

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

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1841.

CHAP. 134.

CHAPTER 134.

OF COMMISSIONERS TO TAKE ACKNOWLEDGMENT OF DEEDS OR OTHER CONTRACTS, AND DEPOSITIONS IN OTHER STATES.

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| <p>SECT. 1. Appointment. Power to authenticate deeds.</p> <p>2. Legal effect of their official acts and certificates.</p> | <p>SECT. 3. May administer oaths, and take depositions.</p> <p>4. Qualification. Seal.</p> |
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Appointment.
Power to authenticate
deeds.
1837, 290, § 1.

SECTION 1. The governor shall have power to appoint one or more commissioners in any other of the United States, who shall continue in office during the pleasure of the governor; and shall have authority to take the acknowledgment and proof of the execution of any deed or other conveyance or lease of any lands, lying in this state; and of any contract, letter of attorney or any other writing, under seal or not, to be used or recorded in this state.

Legal effect of
their official
acts and certifi-
cates.
1837, 290, § 1.

SECT. 2. Such acknowledgment or proof, so taken according to the laws of this state, and certified by any such commissioner, under his seal of office, annexed to, or indorsed on such instrument, shall have the same force and effect, as if the same had been made before a judge or justice of the peace, or other officer, authorized to perform such acts in this state.

May adminis-
ter oaths, and
take deposi-
tions.
1837, 290, § 2.

SECT. 3. Every commissioner, appointed as before mentioned, shall have power to administer an oath, which may be lawfully required in this state, to any person willing to take it; and to take and duly certify all depositions to be used in any of the courts of this state, in conformity to the laws thereof, either on interrogatories proposed under commission from a court of this state, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid, as if done and certified according to law by a magistrate in this state.

Qualification.
Seal.
1837, 290, § 3.

SECT. 4. Every such commissioner, before performing any duty, or exercising any power in virtue of his appointment, shall take and subscribe an oath or affirmation before a judge or clerk of one of the superior courts of the state in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner, under and by virtue of the laws of Maine; which oath and a description of his seal of office, shall be filed in the office of the secretary of this state.

CHAPTER 135.

OF THE SELECTION AND SERVICE OF JURORS.

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| <p>SECT. 1. Board for preparing lists of jurors. Towns may make alterations.</p> <p>2. Lists, how prepared.</p> <p>3. Persons exempted from serving.</p> <p>4. Tickets of names to be kept in jury box; liable to be drawn once in three years.</p> | <p>SECT. 5. Number required to be kept in the jury box.</p> <p>6. Names may be withdrawn in certain cases.</p> <p>7. Commissioners to divide the county into jury districts.</p> <p>8. How divided, and numbered.</p> |
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SECT. 9. Copy of division to be furnished to the clerk.

10, 11. Rule, by which the clerk shall issue venires.

12. Grand jurors in the district court to serve one year.

13. When venires shall issue for such.

14. Distribution of venires. Notice of meetings to draw jurors.

15, 16. Mode of drawing jurors.

17. Date of draft to be indorsed on tickets.

18. Constable to notify jurors.

19. Return of venire.

20. Indorsement to be transferred, if ticket be renewed.

SECT. 21. Penalty for neglect of selectmen or clerk.

22. Penalty for neglect of constable.

23. Penalty for neglect of town.

24. Penalty for neglect of clerk of court, or sheriff.

25, 26. Penalty for neglect of juror to attend.

27. Penalty for fraud by town clerk or selectmen.

28, 29. Recovery, and appropriation of fines.

30. When no traverse jurors are to be summoned to the supreme judicial court.

SECTION 1. The selectmen of each town, together with the treasurer and clerk of each town, shall constitute a board for preparing lists of jurors to be laid before such town for their approval; and the said town shall have power, by a majority of the legal voters in legal town meeting assembled, to make alterations in such lists, by striking out such names therefrom; as they may think proper to erase; but shall not be allowed to insert any other names therein.

Board for preparing lists of jurors. Towns may make alterations.
1821, 84, § 1.
1834, 156, § 1.

SECT. 2. Such board shall, once, at least, in every three years, prepare a list of such persons, under the age of seventy years, in such town, 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.

Lists, how prepared.
1821, 84, § 1.

SECT. 3. The following persons shall be exempted from serving as jurors, and their names shall not be placed on the said lists; namely; the governor, counselors, judges and clerks of the common law courts, secretary and treasurer of the state, all officers of the United States, judges and registers of probate, registers of deeds, settled ministers of the gospel, officers of any colleges, preceptors of incorporated academies, physicians and surgeons regularly authorized, cashiers of incorporated banks, sheriffs and their deputies, coroners, counselors and attorneys at law, county commissioners, constables and constant ferrymen.

Persons exempted from serving.
1821, 84, § 1.

