

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'

Penalty for giving false schedule.

evade the performance of the sentence against him or her. And if any such convict shall knowingly and wilfully make any false schedule or oath in relation to the matters aforesaid, or any of them, and be thereof convicted in the Supreme Judicial Court, he or she shall receive no benefit from the said liberation, but shall be liable to be again imprisoned till he or she performs the original sentence.

[Approved March 17, 1821.]

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CHAPTER LXXXIV.

An Act regulating the Selection, Empannelling and Service of Jurors.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Selectmen, in each town in this State, on or before the second Monday of September next, shall provide and at all times cause to be kept in their respective towns, one Jury box; and shall, once at least in every three years afterwards prepare a list of such persons, under the age of seventy years, in their respective towns, as they shall judge best qualified to serve as Jurors, being persons of good moral character, and qualified as the Constitution directs, to vote in the choice of Representatives, excepting the Governor, Counsellors, Judges and Clerks of the Common Law Courts, Secretary and Treasurer of the State, Loan officers and Revenue officers, Judges and Registers of Probate, Registers of Deeds, settled Ministers of the Gospel, officers of any College, Preceptors of Incorporated Academies, Physicians and Surgeons regularly authorized, Cashiers of incorporated Banks, Sheriffs and their Deputies, Marshals and their Deputies, Counsellors and Attornies at Law, Justices of the Court of Sessions, Criers of the Judicial Courts, Constables and constant Ferymen; and having written their names upon tickets, they shall cause them to be placed in the Jury box, and shall then lay the whole of their doings before the town for a revision, who may confirm the same, or make such alterations therein as they may deem proper: and the said box shall be held and kept by the Town Clerk; and the persons whose names shall be continued in said box, shall be liable to be drawn,

Selectmen to keep a Jury box.

Once in 3 years prepare a list.

Persons exempted from serving as Jurors.

Box to be kept by town clerk.

and serve on any Jury, at any Court for which they may be drawn, once in every three years, and not oftener.

SEC. 2. *Be it further enacted,* That it shall be the duty of the several towns, to provide and have constantly kept in said box, ready to be drawn when required, a number of Jurors, not less than one, and not more than two, for every hundred persons, which said town may contain, computing by the last census which may have been taken, next before the preparing the box.

Number liable to be drawn in each town.

SEC. 3. *Be it further enacted,* That if any person whose name shall be in the box aforesaid, shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the Selectmen.

Persons convicted, &c. their names to be taken from the box.

SEC. 4. *Be it further enacted,* That the Courts of Sessions in the several counties in this State, within one year next after every new census, and as much oftener as any considerable change in the state of population shall render useful and necessary, divide their respective counties into at least four Jury districts, and more if it shall be found in practice convenient, not exceeding twelve, each to contain so many adjoining towns as shall make the number of inhabitants in each division as nearly equal, according to the last census for the time being, as may be, without dividing a town; and such Jury districts shall be numbered and distinguished numerically; and the said Courts of Sessions shall cause copies of such divisions to be delivered to the Clerks of the respective Courts at which the course of trials is or may be by Juries, who shall issue their *venire facias*, in due form, directed to the respective Constables of as many towns in one such Jury district, and for as many Jurors as shall be, as near as may be in proportion to the number of Jurors sent for in the other districts, to serve at the same Court, always collecting the grand and traverse Jurors so far as shall be practical and convenient as uniformly from all parts of the county, as the situation of towns, the number of their inhabitants, and a practical rotation and equalization of the service of Jurors will permit; never taking more than two grand and two traverse Jurors from the same town, to serve at the same Court, unless from necessity, some extraordinary

Court of Sessions to divide counties into Jury districts.

Rule to be observed by Clerks in sending *venires*.

occasion, or to equalize their services on the principles aforesaid.

Grand Jurors
at C. C. Com-
mon Pleas to
serve the year.

SEC. 5. *Be it further enacted,* That the Grand Jurors who shall be returned to serve at the Circuit Court of Common Pleas, shall serve at every term of said Court, which shall be held throughout the year. And venire for such a Jury, shall be issued forty days at least, before the second Monday of September annually. And the Sheriff of each county, so soon as he shall receive the venires for Jurors, from the Clerk of either Court, shall without any delay, forward the same to the Constables of the towns to whom they shall be directed; and the Constables of their respective towns, on the reception thereof, shall, in the usual form, notify the freeholders and other inhabitants, in their towns, qualified to vote in the election of Representatives, and particularly the Selectmen and Town Clerk, to assemble and be present at the drafts and selection of the Jurors called for; which meeting shall be held at least, six days, and not more than twenty days, before the sitting of the Court to which the venire shall be returnable.

