

# 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 'guard-  
 dian 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 'be-  
 fore'  
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-  
 sert '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' in-  
 sert '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' in-  
 sert 'shall'  
 394 1 9 for 'part' read 'parts'  
 395 1 8 for 'acceptances' read 'accep-  
 tance'  
 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 sum-  
 mons 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' in-  
 sert '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'

## CHAPTER XLIII.

An Act for the better managing Lands, Wharves and other real estate, lying in common.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when and so often, as any five, or a major part of the proprietors of lands, wharves, or other real estate lying in common, in any part of this State, shall judge a proprietors' meeting to be necessary, they may make a written application to a Justice of the Peace through the State, or to a Justice of the Peace within the county where such estate lies, for a warrant for the calling of a meeting, expressing the time, place and occasion thereof; and such Justice is hereby empowered to grant a warrant for such meeting accordingly, directed to one of the proprietors asking the same, or to the proprietor's clerk, requiring him to notify the proprietors of the meeting, and the time, place and occasion of the same; which notification, in case such estate lies in any incorporated town, shall be given in writing and posted up in some public place or places within such town fourteen days at least before the day appointed for the meeting, and for the like time before such meeting shall be advertised in one of the Portland newspapers, and in one of the newspapers (if such there be) printed in the county wherein such real estate lies; or in case such estate doth not, or shall not lie within any incorporated town, such written notification shall be given by advertising the same in any two of the said Portland newspapers and in one other newspaper, (if such there be) printed out of Portland in the county where such estate lies, at least four weeks successively before such meeting; or such meetings may be otherwise warned by posting up written notifications in some public place in each and every town and plantation where any one or more of the said proprietors may reside, fourteen days at least before the time appointed for holding such meeting; and such and so many of the proprietors as shall assemble personally, or by their attornies, and meet accordingly, shall have power by a major vote to choose a moderator, a clerk, a

Any five proprietors may apply to a Justice to call a meeting—

either a Justice through the State, or of the county where the lands lie—

Such Justice may issue warrant to one of the proprietors to notify it to be holden at the time & place requested.

Manner in which notice is to be given.

What measures the proprietors may adopt when met.

treasurer, a collector or collectors of taxes, a committee or committees, and any other needful officers to manage their affairs; which clerk shall enter and record all votes and orders that from time to time shall be made and passed in the proprietors' meetings, who shall be sworn to the faithful discharge of his office; and to agree upon and appoint any other way or method of calling and summoning meetings for the future, that shall be most suitable and convenient to the proprietors; and also to pass votes or orders for the settling, or encouraging the settling, managing, improving, or dividing such common lands, wharves or other real estate not before severed and divided; and to annex penalties to the breach and non observance of such orders; *Provided*, such penalty doth not exceed three dollars for one offence; *Provided also*, that such orders so made, with penalties annexed to them, be allowed and approved by the Court of Sessions for the county where such land or estate lies, and be not repugnant to the general laws of this State; in which case such orders shall have such force and effect as that such proprietors by their treasurer, agent or agents, may recover the penalty thereto annexed against the breakers or non observers thereof, in any Court proper to try the same; such penalty to be disposed of as the proprietors shall direct. And the votes shall always be collected and numbered according to the interest of the proprietors present where the same is known. And no other affair shall be acted on at any meeting of the proprietors, than what is expressed in the warrant or notification for such meeting.

Proprietors to vote according to their interest.

No business to be acted upon, unless expressed in the warrant.

SEC. 2. *Be it further enacted*, That the moderator, chosen at any such meeting, shall be thereby empowered to manage and regulate the business of that meeting. And where it shall so happen that any matter remains doubtful after a vote, the moderator is hereby directed and required to cause the same to be decided by the poll, if any one or more desire it; such polls to be numbered according to their interest.

Power of the moderator.

SEC. 3. *Be it further enacted*, That it shall and may be lawful for all proprietors in common and undivided lands, grants and other real estate, or interests whatsoever, to sue, commence and prosecute any suits or actions in a Court

Proprietors may prosecute and defend suits by agents and attorneys.

proper to try the same, either by themselves, or their agents, or attorneys; and in like manner defend all such suits and actions as shall be commenced against them or any of them.

