

# 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 XCII.

An Act defining the general Powers and Duties, and regulating the office of Sheriffs, and of Constables.

Sheriff to serve all precepts, &c.

including those in which their own towns are interested, or parties. Sheriffs and deputies, out of office, to serve precepts in their hands, &c.

Sheriff to have care and custody of gaols.

In case of death of Sheriff, his gaoler to continue in office until, &c.

Governor may appoint gaoler, when the Sheriff's office is vacant.

Such gaoler to give bond, &c.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Sheriff of each county in this State, shall have power, and it shall be his duty, and the duty of each of his deputies; to serve and execute within his county, all writs and precepts to him or them directed and committed, issued from good and lawful authority; including all writs and processes in which towns of which they are inhabitants are parties or interested. And all Sheriffs, when removed from their office, as well as their deputies, shall have power to execute all such precepts as may be in their hands at the time of their removal from office; and in every case of a vacancy in the office of Sheriff in any County, by death, resignation, removal or otherwise, every Deputy Sheriff in office under such Sheriff, having any writ or precept in his hands, at the time of such vacancy, shall have the same authority, and shall be under the same obligation to serve, execute and return such writ or precept, as if such Sheriff had continued in office. And the Sheriff of each county shall have the custody, rule, and charge of the gaol or gaols therein, and of all prisoners within such gaol or gaols, and shall keep the same himself personally, or by his deputy, for whom he shall be answerable; and in case of the death of the Sheriff of any county, any gaoler, by him specially appointed, shall continue in the office of gaoler, and retain and have the custody, rule and charge of the gaol of which he had the custody, rule and charge under such Sheriff; and of all prisoners within such gaol, or who may be afterwards committed to his custody, until a successor to such deceased Sheriff shall be appointed and qualified as the law directs; or until the Governor, by and with the advice of the Council, shall remove such gaoler and appoint another person; which removal and appointment, the Governor, by and with the advice of the Council, is authorized to make. And the gaoler so appointed; shall give such bonds, and in the same manner, as is required of a Sheriff, for the faithful performance of the

duties of his office; and shall continue in office during the vacancy in the office of Sheriff.

SEC. 2. *Be it further enacted*, That the defaults or misfeasances in office, of any gaoler, or deputy Sheriff, after the death or resignation of any Sheriff, by whom he was appointed shall be adjudged a breach of the condition of the bond given by such Sheriff: and actions for the malfeasance or misfeasance of any Sheriff, or of any of his deputies, may be sued against the executors or administrators of such Sheriff, in the same manner as if the cause of such action survived against the executor or administrator at the common law; and an attested copy of any Sheriff's bond, certified by the Treasurer of this State, shall be received as evidence in any case: *Provided nevertheless*, That if in any suit the execution of the bond shall be disputed, the Court may order the Treasurer to bring the original bond with him into Court.

SEC. 3. *Be it further enacted*, That if any Sheriff or his deputy, shall unreasonably neglect or refuse to pay to any person, any money received by him upon execution to the use of such person, upon demand thereof being made, he shall forfeit and pay to such person five times the lawful interest of such money, so long as he shall so unreasonably detain the same after such demand is made.

SEC. 4. *Be it further enacted*, That no Sheriff shall have his body arrested upon mesne process, or upon an execution awarded upon a judgment consequent upon a civil action, and that when judgment shall be rendered against any person holding the office of Sheriff, either in his official or private capacity, for any sum of money, the execution thereof shall be issued against his goods, chattels and lands, but not against his body; and if any execution issued against the goods, chattels or lands of a person who holds the office of Sheriff, shall be returned not satisfied, the creditor may file before the Governor and Council an attested copy of such execution and return, and also serve such Sheriff with a copy of such copy filed, attested by the Secretary together with notice under the hand of the Secretary, of the day of filing such copy. And if such Sheriff shall not, within forty days next after his being served with such copy and

Condition of Sheriff's bond to extend to breaches by gaoler or deputy Sheriff after Sheriff's death or resignation.

Actions may be sued against executors of sheriffs.

Copy of Sheriff's bond, certified by Treasurer of State—legal proof.

When signature is denied original may be produced.

Sheriff neglecting to pay over monies collected on execution, liable to 30 per cent. interest.

Sheriff's body not liable to arrest, &c. in civil action.

In case execution against Sheriff be returned unsatisfied, creditor may lay a copy before Governor and Council.

If debt be not paid within 40 days after

notice, Sheriff to be removed.

Sheriff to be answerable to his successor for all prisoners, &c.

When Sheriff is removed, execution to be issued against him in common form.

Sheriff to bury the bodies of debtors dying in prison, if not delivered to their friends

Expenses how to be paid.

Clerks of Courts to return to State Treasurer certificate of all fines, &c.

Penalty for neglect.

notice, pay the creditor the full of his debt, together with reasonable costs of the copies and notifications aforesaid, the Governor, with the advice of Council, shall remove such Sheriff from his office, and shall appoint some other person to the same. And such Sheriffs shall be held answerable for the delivery over to their respective successors, of all prisoners which may be in their custody at the time of their removal, and for that intent shall still retain the keeping of the gaol or gaols in their respective counties, and the prisoners therein, until their successors shall be appointed and qualified, as the law directs. And when a Sheriff shall be removed from his office, the Clerk of the Court, from whence executions have been issued and returned not satisfied, shall be empowered as soon as another Sheriff shall be appointed and legally qualified, to make out alias executions in common form, as well against the body as the goods, chattels, and lands of such persons so removed.