Sheriff to dis-
tribute the ve-
nires.

Constables'
duty, &c.

Mode of draw-
ing Jurors.

SEC. 6. *Be it further enacted,* That when any town shall be duly assembled, in pursuance of a venire facias, for the purpose aforesaid, the Town Clerk, or in his absence, one of the Selectmen, shall carry into the meeting the box containing the names of those persons who have been selected to serve as Jurymen, at the Court from which the venire issued; which box shall be unlocked in the meeting, and the tickets mixed by the major part of the Selectmen, who are to be present; and one of the Selectmen shall draw out as many tickets as there shall be Jurors required by venire. The persons whose names shall be thus drawn, shall be returned to serve as Jurors, unless from sickness, absence beyond sea, without the limits, or in different parts of the State, they shall be considered by the town as unable to attend the Court for which they had been drafted; or had served on a Jury within three years from that day. In either of these cases, or in case of a Coroner's being drawn at a time when the duties of a Sheriff shall be devolved on him by reason of a vacancy in that office, the persons' names being returned into the box, others shall be drawn in their stead;

but any person being thus excused, or who shall be returned, and shall not appear at Court, or appearing, shall be there excused, shall not be considered as serving, or be excused on another draft, should it happen within the term of three years, the minute on his ticket notwithstanding.

SEC. 7. *Be it further enacted,* That the Selectmen who shall draw from the box the ticket of any person to serve as a Juror, and who shall not be excused by the town, for either of the causes aforesaid, shall endorse thereon the date of the draft, and then return the same into the box; and it shall be the duty of the Constable to notify the persons thus designated to serve as Jurors, four days at least, before the sitting of the Court, on which they are to attend, either by reading to them the venire, with the minutes of their having been drafted as aforesaid, thereon; or by leaving at their usual abode, a written notification of their having been so drawn, and also of the time and place of the sitting of the Court, and when they are to attend. And he shall make a seasonable return of the venire to the Court to which it is returnable, with his doings thereon. And whenever there shall be a renewal, or an exchange of any of the tickets in the box, for others, of the same persons, the Selectmen shall transfer from the back of the old tickets to the new ones, the minutes of such drafts as has been made within the three preceding years.

Constables to notify Jurors who have been drawn.

SEC. 8. *Be it further enacted,* That when by a deficiency of either of the grand, or traverse Jurors of any Court, it cannot conveniently proceed in its business, it may cause writs of venire facias for the drawing and returning so many Jurors as shall be deemed necessary, to be forthwith issued, and directed to the Constables of such towns in the county as the Court, under the existing circumstances, shall judge most proper; conforming as far as the business of the Court will permit, to the principles by which, under this Act, Jurors are to be selected, and their services equalized: and the Jurors so drawn, shall be notified by the Constables to attend on the Court immediately. And when from challenges or otherwise, there shall not be a Jury to determine any civil or criminal cause, which may be called on for trial, the Sheriff or his deputy, or in case of an interest or

In case of deficiency of grand or traverse Jurors Court may issue venires returnable forthwith.

Sheriff or Cononer may return Jurors *de talibus circumstantibus*.

Proviso.

relationship in him, to a party in the suit, a Coroner, or such other disinterested person as the Court shall appoint, shall, by order of the Court, return Jurymen *de talibus circumstantibus*, sufficient to complete the panel: *Provided*, No person shall be considered as competent to be returned, whose name shall not, to the satisfaction of the Court, appear to be contained in the box aforesaid, unless the parties consent, and also provided that there shall be seven at least on the panel, of the Jurors returned by the venire.

Jurors may be examined on oath as to their interest, &c.

SEC. 9. *Be it further enacted*, That the Justices of the respective Courts aforesaid, shall on motion from either party, in a suit, put any Juror upon oath, whether he is any way related to either party, or hath formed or given any opinion, or is sensible of any particular interest or prejudice in the cause; and if thereupon, it shall appear to the Court, that such Juror does not stand indifferent in the cause, another Juror shall be called or returned, and be placed for the trial of that cause in his stead.