SECT. 4. The said board, after the list of jurors shall have been approved by the town, as mentioned in the first section, having written their names upon tickets, shall place them in the jury box; and the same shall be held and kept by the town clerk; and the persons, whose names shall be contained in the box, shall be liable to be drawn and serve on any jury, at any court for which they may be drawn, once in every three years, except as provided in the sixteenth section, and not oftener.

Tickets of names to be kept in jury box; liable to be drawn once in three years.
1821, 84, § 1.
16 Mass. 220.
8 Pick. 504.

SECT. 5. It shall be the duty of each town to provide and have constantly kept in the box, ready to be drawn when required, the names of a number of jurors, not less than one, and not more than two for every hundred persons in such town, according to the last census, taken next before preparing the box.

Number required to be kept in the jury box.
1821, 84, § 2.
1823, 214, § 2.

SECT. 6. If any person, whose name shall be in the box, shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the board.

Names may be withdrawn in certain cases.
1821, 84, § 3.

CHAP. 135.

Commissioners to divide the county into jury districts.
1821, 84, § 4.

How divided, and numbered.
1821, 84, § 4.

Copy of division to be furnished to the clerk.
1821, 84, § 4.

Rule, by which the clerk shall issue venire.
1821, 84, § 4.

Same subject.

Grand jurors in the district court to serve one year.
1821, 84, § 5.

When venires shall issue for such.
1821, 84, § 5.

Distribution of venires. Notice of meetings to draw jurors.
1821, 84, § 5.

Mode of drawing jurors.
1821, 84, § 6.

SECT. 7. The county commissioners in each county, within one year after every new census, and as much oftener, as a considerable change of population shall render it useful and expedient, shall divide such county into not less than four, nor more than twelve districts.

SECT. 8. Each district shall 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 districts shall be designated numerically.

SECT. 9. The commissioners shall cause a copy of such division to be delivered to the clerk of the courts in such county, as soon as may be after the division is made.

SECT. 10. The clerk of the courts, in such county, shall issue venires in due form, directed to the constables of as many towns in one 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 in the county, 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, number of their inhabitants, and a practical rotation and equalization of the service of jurors will permit.

SECT. 11. No more than two grand jurors and two traverse jurors shall be taken from the same town, to serve at the same court; unless from necessity, some extraordinary occasion, or to equalize their services upon the principles before mentioned.

SECT. 12. The grand jurors, who shall be returned to serve at the district court, shall serve at every term of said court, throughout the year.

SECT. 13. Venires for such jurors shall be issued, forty days at least, before the second Monday of September annually.

SECT. 14. The sheriff of each county, as soon as he receives venires for jurors, shall immediately send them to the constables of the respective towns, to which they are directed; and, on receipt of such venires, each constable shall notify the freeholders and other inhabitants of the town, qualified to vote in the election of representatives, in the manner annual town meetings are notified, and especially the selectmen and town clerk, unless a different mode has been agreed upon at a legal town meeting, which any town is hereby authorized to do, in respect to town meetings for the drawing of jurors only, to assemble and be present at the draft and selection of the jurors called for; which meeting shall be six days before the sitting of the court, to which the venire is made returnable.

SECT. 15. At such meeting, the town clerk, or, in his absence, one of the selectmen, shall carry into the meeting the jury box, containing the names of the persons approved as aforesaid; the box shall be unlocked in the meeting, and the tickets mixed by the major part of the selectmen present; and one of the selectmen shall draw out as many tickets, as there shall be jurors required; and the persons, whose names are thus drawn, shall be returned 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 are drafted, or had served on a jury within three years from that day.

SECT. 16. In either of the above cases, or in case a person is drawn, who may have been appointed to an office, which exempts him from serving as a juror, others shall be drawn in their stead; but any person, being thus excused, or who shall be returned, and shall not attend court, or shall, when appearing there, be excused, shall not be excused on another draft, should it happen within the term of three years, notwithstanding the minute made on his ticket; and, whenever it shall happen, that all those persons, whose names are in the box of any town, shall have served on the jury within three years, or for reasons above mentioned shall not be liable to serve, the selectmen shall draw out of the box such number of men as may be required, provided they have not served as jurors within eighteen months; and, in such case, the clerk shall certify on the venire that all persons, whose names are contained in the jury box, have served upon the jury within three years, or that they are not liable to be returned.

SECT. 17. When a juror has been drawn, and not excused by the town, the selectmen, who drew his ticket, shall indorse thereon the date of the draft, and return the same into the box.

SECT. 18. The constable shall notify the persons, thus drawn to serve as jurors, four days at least before the sitting of the court, at which they are to attend, by reading the venire and indorsement thereon to them, or leaving, at their usual place of abode, a written notification of their having been drawn, and also of the time and place of the sitting of the court, where they are to attend.

SECT. 19. He shall make a seasonable return of the venire with his doings thereon.

