose, upon the requisition of such Sheriff, and they shall be empowered to inquire into the nuisance complained of, which warrant shall be in the form following, viz: [Form of warrant.]

Form of the warrant.

(SEAL.) H—ss. To the Sheriff of the County of \_\_\_\_\_, \_\_\_\_\_ Greeting.

Whereas complaint is made to us, the subscribers, two of the Justices of the Peace, within and for the County of \_\_\_\_\_, *quorum unus*, by \_\_\_\_\_ of \_\_\_\_\_ in the same county, that \_\_\_\_\_ of \_\_\_\_\_ upon the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with force and arms, did unlawfully erect or cause to exist, a nuisance of the following description, viz: [here particularly describe the nuisances] and the same nuisance unlawfully and unjustly, and with like force and arms, doth still keep up and continue. You are, therefore, in behalf of the State, commanded to cause to come before us, upon the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the same county, twelve good and lawful men of your County, each of whom having freehold of the yearly value of ten dollars, to be empannelled and sworn to inquire into the nuisance afore described. Given under our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_.

R. S. } Justices of the Peace,  
N. O. } *quorum unus*.

Person complained of to be notified.

And the said Justices shall make out their summons to the party complained against, in the form following: [Form of the Summons.]

State of Maine.

Form of Summons.

H—ss. To the Sheriff of the County of \_\_\_\_\_, or either of his Deputies, \_\_\_\_\_ Greeting.

We command you, that you summon \_\_\_\_\_, to appear before the subscribers, two of our Justices of the Peace, within and for our said County of \_\_\_\_\_, *quorum unus*, at a place called \_\_\_\_\_, in D\_\_\_\_\_, in the said County, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon; then and there to answer to the complaint of \_\_\_\_\_ to them exhibited; wherein it is stated that [here recite the complaint;] and you are to make a return of this writ, with your doings therein, unto our said Justices, upon or before the said \_\_\_\_\_



day of \_\_\_\_\_. Witness our said Justices, the \_\_\_\_\_  
 day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_.

R. S.

N. O.

Which Summons shall be served upon the party complained against, by reading the same in his hearing, or by a copy thereof, left at his usual place of abode, fourteen days exclusively, before the day of trial; and if the party shall not appear to defend, the Justices shall proceed to the inquiry in the same manner as if he were present; and when the Jury shall appear, the Justices shall lay before them the exhibited complaint, and shall administer the following oath, viz: [Foreman's oath.] You, as Foreman of this Jury, do solemnly swear, that you will well and truly try whether the complaint of \_\_\_\_\_, now laid before you, be true, according to your evidence. So help you God. The other Jurors' oath. The same oath which your Foreman hath taken, on his part, you and each of you shall well and truly observe and keep. So help you God. And if the Jury shall find the complaint to be true, then they shall return their verdict in the form following: [Form of the Verdict.] At a Court of inquiry, held before R. S. and N. O. Esquires, two of the Justices of the Peace within and for the said County of \_\_\_\_\_, *quorum unus*, at D\_\_\_\_\_ in the said county of \_\_\_\_\_ upon the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, the Jury upon their oaths do find, that \_\_\_\_\_ is a nuisance, and that the same, on or before the \_\_\_\_\_ day \_\_\_\_\_ at \_\_\_\_\_ with force and arms, unjustly and unlawfully was erected, or caused to exist, by \_\_\_\_\_ of \_\_\_\_\_; and that the said \_\_\_\_\_, with like force and arms, unjustly and unlawfully, still continues and keeps up the same nuisance. Wherefore the Jury find, upon their oaths aforesaid, that the said nuisance ought to be abated and removed without delay. And if by accident or challenge, there shall happen not to be a full Jury, the Sheriff shall fill the panel, *de talibus circumstantibus* as in other causes. And if the Jury, after a full hearing of the cause, shall find the complaint laid before them supported by evidence, they shall all sign their verdict, in form aforesaid; otherwise the defendant shall be allowed his legal costs, and

Mode of service.

Justices Proceedings.

Foreman's Oath.

The other Jurors' Oath.

Form of the Verdict.

have his execution therefor, under the hands and seals of said Justices.

SEC. 8. *Be it further enacted*, That if the Jury shall return their verdict, signed by the whole panel, that the complaint is supported, the Justices shall enter up judgment for the complainant to have the nuisance abated and removed, and shall award their writ accordingly in form following:

[Form of the Writ of Removal.]

State of Maine.

Form of Writ  
of removal.

