

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.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 92. of the former judgment, and to the book where the agreement is recorded, such agreement shall be as binding as a verdict and judgment on a new complaint.

Judgment no bar to a new complaint.

R. S., c. 126, § 32.

Tender of damages, and effect thereof.

R. S., c. 126, § 33.

Complaint not to abate by death of either party.

R. S., c. 126, § 34.

If complaint abates, rights preserved by new complaint within a year.

R. S., c. 126, § 35.

Provisions of this chapter apply to streams forming the boundary of the state.

1855, c. 133, § 4.

Compensation of commissioners. Costs.

R. S., c. 126, § 16, 29.

SEC. 26. A judgment against a complainant as not entitled to any compensation shall be no bar to a new complaint for damages, arising after the former verdict, and for compensation for damages subsequently sustained.

SEC. 27. In case of an original complaint, the respondent may, with the same advantages to himself, tender and bring money into court, as in an action at common law; and if it is accepted, the judgment shall have the same effect as if rendered on a verdict.

SEC. 28. No complaint for so flowing lands or diverting water shall abate by the death of any party thereto; but it may be prosecuted or defended by the surviving complainants or respondents, or the executors or administrators of the deceased.

SEC. 29. If such complaint is abated or defeated for want of form, or if after a verdict for the complainant, judgment is reversed, he may bring a new complaint at any time within one year thereafter, and thereon recover the damages sustained during three years next before the institution of the first complaint, or at any time afterwards.

SEC. 30. The provisions of this chapter shall apply to mills and dams erected upon streams forming the boundary line of the state, although a part of the dam is not in the state; and the rights and remedies of all parties concerned shall be ascertained and determined as if the whole of such streams were in the state.

SEC. 31. The court shall award a suitable compensation to be paid to the commissioners, and taxed and recovered by the prevailing party. The prevailing party shall recover his costs, except where it is otherwise expressly provided.

CHAPTER 93.

INQUESTS OF OFFICE, AND INFORMATIONS FOR INTRUSION.

- SEC. 1.** Proceedings to revest in the state, lands granted on condition.
- 2.** Attorney general to file information.
- 3.** Scire facias to issue. Service.
- 4.** Judgment on default.
- 5.** Consequence of disclaimer by defendant.
- 6.** Proceedings, if defendant claims title.
- 7.** Proceedings if it is adjudged that defendant holds too much land.
- 8.** Such part shall be located by persons appointed by the court.
- 9.** Cases in which information may be filed, without order of the legislature.
Notice, how to be given.
- 10.** Proceedings, judgment and costs.
- 11.** Information to recover escheats. Notice.
- 12.** Tenant to set up no title, unless he claims under it.
- 13.** Costs, if defendant recovers.

SEC. 14. Defendant may hold by title subsequently acquired. What judgment, if the state recovers.

CHAP. 93.

15. Effect of judgment, that the state be resealed.

16. Tenant under the state to have betterments, though occupying less than six years.

17. Proceedings by attorney general to obtain betterments.

18. Execution therefor, how levied.

SEC. 1. Where lands have been granted by the colony or province of Massachusetts Bay, the commonwealth of Massachusetts, or by this state, or are hereafter granted, on certain conditions alleged to have been violated; and the state claims to be resealed therein, the following proceedings shall be had.

Proceedings to reseat in the state, lands granted on condition.
R. S., c. 127, § 1.

SEC. 2. When the legislature directs, the attorney general shall file an information in the supreme judicial court in the county where the lands lie, stating the grant and conditions, breaches, and claims of the state.

Attorney general to file information.
R. S., c. 127, § 2.

SEC. 3. The court shall issue a scire facias against the person stated as holding the lands under such grant, returnable to said court; which shall be served thirty days before the return day.

Scire facias to issue. Service.
R. S., c. 127, § 3.

SEC. 4. If the defendant does not appear and answer to such information, judgment shall be rendered that the state be resealed of their lands.

Judgment on default.
R. S., c. 127, § 4.

SEC. 5. If he appears and disclaims holding said lands or any part thereof, the attorney general shall take nothing by his information, so far as respects the lands disclaimed; and the defendant, and all subsequently claiming under him, shall be estopped from claiming, or holding such disclaimed lands.

Consequence of disclaimer by defendant.
R. S., c. 127, § 5.