SECT. 20. Whenever there is a renewal or 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 had been made within the three preceding years.

SECT. 21. If the selectmen or town clerk of any town shall neglect to perform the duties, required of them or him in this chapter, so that the jurors called for from the town to which they belong shall not be returned, such selectmen and town clerk shall be fined not less than ten, nor more than fifty dollars, each.

SECT. 22. Any constable shall be fined a sum not exceeding twenty dollars, for neglecting the performance of the duties required of him in this chapter.

SECT. 23. Any town, which shall neglect to perform the duties required of it, shall be fined a sum, not exceeding one hundred dollars.

SECT. 24. If the clerk of the court, or sheriff of the county, shall neglect to perform the duties required of them, respectively, so as to prevent a compliance with any of the provisions of this chapter, he shall be fined a sum not exceeding fifty dollars.

SECT. 25. Any juror, not being an inhabitant of Portland, who after being notified and returned, shall unnecessarily fail in his

Same subject.
1823, 214, § 1.

Date of draft to be indorsed on tickets.
1821, 84, § 7.
14 Pick. 196.

Constable to notify jurors.
1821, 84, § 7.

Return of venire.
1821, 84, § 7.
5 Greenl. 333.

Indorsement to be transferred, if ticket be renewed.
1821, 84, § 7.

Penalty for neglect of selectmen or clerk.
1821, 84, § 20.
1823, 214, § 2.

Penalty for neglect of constable.
1821, 84, § 20.

Penalty for neglect of town.
1821, 84, § 20.

Penalty for neglect of clerk of court, or sheriff.
1821, 84, § 20.

Penalty for neglect of jurors to attend.
1821, 84, § 20.

CHAP. 135. attendance, shall be fined as for contempt, not exceeding twenty dollars.

Same subject. 1821, 84, § 20. **SECT. 26.** Any juror, who is an inhabitant of Portland, who shall so fail of attendance at court, shall be fined not exceeding forty dollars, as for contempt; the fines in this and the preceding section, to be divided among the jurors, who shall attend and serve.

Penalty for fraud by town clerk or selectmen. 1821, 84, § 20. **SECT. 27.** Any town clerk or selectman, who shall be guilty of any fraud in practising on the box previous to the draft, or in the drawing a juror, or in returning the name of a juror into the box, which had been fairly drawn, and drawing another in his stead, or in any other mode, shall be fined not exceeding two hundred dollars.

Recovery, and appropriation of fines. 1821, 84, § 20. **SECT. 28.** All fines, imposed by the twenty first, twenty second, twenty third and twenty fourth sections, shall be for the use of the county, in which the offender dwelt, at the time of the neglect; and be recovered by indictment, information or action by the treasurer of the county, to be commenced within twelve months after commission of the offence.

Same subject. 1821, 84, § 20. **SECT. 29.** All fines imposed by the twenty seventh section, shall be recovered on indictment, one moiety to the use of the state, and the other to the prosecutor thereof.

When no traverse jurors are to be summoned, to the supreme judicial court. 1836, 196, § 2. **SECT. 30.** In each county, in which two terms of the supreme judicial court are annually holden, no traverse jurors shall be summoned to attend at the full or law term, unless the court shall otherwise order.

CHAPTER 136.

OF THE PREVENTION OF FRAUDS AND PERJURIES IN CONTRACTS, AND IN ACTIONS FOUNDED THEREON.

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| <p>SECT. 1. Cases, in which promises must be in writing.</p> <p>2. Consideration need not be expressed therein.</p> <p>3. Representation of another's ability or character, to be in writing.</p> <p>4. What contracts for sale of goods, must be in writing.</p> <p>5. When specific performance of a contract may be enforced by bill in equity.</p> | <p>SECT. 6. Proceedings thereon.</p> <p>7. What decree shall be made.</p> <p>8. Conveyance to be good.</p> <p>9, 10. Enforcement of such decree.</p> <p>11. Provision, in case of the death of the obligee before conveyance.</p> <p>12. Administrator of the contractor may petition for authority to make the conveyance.</p> |
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Cases, in which promises must be in writing. 1821, 53, § 1. **SECTION 1.** No action, shall be brought and maintained in any of the following cases:

First. To charge an executor or administrator, upon any special promise to answer damages out of his own estate;

Secondly. To charge any person, upon any special promise to answer for the debt, default or misdoings of another;

Thirdly. To charge any person, upon an agreement made in consideration of marriage;

Fourthly. Upon any contract for the sale of lands, tenements or hereditaments, or of any interest in or concerning them;

5 Mass. 133. 11 Mass. 342, 533. 3 Greenl. 340. 9 Greenl. 62. 3 Fairf. 506. 15 Maine, 14, 61, 201. 1 Pick. 43, 328. 16 Pick. 227. 17 Pick. 538. 20 Pick. 134.