—and at any legal meeting may raise monies for the purposes of the propriety;

SEC. 4. *Be it further enacted,* That it shall and may be lawful to and for the proprietors of any common and undivided lands or other real estate, or the major part of them according to the interest of the proprietors present, by themselves or their lawful attorneys, at any legal meeting to vote, grant or order the raising of any suitable sum or sums of money, that shall by them be thought sufficient for bringing forward, completing the settlement of, or managing or improving such lands and estate, and to carry on and prosecute or defend any actions or suits that may be brought by or against them; or for carrying on, managing, or effecting any other affair for the common good of such proprietors; and to levy and apportion such sum or sums (raised for the ends and uses aforesaid) upon the proprietors' several rights in such common and undivided lands or estates, equally and ratably, according to their several interests therein.

and assess the proprietary rights in common.

If assessments are not paid within the times appointed,

and after due notice,

Committee may sell at auction so much as necessary of delinquent proprietors' rights, &c.

Notice of such sale being previously given. Mode of notice.

And every proprietor who shall neglect to pay to the collector or treasurer, or committee of such propriety, his proportion of such sum or sums of money as have been, or from time to time shall be duly granted and voted to be raised and levied upon the proprietors' rights and shares in such lands and estates, for the space of six months, with respect to those who live within this State, and twelve months with respect to those who live out of it, after such grant, and his or their proportion thereof shall have been posted and published in the several newspapers as in the case of notification as aforesaid, then the committee of the proprietors, or the major part of such committee, may, and are hereby fully empowered from time to time, at a public vendue, to sell and convey away so much of such delinquent proprietors' right or share in such common land or estate as will be sufficient to pay and satisfy his tax or proportion of such grant, and all reasonable charges attending such sale, to any person that will give most for the same, notice of such sale and of the time and place thereof being given by posting as aforesaid, and publishing the same in at least two of the newspapers

aforesaid, five weeks successively before the time of such sale; and may execute a good deed or deeds of conveyance of the lands or estate so sold unto the purchaser thereof, to hold in fee simple: *Provided nevertheless*, That the proprietor or proprietors whose right or share shall be so sold, shall have liberty to redeem the same at any time within twelve months after such sale, by paying the sum such right or share sold for, and charges, together with the further sum of twelve dollars for each hundred dollars produced by such sale, and so *pro rata* for any less or greater sum.

Committee  
may give  
deeds, &c.

Proprietor  
may redeem  
within twelve  
months.

Terms of re-  
demption.

SEC. 5. *Be it further enacted*, That the treasurer, assessors, collector or collectors, which at any time may be chosen by the proprietors of any common and undivided lands or other real estate, shall be sworn before a Justice of the Peace to the faithful discharge of their respective trusts, and in case no Justice of the Peace shall be present at the meeting of such proprietors, then any, or all the officers directed to be sworn by this Act, may be sworn by the moderator; and such treasurer is hereby empowered to demand, sue for, recover and receive all such sums of money, debts and dues, as shall at any time belong to the said proprietors, or be any ways due or coming to them, and make payment thereof according as he shall be lawfully ordered and directed by the proprietors, and render his reasonable account thereof on demand; and such treasurer shall continue in his office till the proprietors shall see cause to choose another.

Treasurer,  
Assessors, and  
Collectors to  
be sworn by a  
Justice,

or by a mod-  
erator in case,  
&c.

Treasurer may  
collect debts  
due proprie-  
tors, &c.

SEC. 6. *Be it further enacted*, That the proprietors of such undivided land or estate, where the same hath been heretofore stated and each one's proportion known, shall be, and hereby are empowered to order, manage, improve, divide, or dispose of the same in such way and manner as shall be concluded and agreed upon by the major part of the interested present at any legal meeting, the votes to be collected and accounted according to the interest. And any proprietor may vote as well by attorney specially appointed for that purpose, as in person: And the proprietors of all such undivided lands and estate not stated, nor the proportions known as aforesaid, shall be, and hereby are empowered to order, manage, improve, divide or dispose of the same, as hath been or shall be concluded and agreed on by the ma-

Proprietors  
may divide &  
dispose of  
their lands,  
&c.