SEC. 6. If the defendant claims all or any part of the lands under such grant, and traverses the breaches, the cause shall be tried by jury, and if the issue is found in favor of the state, judgment shall be rendered that the state be resealed of said estate and for costs; but if the issue is found for the defendant, he shall have judgment for his costs, to be paid from the state treasury.

Proceedings, if defendant claims title.
R. S., c. 127, § 6.

SEC. 7. If the only alleged breach of condition is that the defendant holds more land than he has a right to hold under the grant, and it is so found by the jury or the defendant's confession, the court shall assign to him by metes and bounds so much of the land held by him, as is equal in quantity to what he has a right to hold under the grant, and in such part thereof as is judged reasonable by the court.

Proceedings, if it is adjudged that defendant holds too much land.
R. S., c. 127, § 7.

SEC. 8. Such part shall be located, by persons appointed by the court, at the expense of the defendant, and a plan thereof returned to the court; and if confirmed by the court, they shall order an attested copy of the location and plan to be filed in the land office, and judgment shall be rendered that the state be resealed of the residue, and for costs.

Such part shall be located by persons appointed by the court, &c.
R. S., c. 127, § 8.

SEC. 9. In all other cases where an inquest is necessary, the attorney general, without order of the legislature, may file an information in said court, describing the estate claimed, and stating the title asserted thereto by the state; and notice shall be given as before mentioned, if there is any tenant in possession;

Cases in which information may be filed, &c.
R. S., c. 127, § 9, 10.

CHAP. 93. if not, the notice shall be given as the court orders, at least ninety days before the sitting of the court to which it is returnable.

Proceedings,
judgment and
costs.

R. S., c. 127,
§ 11.

SEC. 10. If no person appears and answers to the information, or if a verdict is found, that the state has good title to such estate, judgment shall be rendered, that the state be seized thereof and recover costs; but if the verdict is in favor of the defendant, he shall recover his costs to be paid from the state treasury.

Information to
recover es-
cheats. No-
tice.

R. S., c. 127,
§ 12.

SEC. 11. The attorney general may file an information as aforesaid for recovering seizin by the state for any real estate supposed to have escheated to the state for want of legal heirs; and the court shall order such notice thereon as they judge proper.

Tenant to set
up no title,
unless, &c.

R. S., c. 127,
§ 13.

SEC. 12. In such case, the defendant shall not avail himself of the title of an alien, or subject of another nation or sovereign, or of any other person, unless he shows that he is his tenant or agent.

Costs, if de-
fendant recov-
ers.

R. S., c. 127,
§ 14.

SEC. 13. If on trial he proves that he is such tenant or agent, or the legal owner of such estate, he shall recover his costs, to be paid as aforesaid.

Defendant may
hold by title
subsequently
acquired, &c.

R. S., c. 127,
§ 15.

SEC. 14. If it is found that he was not legal owner of such estate, nor had any right as tenant or agent when the process was commenced against him, but afterwards acquired a good title, or became tenant or agent, the attorney general shall cease further to prosecute the suit; but when the defendant proves no such title to the estate as owner, or interest therein as tenant or agent, judgment shall be rendered that the state be seized thereof, and recover rents and profits as in case of a writ of entry between private persons.

Effect of judg-
ment, that the
state be re-
seized.

R. S., c. 127,
§ 16.

SEC. 15. When judgment, on information, is rendered that the state be resealed or seized of any lands, the state shall be deemed in law to be so seized, and any judgment so rendered shall conclude all privies and parties, and those claiming under them, so long as it remains in force, subject to the provisions of the following section.

Tenant under
the state to
have better-
ments, &c.

R. S., c. 127,
§ 17.

SEC. 16. If any person appears and by due process of law proves himself to have a legal title to such estate, and recovers it against the state or its grantee or tenant, the estate shall be liable for all expenses of improvements thereon over and above the rents and profits thereof; though the tenant and those claiming under the state had not been in possession six years.

Proceedings by
attorney gen-
eral to obtain
betterments.

R. S., c. 127,
§ 18.

SEC. 17. For the purpose of ascertaining the amount of such improvements, the attorney general, or the tenant or grantee of the estate, may file a bill in equity in the supreme judicial court for recovering the same; and proceedings shall be had thereon as in other cases in equity to ascertain and adjust the amount.

Execution,
how levied.

R. S., c. 127,
§ 19.

SEC. 18. The sheriff, by virtue of such execution, shall sell, at public auction, so much of said land as will be sufficient to satisfy the execution and charges, unless otherwise paid.