

MAINE STATE LEGISLATURE

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SIXTH REVISION

THE
REVISED STATUTES

OF THE

STATE OF MAINE

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By the Authority of the Legislature

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manner as he directs as in his judgment most conducive to the safety of human life, and consistent with the protection of property.

Sec. 45. Compensation of engineer. R. S. c. 94, § 45. Said engineer shall receive, as full compensation for his services, five dollars a day while actually employed in such service, together with his actual traveling expenses, to be audited, allowed and paid from the state treasury, in cases where such dam or reservoir is by him adjudged safe and sufficient; and by the owners, occupants or lessees, of said dam or reservoir, in cases where said dam or reservoir is by him adjudged unsafe and insufficient, to be recovered by said engineer in an action on the case.

CHAPTER 98.

Inquests of Office, and Informations for Intrusion.

Sec. 1. Proceedings to revest in the state, lands granted on condition. R. S. c. 95, § 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 revested therein, the following proceedings shall be had.

Sec. 2. Attorney-general shall file information. R. S. c. 95, § 2. When the legislature, or governor and council direct, the attorney-general shall file an information in the supreme judicial court in the county where the lands lie, stating the grant and conditions, the breaches, and the claims of the state.

Sec. 3. Scire facias shall issue; service. R. S. c. 95, § 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.

Sec. 4. Judgment on default. R. S. c. 95, § 4. If the defendant does not appear and answer to such information, judgment shall be rendered that the state be reseeded of its lands.

Sec. 5. Consequence of disclaimer by defendant. R. S. c. 95, § 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.

Sec. 6. Proceedings, if defendant claims title. R. S. c. 95, § 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 reseeded 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.

Sec. 7. Proceedings, if it is adjudged that defendant holds too much land. R. S. c. 95, § 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 admission, 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 adjudged reasonable by the court.

Sec. 8. Location by direction of court. R. S. c. 95, § 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, it 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 reseized of the residue, and for costs.

Sec. 9. Cases in which information may be filed. R. S. c. 95, § 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; 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.

Sec. 10. Proceedings, judgment and costs. R. S. c. 95, § 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.

Sec. 11. Information to recover escheats. R. S. c. 95, § 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 it judges proper.

Sec. 12. Tenant shall not set up title of alien. R. S. c. 95, § 12. In such case, the defendant shall not avail himself of the title of an alien, or of a subject of another nation or sovereign, or of any other person, unless he shows that he is his tenant or agent.

Sec. 13. If defendant is tenant or agent, costs. R. S. c. 95, § 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.

Sec. 14. Defendant may hold by title subsequently acquired. R. S. c. 95, § 14. If it is found that he was not the legal owner of such estate, nor had any right as tenant or agent when the process was commenced against him, but afterward 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.

Sec. 15. Effect of judgment, that the state be reseized. R. S. c. 95, § 15. When judgment on information is rendered that the state be reseized or seized of any lands, the state shall be deemed in law to be so seized, and

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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 following section.

Sec. 16. Tenant under the state shall have betterments. R. S. c. 95, § 16. If a person appears and 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; although the tenant and those claiming under the state had not been in possession during six years.

Sec. 17. Proceedings by attorney-general to obtain betterments. R. S. c. 95, § 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.

Sec. 18. Execution, how to be levied. R. S. c. 95, § 18. The sheriff, by virtue of such execution, shall sell, at public auction, so much of said land as is sufficient to satisfy the execution and charges, unless otherwise paid.

CHAPTER 99.

Forcible Entry and Detainer, Tenancies.

Sec. 1. Forcible entry and detainer, against whom maintained. R. S. c. 96, § 1. Process of forcible entry and detainer may be maintained against a disseizor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract, or person holding under such tenant, at the expiration or forfeiture of the term, without notice, if 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.

169 U. S. 308; 18 Me. 268; 25 Me. 285; 30 Me. 180; 35 Me. 217; 46 Me. 278, 550; 57 Me. 390; 65 Me. 226; 67 Me. 266; 69 Me. 482; 70 Me. 209; 72 Me. 28, 45; 84 Me. 532; 96 Me. 119; 97 Me. 308, 317, 318; 107 Me. 386; 108 Me. 260, 529; 113 Me. 213.

Sec. 2. Tenancy at will, how determined; applies to buildings on land of another party. R. S. c. 96, § 2. Tenancies at will may be determined by either party, by thirty days' notice in writing for that purpose, given to the other party, and not otherwise save by mutual consent, excepting cases where the tenant, if liable to pay rent, shall not be in arrears at the expiration of the notice, in which case the thirty days' notice aforesaid shall be made to expire upon a rent day. Either party may waive in writing said thirty days' notice, or any part thereof. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer 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