

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

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PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

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BANGOR:  
WHEELER & LYNDE.

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1857.

**CHAP. 105.**

Right of way,  
or other ease-  
ment, &c.  
R. S., c. 147,  
§ 14, 15.

SEC. 13. No person shall acquire a right of way, or other easement from, in, upon, or over, the land of another by the adverse use and enjoyment thereof, unless it is continued uninterrupted for twenty years; and the owner of such land, to prevent such right, may give notice, in writing, to the person claiming it, of his intention to contest such right, or easement, which, being served and recorded as hereinafter stated, shall be deemed an interruption of such use, and prevent the acquisition of a right thereto.

How such notice is to be given.  
R. S., c. 147,  
§ 16.

SEC. 14. Such notice may be given by the agent or guardian of the owner of the land, or by an officer, by giving to the claimant, his agent, or guardian, if in the state, an attested copy thereof, or by leaving it at his dwellinghouse, or, if not in the state, a copy may be left with the tenant or occupant of the estate, if any; if not, such copy shall be affixed to the house or a conspicuous part of the premises. The officer shall make his return on the original notice; and the whole shall be recorded in the registry of deeds in the registry district where the land lies, within three months from the time of such service.

No real or mixed action, for the recovery of land, &c.  
1848, c. 87, § 1.  
1852, c. 240, § 1.

SEC. 15. No real or mixed action, for the recovery of any lands, shall be commenced or maintained against any person in possession thereof, when such person or those under whom he claims have been in actual possession for more than forty years, claiming to hold them by adverse, open, peaceable, notorious, and exclusive possession, in their own right.

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## CHAPTER 106.

### THE SELECTION AND SERVICE OF JURORS.

- SEC. 1. Board for preparing lists of jurors; towns may make alterations.
2. How the lists are to be prepared.
3. Persons exempted from serving.
4. Tickets of names to be kept in jury box; liable to be drawn once in three years.
5. Number required to be kept in jury box; names may be withdrawn in certain cases.
6. Commissioners to divide the county into jury districts, and furnish copy of division to clerk; how divided and numbered.
7. Rule by which the clerk shall issue venires.
8. Grand jurors to serve one year; venires for such, to issue forty days before second Monday of September, annually.
9. Grand and traverse jurors to attend on the first day of the term, unless, at a previous term, the court designated a different day.
10. Distribution of venires, and notice of meetings to draw jurors.
- 11, 12, 13. Mode of drawing jurors; date of draft to be indorsed on the ticket.
14. Constables to notify jurors, and return venires.
15. Indorsement to be transferred, if ticket is renewed.
16. Penalty for neglect of selectmen or clerk.
17. Penalty for neglect of constable or town.
18. Penalty for neglect of clerk of court or sheriff.
19. Penalty for neglect of juror to attend.
20. Penalty for fraud by town clerk or selectmen.
21. Recovery and appropriation of fines.

SEC. 1. The municipal officers, treasurer, and clerk of each town constitute a board for preparing lists of jurors to be laid before the town for their approval; and the town, in legal town meeting, by a majority of the legal voters assembled, may strike out such names as they think proper from such lists, but shall not insert any other names.

CHAP. 106.

Board for preparing lists of jurors, &c.  
R. S., c. 135,  
§ 1.

SEC. 2. Such board, at least once in every three years, shall prepare a list of such persons, of good moral character, and qualified, as the constitution directs, to vote for representatives, under the age of seventy years, in such town, as they judge best qualified to serve as jurors.

How the lists are to be prepared.  
R. S., c. 135,  
§ 2.

SEC. 3. The following persons shall be exempted from serving as jurors, and their names shall not be placed on the lists: the governor, councilors, 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 colleges, preceptors of incorporated academies, physicians and surgeons, cashiers of incorporated banks, sheriffs and their deputies, coroners, counselors and attorneys at law, county commissioners, constables, and constant ferrymen.

Persons exempted from serving.  
R. S., c. 135,  
§ 3.

SEC. 4. After the list of jurors is approved by the town, the board shall write their names upon tickets, and place them in the jury box, to be kept by the town clerk; and the persons whose names are in the box shall be liable to be drawn and to serve on any jury, at any court for which they are drawn, once in every three years and not oftener, except as herein provided.

Tickets of names to be kept in jury box, &c.  
R. S., c. 135,  
§ 4.

SEC. 5. Each town shall provide, and constantly keep in the box, a number of names ready to be drawn when required, not less than one, nor more than two for every hundred persons in the town, according to the census taken next before preparing the box; and the board shall withdraw from it the name of any person convicted of any scandalous crime, or guilty of any gross immorality.

Number required to be kept in jury box, &c.  
R. S., c. 135,  
§ 5, 6.

SEC. 6. Within one year after every new census, and oftener if a considerable change of population renders it proper, the county commissioners shall divide their county into not less than four, nor more than twelve districts numerically designated; and they shall place as many adjoining towns in each district, as will make the number of inhabitants in each, according to the last census, as nearly equal as may be, without dividing a town; and shall deliver a copy of such division immediately to the clerk of the courts in their county.

Commissioners to divide the county into jury districts, &c.  
R. S., c. 135,  
§ 7, 8, 9.

SEC. 7. The grand and traverse jurors shall be drawn from each jury district in such manner as to cause jurors, at each term of the court, to come from every part of the county as equally as may be, and, as far as practicable, from every town in rotation, having regard to the number of its inhabitants, taking not more than two grand jurors and two traverse jurors from the same town at the same time, unless from necessity, or some extraordinary cause, or to equalize the service; and the clerk of the courts shall issue venires to the constables accordingly.

Rule by which the clerk shall issue venires.  
33 Maine, 200.  
R. S., c. 135,  
§ 10, 11.

