

# 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.

## CHAPTER 94.

## FORCIBLE ENTRY AND DETAINER. TENANCIES.

- SEC. 1. Forcible entry and detainer, when may be commenced.
2. Tenancy at will, or sufferance, how terminated.
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  4. Complaint how made, summons issued and served. If claimant lives out of the county or state, proceedings.
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  6. When defendant files a brief statement claiming title in himself or another, proceedings.
  7. Claimant may allege that brief statement is intended for delay, proceedings.
  8. Either party may appeal, proceedings.
  9. When judgment is for claimant, he may in all cases have possession.
  10. Sums due for rent and claims for damages may be recovered by action of assumpsit.

SEC. 1. A process of forcible entry and detainer may be commenced against a disseisor, who has not acquired any claim by possession and improvement; and against a tenant holding under a written lease or contract, or person holding under such tenancy, at the expiration or forfeiture of the term, without notice; if the process is commenced within seven days from the expiration or forfeiture of the term; and against a tenant at will, whose tenancy has been terminated as provided in the following section.

Forcible entry and detainer, when may be commenced.  
25 Maine, 253.  
35 Maine, 214.  
38 Maine, 482.  
R. S., c. 128, § 5.  
1847, c. 4.  
1850, c. 160.  
1853, c. 39, § 1.

SEC. 2. A tenancy at will may be terminated by a written notice to quit, served on the tenant thirty days before the time named for its termination; but if no rent is due when a rent is payable, it shall not be terminated, except at the option of the tenant, until rent shall become due. When terminated, the tenant shall be liable to the process aforesaid without further notice, and without proof of any relation of landlord and tenant, unless he has paid, after service of the notice, rent that accrued after the termination of the tenancy.

Tenancy at will, how terminated.  
19 Maine, 252.  
20 Maine, 70.  
21 Maine, 114.  
24 Maine, 242.  
35 Maine, 505.  
R. S., c. 95, § 19, 20.  
1849, c. 98.  
1853, c. 39, § 1.

SEC. 3. Justices of the peace, and judges of municipal and police courts, have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such judges have exclusive jurisdiction of them within their cities or towns, unless interested.

What magistrates have jurisdiction.  
4 Greenl. 484.  
R. S., c. 128, § 1, 6.

SEC. 4. On a written complaint, sworn to, charging a forcible and unlawful entry or detainer of real estate as aforesaid, a summons may be issued to a proper officer, commanding the person complained of to appear and show cause why judgment should not be rendered against him, which shall be served like other writs of summons, seven days before the day for his appearance. If the claimant lives out of the county where the estate lies, the complaint may be made in his name, but be signed and sworn to by his agent or attorney, and if out of the state, it must be indorsed like writs; and in such case, if a recognizance is required, any person may recognize in behalf of the claimant, and shall be personally liable.

Complaint, how made, summons issued and served.  
R. S., c. 128, § 2.

## CHAP. 94.

When fails to  
show cause,  
&c.  
R. S., c. 128,  
§ 3.

1853, c. 39, § 5.  
When a de-  
fendant files a  
brief state-  
ment, &c.  
36 Maine, 431.  
R. S., c. 128,  
§ 4.

SEC. 5. When the defendant is defaulted, or fails to show sufficient cause, judgment shall be rendered against him for possession of the premises, and a writ of possession issued to remove him, which may be served by a constable.

SEC. 6. When the defendant pleads not guilty and files a brief statement of title in himself or in another person, under whom he claims the premises, he shall, except as hereafter provided, recognize in a reasonable sum to the claimant, with sufficient sureties, conditioned to pay all intervening damages and costs, and a reasonable rent for the premises; and the claimant shall in like manner recognize to the defendant, conditioned to enter the suit at the next term of the supreme judicial court, and pay all costs adjudged against him. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default.

Claimant  
may allege that  
brief statement  
is intended for  
delay; pro-  
ceedings.

1853, c. 39, § 3.

SEC. 7. But the claimant may make a written allegation, that the brief statement of the defendant is frivolous and intended for delay, and the magistrate may then examine the case so far as to ascertain the truth respecting it, and if satisfied of the truth of such allegation, he may proceed to try the cause upon the plea of not guilty, and if determined in favor of the claimant, may issue a writ of possession for removal of the defendant; but this shall not prevent an appeal as provided in the following section.

Either party  
may appeal;  
proceedings.

R. S., c. 128,

§ 4.  
1853, c. 39, § 2.

SEC. 8. Either party may appeal from a judgment to the supreme judicial court next to be held in the same county. When the claimant appeals, he shall recognize in manner aforesaid to the defendant, except as hereafter provided, conditioned to enter the suit and pay all costs adjudged against him. When the defendant appeals, he shall recognize in like manner to the claimant, conditioned to enter the suit and pay all intervening costs and such reasonable rent of the premises, as the magistrate shall adjudge, if the judgment is not reversed.

When judg-  
ment is ren-  
dered, &c.

1853, c. 39, § 2.

SEC. 9. When judgment is rendered for the claimant, a writ of possession shall issue in all cases, if the claimant recognizes to the defendant in manner before provided, conditioned to pay all such damages and costs as may be awarded against him, if final judgment is rendered for the defendant; and on trial if the jury find for the defendant, they shall find the damages sustained by him; and in case of nonsuit his damages shall be assessed by the court; and the claimant may give evidence of any claim for rent of the premises, to be set off against damages claimed by the defendant. If the defendant prevails, the court may or not, as justice requires, issue a writ to restore to him possession of the premises.

Sums due for  
rent and dam-  
ages how  
recovered.

1853, c. 39, § 4.

SEC. 10. Sums due for rent on leases under seal or otherwise, and claims for damages on premises rented, may be recovered in an action of assumpsit, on account annexed to the writ, specifying the items and amount claimed.