H—ss. To the Sheriff of our County of ———, or to either of his Deputies, Greeting:

Whereas, at a Court of Inquiry for abatement and removal of a nuisance, held at D—— in our County of ——— upon the ——— day of ——— in the year of our Lord ———, before ———, Esqrs. two Justices of the Peace for our said County of ———, *quorum unus*, the Jurors empannelled and sworn by our said Justices, did return their verdict in writing, signed by each of them, that the ——— aforesaid, [described as follows, as in the verdict] is a nuisance; and that the same, on or before the ——— day of ———, at ———, with force and arms, and unjustly and unlawfully was erected and caused to exist, by ——— of ———; and that the said ———, with like force and arms, unjustly and unlawfully still continues and keeps up the same nuisance; Whereupon it was considered by our said Justices, that the said nuisance be abated and removed: We therefore command you, that, taking with you the force of the County, if necessary, you cause the said nuisance forthwith to be abated and removed; and also that you levy of the goods, chattels or lands of the ——— the sum of ———, being costs taxed against him in the trial aforesaid, together with ———, being the sum estimated by the said Justices as necessary costs, which will arise in the abatement and removal of said nuisance, together with thirty three cents more for this writ, and also your own lawful fees. And for want of such goods, chattels or lands of the said ———, by you to be found, you are to take the body of the said ———, and him commit to our gaol in L. in our said County of H. ———, there to remain until he shall pay the sums afore-

said, together with all fees on the service of this writ, or until he is delivered by order of law; and make return of this writ, with your doings thereon, within thirty days next coming. Witness our said Justices at D. aforesaid, the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_

R. S.

N. O.

*Provided nevertheless,* That the party complained against, as aforesaid, may, in person or by attorney, appear before the said Justices, and may there give in evidence, on the trial aforesaid, under the general issue, any special matter or thing of which he could avail himself under any special plea in the regular Courts of law: *Provided also,* That when judgment shall be entered up against him upon the verdict of the Jury aforesaid, he may there appeal from the judgment of the said Justices, to the next Supreme Judicial Court, to be holden in the same County; which appeal, when so entered, shall stop all further proceedings of the said two Justices, and no writ on said judgment for abatement and removal shall issue, except as herein after directed: And it shall be the duty of the person appealing, as aforesaid, from the judgment of the said Justices, to procure attested copies of all the papers in said complaint, under the hands of the said Justices, and to enter his appeal at the next Supreme Judicial Court; and if he shall fail so doing, the judgment of the said two Justices shall be in full force against him; and they are hereby authorized and empowered, in such case, to issue their writ for abatement and removal, in the same manner, as if no appeal had been entered.

Respondent may give special matter in evidence under general issue;

and appeal to Sup. J. Court:

Proceedings before the Justices stayed by entry of appeal.

Appellant to produce copies and enter his appeal,

or the judgment of the Justices shall be in full force, and they may abate the nuisance.

SEC. 9. *Be it further enacted,* That the said Supreme Judicial Court, be, and they hereby are authorized to take cognizance of said complaint and judgment, and to try by the Jurors returned to serve in their said Court, on the Jury of trials, the truth of the facts alleged in said complaint, under the issue aforesaid, and if the said Jury shall find by their verdict, the facts alleged in said complaint to be true, the said Court are further authorized to cause and order the said nuisance to be abated and removed, and to award against the party complained of, such sums as may be necessary

Proceedings on the appeal in Sup. Jud. Court.

to defray the expense of removing said nuisance. But if the Jury aforesaid shall find, that the facts alleged in said complaint are not supported, the party complained of shall recover against the complainant his legal costs, and execution shall issue accordingly.

Same costs to be allowed as in Courts of law.

SEC. 10. *Be it further enacted,* That the same costs shall be allowed by the said two Justices and the Supreme Judicial Court, to parties and witnesses, as are allowed in the regular Courts of law; and that the said two Justices, *quorum unus*, shall have the same fees, and be allowed the same sums for the trial aforesaid, as are allowed to Justices in the process of forcible entry and detainer.

[Approved March 8, 1821.]

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## CHAPTER XXV.

An Act for the prevention of damage by Fire, and the safe keeping of Gun Powder.

Selectmen to make regulations as to the keeping of gun powder in certain towns.

SEC. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Selectmen of each town within this State, containing not less than fifteen hundred inhabitants, be, and they hereby, are authorized and empowered to make rules and regulations, from time to time, in conformity with which, all gun powder which is or may be within such town, shall be kept, had or possessed therein; and no person or persons shall have, keep or possess within such town, any gun powder, in any quantity, manner, form or mode, other than may be prescribed by the rules and regulations aforesaid.

Penalty for violating such regulations.

SEC. 2. *Be it further enacted,* That any person or persons who shall keep, have or possess any gun powder, within any town, contrary to the rules and regulations which shall be established by the Selectmen of such town, according to the provisions of this Act, shall forfeit and pay a fine of not less than twenty dollars, and not exceeding one hundred dollars, for each and every offence, to be recovered by action of debt in any Court proper to try the same.

Mode of recovery.

Powder kept contrary to regulations may

SEC. 3. *Be it further enacted,* That all gun powder which shall be had, kept or possessed, within any town, contrary to the rules and regulations which shall be established by the