Proprietor  
may vote by  
attorney.



for part in number of such proprietors present at any such meeting: *Provided always*, That the meetings of proprietors that may be notified, or which may hereafter be held by adjournment or adjournments agreeable to former laws, shall not be affected by the passing of this Act: But such meetings and the transactions regularly made thereat shall be as valid to every intent and purpose as though this Act had never been made.

After final division—last proprietors to continue a corporation, &c.

until their debts are paid and collected,

and be liable to be sued as before such division,

—may call and hold meetings and transact business—

Provided they shall not so continue to act more than ten years.

Proprietors may avail themselves of statute of limitations.

Clerk last chosen to continue in office until records are lodged with town clerk.

SEC. 7. *Be it further enacted*, That notwithstanding the final division of any lands, wharves or other real estate lying in common, and which had been, or shall have been held and improved as a proprietary, the last proprietors or holders in common, shall continue in their corporate capacity, until all debts and taxes due, to such proprietary, are collected and received, and until all their contracts and agreements, made prior to such final division, shall be performed; and are and shall be liable and capable, in and by the same name and capacity as before such division, to sue and be sued, and by their agents to pursue and defend, in all matters and demands respecting such proprietary, until final judgment and execution; and shall and may call and hold meetings, and choose all necessary officers, and may vote, assess, levy and collect all reasonable rates and assessments, in like manner, form and proportion as before such division such proprietary could or might have done: *Provided nevertheless*, That the proprietors aforesaid shall not continue to act in their corporate capacity for more than ten years after the final division of their lands or other real estate; nor shall any suit brought against them be sustained, unless commenced within six years from the time such right of action shall accrue; any thing in this Act to the contrary notwithstanding.

SEC. 8. *Be it further enacted*, That the last clerk chosen by the proprietors of any common and undivided land, or other real estate in this State who are or have been, or may hereafter be empowered by law to hold meetings, choose a clerk and other officers, shall continue to execute the office of clerk to which he was appointed, notwithstanding the final and total division of such lands and estate, as fully, to all intents, constructions and purposes whatsoever, as though there

had been no such division made, and until the same records shall be lodged with the clerk of the town in which the land lies; and when the lands lie in several towns, they may be lodged with the clerk of such town, as the Court of Sessions, upon application to them made for that purpose, shall order and direct; and the clerk with whom they may be lodged, and his successors in office shall be fully authorized to authenticate any copies therefrom, as from the records of the town of which he is clerk.

When lands lie in several towns, Court of Sessions to decide with what clerk they shall be lodged;

which clerk may certify copies thereof.

SEC. 9. *Be it further enacted,* That where, after such final division of any lands or other real estate, which have been or shall have been held as a proprietary, the proprietors making such division have ordered and delivered or shall order and deliver the record of their proprietary into the custody of the town clerk in which such land or other real estate, or part thereof, may lie; the proprietors who shall hold any meeting for the purpose before mentioned, may recall the said record, and may cause the clerk then appointed, and sworn, or the town clerk to whom such records, have been committed, to record all votes and proceedings which shall be had at any meeting as aforesaid and copies of the same may be certified as by law is provided for certifying any other part of such record.

Proprietors may in certain cases recall their records—and cause clerk to make a record of their proceedings.

[Approved March 15, 1821.]

CHAPTER XLIV.

An Act for regulating Fences, and general and common Fields.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That in every town within this State, there shall be chosen annually by the inhabitants thereof, at the time of their meeting for the choice of town officers, two or more judicious and discreet freeholders, being inhabitants of the same town, to be Fence Viewers, to be sworn as other town officers are sworn, to the faithful discharge of the duties of their office.

Every town to choose annually two or more fence viewers.

SEC. 2. *Be it further enacted,* That all fences of four feet high, and in good repair, consisting of rails, timber, boards or stone walls; and also brooks, rivers, ponds, creeks,

What shall be considered as legal fences.