Clerk of court to prepare alphabetical list of Jurors.

SEC. 10. *Be it further enacted*, That from the return on the venires, the Clerk of each Court shall prepare, or have prepared, at the opening of every Court, separate alphabetical lists of the names of the persons who shall be returned as grand or traverse Jurors, respectively. And each Court, in empannelling the Grand Jury, shall cause the two persons who shall stand first on the Grand Jury lists to be called and sworn, and after them the others, in succession, as they shall be named in said list, and in such divisions as has been usual, or as by the Court may be deemed proper.

Mode of empannelling Grand Jury.

Mode of empannelling traverse Jury.

SEC. 11. *Be it further enacted*, That the respective Courts in empannelling the traverse Jurors, shall cause the names of the two first persons which shall stand on the list of Jurors of trials respectively, to be called, who shall be first sworn, and then the others in succession, as they shall be named in said list, and in such divisions as has been usual, or as the Court may deem proper. And the first twelve persons, thus empannelled, shall be the Jury; and when there shall have been venires, and returns for two Juries, shall be called the first Jury; and the next on said list being called and sworn as aforesaid, to the number of twelve shall form the second Jury: *Provided*, And in case of the

Court's excusing for cause, any person of either of said Juries, and there being any supernumeraries, the vacancy shall be supplied, and the pannels be filled and completed, on the above mentioned principles, in the same manner as if the person excused, had not been named in the Jury list; and provided also, in case of supernumeraries, on request, the Court may excuse individuals of either panel, who may not have sufficient reasons to exempt them from serving, so far as their places can be supplied by the supernumeraries, and by their consent,

SEC. 12. *Be it further enacted,* That the oaths which shall be administered to the grand and traverse Jury, respectively, when they shall be empannelled, shall be in the forms following, namely: [Grand Jurors' oath.]

You as Grand Jurors of this inquest for the body of this county of S. solemnly swear that you will diligently inquire, and true presentment make of all such matters and things, as shall be given you in charge; the State's counsel, your fellows', and your own, you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any man unrepresented, for love, fear, favour, affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God.

Grand Jurors' oath.

[The other Grand Jurors' oath.]

The same oath which your fellows have taken, on their part, you and each of you, on your behalf, shall well and truly observe and keep. So help you God.

[The form of the traverse Jurors' oath in civil causes.]

You, and each of you swear, that in all causes betwixt party and party that shall be committed to you, you will give a true verdict therein, according to the law and the evidence given you. So help you God.

Traverse Jurors' oath.

[Form of the oath in criminal causes, not capital.]

You swear, that you will well and truly try the issue between the State and the defendant or defendants, (as the case may be) according to your evidence. So help you God.

Oath in criminal causes.

[Form of the oath in capital causes.]

You swear, that you will well and truly try, and true deliverance make, between the State, and the prisoner at the

Oath in capital causes.

bar, whom you shall have in charge, according to your evidence. So help you God.

Affirmation in cases of scrupulosity.

Provided, That any person conscientiously scrupulous of taking an oath, shall instead thereof be allowed to make affirmation, substituting the word, "affirm," instead of the word "swear," and also the words, "this you do under the pains and penalties of perjury," instead of the words, "So help you God."

Grand Jury to elect foreman by ballot.

SEC. 13. *Be it further enacted,* That it shall be the duty of the Grand Jury, who shall be thus sworn, empannelled and instructed by the charge from the Court, so soon as they shall retire for the purpose of discharging the duties of their office, first to elect by ballot their foreman, and to notify the Court, by the officer who shall be appointed to attend on them, of the person who shall have been thus elected, and who shall be thereupon foreman of the Jury for the then existing term, and as such be recorded by the clerk accordingly. But in case of the absence of such foreman, by sickness, or any other cause, it shall become necessary during the same session of the Jury, to appoint another foreman, they shall proceed in a similar manner to elect, and to announce to the Court the choice of another foreman in his stead. And the foreman of each Grand Jury, in the presence of the Attorney General or County Attorney, shall have power to swear any witness to testify before such Grand Jury, and it shall be his duty to return to the Court which empannelled them, a list of all witnesses so sworn, before said Grand Jury be discharged from their attendance upon the said Court; which list shall be filed and entered of record by the Clerk thereof. And the traverse Jurors being thus empannelled, shall respectively, either retire and choose by ballot their respective foreman, or shall make such a choice on their retiring with the first cause with which they shall be charged, as may best accommodate the arrangements and business of the Court, of which choice, the Court shall be notified on the Jury's return.