SEC. 5. *Be it further enacted,* That when any person imprisoned for debt, or any other cause, shall die in any county of this State, it shall be the duty of the Sheriff or deputy gaoler to deliver the body of such deceased person to his relations or friends, if they shall request it; and if no application be made for such body, it shall be the duty of the Sheriff, or deputy gaoler, to bury the same in the common burying ground; and the expenses thereof shall be paid by the town in which such person had a legal settlement, if such person had been an inhabitant of this State; otherwise the expenses aforesaid shall be paid out of the treasury of this State.

SEC. 6. *Be it further enacted,* That the Clerk of the Supreme Judicial Court, and Circuit Court of Common Pleas, shall, within fifty days after the end of their Courts respectively, return into the office of the Treasurer of the State, a certificate of all fines, amercements, issues and forfeitures arising or imposed to the use of the State, by their respective Courts, on penalty of seventy dollars for each and every neglect, to be disposed of as follows, viz.—The one moiety to him or them who shall sue for the same, and the other moiety to the benefit of this State; and the Attorney General as

well as the county Attornies within their respective counties, be, and hereby are especially directed and enjoined to give information of, and prosecute for recovery of all such fines and forfeitures as may be incurred by the Clerks aforesaid, in consequence of their breach of this Act: and the said Clerks shall respectively return a like certificate into the Secretary's office, that the Legislature may thereby be enabled to settle with the Treasurer; and each Clerk of the Courts shall certify to the Treasurer of his county, the fines arising to the county from time to time, from convictions in the Circuit Court of Common Pleas, and the Supreme Judicial Court; and the Circuit Court of Common Pleas shall audit and settle the Sheriff's accounts for such fines, as shall have been by them imposed, and for forfeitures arising in said Courts respectively, and thereupon grant the Sheriff a full discharge.

Similar certificates to be returned to the Secretary's office.

C. C. Common Pleas to audit and settle Sheriff's account for fines, &c. in that Court.

SEC. 7. *Be it further enacted*, That any Sheriff, deputy Sheriff or Constable, being in the execution of his office, for the preservation of the peace, or for the apprehending or securing any person or persons for the breach of the same, or for any other criminal cause shall have lawful authority to require suitable aid and assistance therein. And if any person, being required by any Sheriff, deputy Sheriff or Constable in the name of the State, to aid and assist him in the execution of his office, as aforesaid, shall neglect or refuse so to do, and be thereof convicted, before any Court proper to try the same, such offender shall be fined, to the use of the county where the offence shall be committed, not less than three dollars, nor more than fifty dollars, according to the circumstances of the case; and if any such offender shall be unable, or shall not forthwith pay the said fine, such Court may punish him by imprisonment not exceeding thirty days.

Sheriffs, Constables, &c. may require aid in criminal cases.

Penalty for refusal.

SEC. 8. *Be it further enacted*, That if any person not being really and bona fide a Sheriff, deputy Sheriff or Constable, shall pretend himself to be either of said officers, and take upon himself to act as such, or to require any person or persons to aid or assist him in any matter appertaining to the duty of Sheriff, deputy Sheriff or Constable, he shall be fined not exceeding four hundred dollars, according to the

Penalty for a person assuming to act as sheriff, &c.



circumstances of his offence; one moiety thereof to the use of the State, and the other moiety to him or them who shall prosecute therefor.

Constables may serve writs and executions in personal actions to amount of \$100.

SEC. 9. *Be it further enacted,* That any Constable in any town or plantation within this State, be, and he hereby is, authorized and empowered to serve upon any person or persons in the town or plantation to which he may belong, any writ, summons or execution, in any personal action, where the damage sued for or recovered shall not exceed one hundred dollars; including all writs and processes to them duly directed, in which towns or plantations of which they are inhabitants, are parties or interested, and return thereof to make to the Court to which the same may be returnable: *Provided however,* That every Constable, after being chosen, and before he serve any writ, or proceed to collect any execution, shall give to the Treasurer of his town, a bond in the sum of two hundred dollars, with two sureties, sufficient in the opinion of the Selectmen and town Clerk, for the faithful performance of his duties and trust, as to all processes by him served or executed; and for every process he shall serve or execute before giving such bond, he shall forfeit and pay not less than twenty, nor more than fifty dollars, recoverable to the use of any person, who shall sue for the same; and all persons suffering through the defaults or misdoings of such Constable, shall have the same remedies in law, on his bond, as are provided in respect to Sheriffs' bonds, and the like proceedings in both cases shall be had, such changes being made, as will make the process effectual.

Provided they give bond to town Treasurer in \$200.

Penalty for acting before giving bond.

Remedy on Constables' bond.

Constables, in serving warrants or writs, may carry prisoners and things taken by them, to the Justice or prison.

SEC. 10. *Be it further enacted,* That any Constable of any town or plantation within this State, shall have authority, in the execution of the warrant, or writ to him directed by lawful authority, to convey as well any prisoner or prisoners, as things that they may have taken into their custody, either to the Justice issuing such warrant or writ, or to the common gaol or house of correction of the county where such Constable is an inhabitant, according as in the writ or warrant may be directed.

[Approved March 19, 1821.]