## CHAP. 106.

Grand jurors  
to serve one  
year, &c.

R. S., c. 135,  
§ 12, 13.  
1852, c. 246,  
§ 17.

Jurors to at-  
tend on the  
first day of the  
term, &c.

1844, c. 95, § 1.

Distribution of  
venires, &c.

R. S., c. 135,  
§ 14.

Mode of draw-  
ing jurors, &c.

R. S., c. 135,  
§ 15.

Same subject.

R. S., c. 135,  
§ 16.

Date of draft  
to be indorsed  
on the ticket.

R. S., c. 135,  
§ 17.

Constables to  
notify jurors,  
and return  
venires.

5 Greenl. 333.  
R. S., c. 135,  
§ 18, 19.

Indorsement  
to be trans-  
ferred, &c.

SEC. 8. Venires for grand jurors to serve at the supreme judicial court shall be issued at least forty days before the second Monday of September annually; and such jurors shall serve at every term of said court for the transaction of criminal business throughout the year.

SEC. 9. The grand and traverse jurors shall attend on the first day of the term for which they are drawn and summoned; unless the court at a previous term has designated a different day; and if so, the venire shall specify the day on which the jurors shall attend.

SEC. 10. The sheriff, on receiving venires for jurors, shall immediately send them to the constables of the towns where directed; and each constable, on receipt thereof, shall notify the inhabitants of the town qualified to vote for representatives, in the manner annual town meetings are notified, and especially the municipal officers and town clerk, unless a different mode has been adopted at a legal town meeting, which any town may do in respect to drawing jurors only, to assemble and be present at the draft of the jurors called for; which shall be six days before the sitting of the court to which the venire is returnable.

SEC. 11. The town clerk, or, in his absence, one of the municipal officers, shall carry the jury box into the meeting, which shall there be unlocked, and the tickets mixed by a majority of said officers present; and one of them shall draw out as many tickets as there are jurors required; and the persons whose names are drawn shall be returned as jurors, unless they have served on the jury within three years, or from sickness, absence beyond sea, without the limits, or in distant parts of the state, they are considered by the town unable to attend.

SEC. 12. In either of said cases, or if a person is drawn who has been appointed to an office exempting him from serving, others shall be drawn in their stead; but any person thus excused, or returned and attending court, and there excused, shall not be excused on another draft, though within three years; and when all the persons, whose names are in the box, have served within three years, or are not liable to serve, the selectmen shall draw out the required number of those who have not served for eighteen months; and the clerk shall certify on the venire, that all persons whose names are in the box have served within three years, or are not liable to serve.

SEC. 13. When a juror is drawn and not excused by the town, the municipal officers who drew his ticket shall indorse thereon the date of the draft and return it into the box.

SEC. 14. The constables shall notify the persons thus drawn four days at least before the sitting of the court, by reading the venire and indorsement thereon to them, or leaving at their usual place of abode a written notice that they have been drawn, and of the time and place of the sitting of the court where they are to attend; and make a seasonable return of the venire with his doings thereon.

SEC. 15. When a new list of jurors is made, the municipal officers shall transfer from the back of the old tickets to the new

ones of the same persons, the minutes of the drafts made within the three preceding years. **CHAP. 106.**

SEC. 16. If the municipal officers or town clerk neglect to perform their duties herein required, so that the jurors called for from their town are not returned, they shall be fined not less than ten, nor more than fifty dollars each. R. S., c. 135, § 20. Penalty for neglect of officers. R. S., c. 135, § 21.

SEC. 17. Any constable, neglecting to perform his duties herein required, shall be fined not exceeding twenty dollars; and any town for a like neglect of its duties shall be fined not exceeding one hundred dollars. Penalty for neglect of constable or town. R. S., c. 135, § 22, 23.

SEC. 18. If the clerk of the court, or sheriff, neglects to perform his duties so as to prevent a compliance with any of the provisions of this chapter, he shall be fined not exceeding fifty dollars. Penalty for neglect of clerk or sheriff. R. S., c. 135, § 24.

SEC. 19. Any juror, who, after being notified and returned, unnecessarily fails in his attendance, shall be fined as for contempt, not exceeding twenty dollars, unless he resides in Portland, and then not exceeding forty dollars. Penalty for neglect of juror to attend. R. S., c. 135, § 25, 26.

SEC. 20. Any town clerk or municipal officer, who commits a fraud on the box previous to the draft, in drawing a juror or in returning a name into the box, which had been fairly drawn and drawing another in its stead, or in any other mode, shall be fined not exceeding two hundred dollars, half to the use of the state and half to the prosecutor. Penalty for fraud by town officers. R. S., c. 135, § 27, 29.

SEC. 21. All fines imposed by sections sixteen, seventeen, eighteen and nineteen, shall be recovered by indictment, information, or action by the county treasurer to the use of the county where the offence is committed. Recovery and appropriation of fines. R. S., c. 135, § 28.

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## CHAPTER 107.

### DEPOSITIONS.

#### DEPOSITIONS IN GENERAL.

- SEC. 1. In what cases depositions may be used.
2. Before whom they may be taken.
3. When a cause is deemed pending, for the purpose of taking depositions.
4. Reasons for which they may be taken and used.
5. On application of the party, a justice or notary may issue summons to deponent, and notice to adverse party.
6. Service of such notice, how made.
7. Who is to be considered attorney of the adverse party.
8. Notice to one of the adverse party sufficient; time of notice; verbal notice by the justice or notary; due notice to be given when deposition is taken out of the state.
9. Form of notice to adverse party.
10. Form of summons to deponent.
11. Witness may be compelled to give his deposition.
12. Deponent to be sworn before examination.
13. Who may write the deposition.
14. If deception is used in giving notice, deposition may be rejected. No deposition to be closed until one hour after time appointed for the taking.