Foreman may, in presence of Attorney for State swear witnesses.

Traverse Jurors to choose foreman by ballot.

Provisional Jurors may be required to be drawn.

SEC. 14. *Be it further enacted,* That if at any time, from the existing state of the country, the nature or quantum of the business pending, or from any other cause, the Courts respectively, shall be of opinion that it will be a hardship

on one set of traverse Jurors to serve the whole of the term, and that it would best meet the interest of the public and of individuals, to have a second set of Jurors to serve a part of the term, it shall be in the discretion of the Court to direct their Clerk, when they shall issue their venire to the Constables, in manner before directed, for the usual number of Jurors, to require in the same venire, that a second draft of an additional number, equal to the first number, shall be made, which shall be called provisional Jurors, and shall form the second set; so far as they shall be needed, and especially sent for by the Court. And the Constables shall also notify these Jurors four days before the sitting of the Court, of their being drawn as provisional Jurymen, in the same manner as is provided for the notification of the first set of Jurors. And such provisional Jurors shall hold themselves in readiness, and if called for by the Court, shall attend and serve, at any time in the course of that term. And in all cases, when provisional Jurors shall be drawn as aforesaid, it shall be in the discretion of the Court, at any time during the session, to excuse, on request, from further attendance; any individual of the first set of Jurors, on the condition of his giving seasonable and personal notice to such a provisional Juror or Jurors, for his or their immediate attendance, as shall be designated and called for, by the discretion of the Court.

Such Jurors to be notified and ready when called for.

Court may excuse Jurors of first set.

SEC. 15. *Be it further enacted,* That it shall be the business of the Grand Juries to present all crimes, offences, and breaches of the law, cognizable by the respective Courts at which they shall attend; and of the traverse Juries, respectively, to try, according to the established forms and principles of law, all causes which shall be committed to them, and to decide at their discretion by a general verdict, both the fact and the law, involved in the issue; or to find a special verdict, or a general verdict, subject to the opinion of the Court, on a case or point stated and reserved by agreement of the parties, or their counsel, under the direction of the Court, as making a part of the record, to be entered as such; and in case such Jurors, after a due and thorough deliberation on any civil cause, with which they may be charged, shall return into Court without having been able

Powers and duties of grand and traverse Jurors.

to agree on a verdict, it shall be in the discretion of the Court explaining to them its understanding of questions of law, if any should be proposed, and re-stating what any witness had testified, should that be requested by the Jury, to send them out again for further deliberation; and if the Jury should return a second time without being able to agree on a verdict, they shall not be liable to be sent out a third time, unless they shall state some legal difficulties for explanation, which had not been previously attended to by the Court. And if any person obtaining a verdict in his favour in any Court in this State, shall, during the session of the said Court, in which such verdict shall be obtained, give to any of the Jurors in said cause, knowing him or them to be such, any victuals, drink or entertainment, or other article by way of treat or gratuity, whether before or after such verdict, on due proof thereof, it shall be a sufficient reason, at the discretion of the Court, to set aside the verdict, at the election of the adverse party, and award a new trial of the cause.

Party prevailing not to treat the Jury.

In real actions a view may be had.

Proviso as to costs.

SEC. 16. *Be it further enacted,* That in all cases relating to real estates, either party may have a Jury to view the place in question, if the Court shall be of opinion, that such view is necessary to a just decision: *Provided,* The party moving therefor shall advance such a reasonable sum to the Jury, as the Court shall order to be taxed against the adverse party in the event of a decision of the cause against him, on its merits, or through the default of the adverse party.

Venires for Jurors may be returnable on any day the Court may direct.

SEC. 17. *Be it further enacted,* That the Justices of either of the Courts aforesaid shall have power to order the writ of venire facias, which may be issued either for the grand or traverse Jurors, to be returned on such day of the term, as they may judge will best serve the purposes of justice, and facilitate the business of said Court.

Town meetings for Jurors, how to be notified.

SEC. 18. *Be it further enacted,* That the manner in which Constables, upon the receipt of venires for Jurors, shall notify the qualified inhabitants of their respective towns to assemble, and to be present at their drafts as aforesaid, shall, unless otherwise ordered by said towns respectively, be the same as has been or shall be established therein for notify-

ing and warning their annual town meetings. But if any town shall, at a legal town meeting, have ordered that the notifications shall be by the Constables, giving notice to the Selectmen or the major part of them, and the town Clerk, or by any other mode, such notification shall be sufficient.

SEC. 19. *Be it further enacted*, That the grand and tra- Compensation
of Jurors.
verse Jurors who shall attend at the Supreme Judicial Court, and Circuit Court of Common Pleas, shall each be allowed one dollar and twenty-five cents a day for their attendance, and six cents a mile for their travel out and home; to be paid out of the county treasuries respectively.

SEC. 20. *Be it further enacted*, That the Selectmen, Town, Penalty on any
officers for ne-
glect of duty,
and appropri-
ation.
Constable, Clerk of the town, Clerk of the Court, Sheriff or Juror, who having no justifiable cause therefor, shall neglect to discharge the duties incumbent on them, him or it, respectively, by this Act, shall be subjected to the respective fines and amercements named to be assessed, ordered and imposed by the Court, in reference to whose Jurors such neglect or failures may have taken place; namely, a fine not exceeding twenty dollars, at the discretion of the Court, on any Selectmen or town Clerk, who shall so neglect to perform his or their duty herein prescribed, as by means whereof the Jurors called for from his or their town shall not be returned; a fine not exceeding twenty dollars, at the discretion of the Court, on any Constable, who shall so neglect to perform the duties devolved on him by this Act, by means whereof there shall be a failure of the Jurors called from his town as aforesaid; a fine or amercement not exceeding one hundred dollars, at the discretion of the Court, on any town which shall so neglect the duties herein enjoined on it, as thereby to occasion a failure of the Jurors called for from such a town; a fine at the discretion of the Court, not exceeding fifty dollars, on their Clerk, or the Sheriff, who shall so neglect the duties enjoined on them, respectively, by this Act, as to prevent a compliance with any of its provisions; a fine on any Juror drawn, notified and returned, in the manner as above described, who shall unnecessarily fail in his attendance, and not being an inhabitant of Portland, not exceeding twenty dollars, and if an inhabitant of that town, not exceeding forty dollars, to be divided

equally among the Jurors who shall attend and serve ; and a fine not exceeding eighty dollars, on any town Clerk or Selectman, who shall be guilty of any fraud, either in practising on the Jury box previously to a draft, or in the drawing a Juror, or in returning the name of any Juror into the box, which had been fairly drawn out, and drawing or substituting some other one in his stead, or in any other way whatsoever ; and all such fines which the Selectmen, Constable, town Clerk, Sheriff or Clerk of a Court, shall incur by virtue of this Act, for any neglect, shall be to the use of the county in which the offender dwelt at the time of the neglect, to be recovered by indictment, information, or an action brought by the Treasurer of the county, before any Court having jurisdiction of the offence : *Provided*, The action shall be brought within twelve months after the offence shall have been committed ; such fines or amercements as shall be ordered or imposed on towns for any neglect of their duties as before specified, shall be to the use of the county in which the offending town may be ; and all fines and forfeitures for any of the frauds, by Town Clerks or Selectmen as above mentioned, shall be recovered by action of debt, in any Court having jurisdiction thereof ; one moiety thereof to be and enure to the State, the other moiety to him or them who shall prosecute and recover the same.

Limitation of actions for penalty.

[Approved February 14, 1821.]

CHAPTER LXXXV.

An Act prescribing the mode of taking Depositions.

In what cases and circumstances depositions may be taken.

SEC. 1. **B**E it enacted by the Senate and House of Representatives, in Legislature assembled, That when any civil cause shall be pending in any Court, or before any Justice of the Peace in this State, and the writ, original summons, or complaint therein shall have been served on the defendant, or be pending before Referees or Arbitrators, and either party in the cause shall think it necessary to have the testimony therein of any person who shall live more than thirty miles from the place of trial by a Court, Jury, Referees or Arbitrators, or shall be bound on a voyage to sea before, or