

# MAINE STATE LEGISLATURE

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# L A W S

OF THE

## STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....

VOL. I.

.....

Published according to a resolve of the State, passed  
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....  
1821.

**ERRATA:**

**The following leaf is  
inserted because one or more pages  
in this chapter have errors  
noticed and corrected here.**

VOLUME THE FIRST.

Page.  
 40 L. 12 of the page for 'preceding' read 'presiding'  
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'  
 55 7 2 for 'a' read 'or'  
 55 7 9 before the word 'said' insert 'the'  
 56 9 3 for 'the' read 'her'  
 57 1 6 for 'to' read 'in'  
 58 1 5 for 'and' after the word 'house'  
 read 'or'  
 61 in the title of the act, ch. vi. insert 'the' before the  
 word 'crimes'  
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'  
 69 16 8 for 'Treasurer' read 'Treasury'  
 73 1 15 after the word 'for' insert 'the'  
 77 13 6 for 'to' read 'of'  
 78 first line of the page, dele the word 'by'  
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'  
 80 17 for 'counterfeited' read 'counterfeit'  
 82 1 after the word 'in' insert 'all'  
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or'  
 and insert '  
 83 Sec. 7 L. last of S. for 'aggravations' read 'aggravation'  
 84 10 6 for 'and' read 'or'  
 90 1st L. of p. for 'Commissioner' read 'Commissioners'  
 90 L. 20 before the word 'Commissioner' insert 'said'  
 97 6 for 'assumpsit' read 'assumpsit'  
 97 14 for 'cover' read 'covein'  
 98 at the end of the act for 'January' read 'February'  
 99 L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and '  
 100 15 at the end of the line insert 'the'  
 105 at the end of the Act for '1820' read '1821'  
 108 L. 14 of page, for 'nuisances' read 'nuisance'  
 108 20 after the word 'each' insert 'one'  
 111 25 after the word 'fail' insert 'of'  
 113 11 for 'on' read 'or'  
 144 last for 'performance' read 'performing'  
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'  
 147 7 6 before the word 'release' for 'to'  
 read 'a'  
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'  
 151 in the title, before the word 'Lands' insert 'reserved'  
 153 1st line of the p. for 'whenever' read 'wherever'  
 155 last before the word 'Court' for 'a' read 'any'  
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'  
 159 9 8 for 'purpose' read 'purposes'  
 167 14 5 for 'votes' read 'vote'  
 193 4 10 dele 'such'  
 199 17 1 for 'when' read 'where'  
 202 22 6 after the word 'near, dele 'to'  
 202 23 10 for 'be' read 'he'  
 203 24 16 for 'of' read 'in'  
 203 25 16 for 'meeting' read 'meetings'  
 205 L. 18 of p. before the word 'estate' insert 'other'  
 210 2 before the word 'tenement' insert 'other'  
 215 4 before the word 'guardians' insert 'guard-  
 dian or'  
 226 Sec. 73 L. 6 of Sec. dele 'a'  
 229 3 last for 'agreeably' read 'agreeable'  
 230 7 19 for 'agreeably' read 'agreeable'  
 231 8 6 for 'resided' read 'reside'  
 242 2 5 for 'sentence' read 'sentences'  
 245 7 3 after the word 'herein' insert 'be-  
 fore'  
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-  
 sert 'interested'  
 247 11 for 'statement' read 'statements'  
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'  
 248 3 1 for 'whenever' read 'wherever'  
 248 3 14 for 'Justice' read 'Justices'

Page.  
 252 L. 3 of p. for 'where' read 'wherein'  
 257 5 after the word 'have' insert 'his or'  
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'  
 271 L. 1 and 3 of p. for 'affect' read 'effect'  
 271 Sec. 6 L. 2 of Sec. before the word 'execution'  
 insert 'the'  
 278 19 4 for 'on' read 'in'  
 280 L. 2 of p. for 'have' read 'had'  
 281 22 for 'of' read 'on'  
 283 13 for 'lies' read 'lays'  
 283 last before the word 'defendant' insert 'the'  
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'  
 288 5 18 for 'whenever' read 'wherever'  
 291 9 4 for 'as' read 'or'  
 292 L. 4 of p. for 'examinations' read 'examination'  
 293 Sec. 13 L. 5 of Sec. after the word 'article' in-  
 sert 'or articles'  
 297 7 5 for 'and' read 'or'  
 301 L. 8 of p. for 'he' read 'be'  
 309 24 between the words 'the' and 'day' should  
 be a '  
 310 20 for 'debt' read 'debtor'  
 311 2 for 'with' read 'and of'  
 312 7 for 'summon' read 'summons'  
 312 9 between the words 'our' and 'Court'  
 should be a '  
 318 31 for 'writ' read 'writ a'  
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'  
 353 L. 14 of p. at the end of the line insert 'the'  
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'  
 370 3 10 for 'to' read 'of'  
 371 2 7 dele 'to'  
 373 L. 15 of p. before the word 'require' insert 'to'  
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word  
 'payment'  
 378 at the end of the act, for '17' read '20'  
 378 in the title, for 'selection' read 'selecting'  
 379 Sec. 4 L. 5 of Sec. before the word 'divide' in-  
 sert 'shall'  
 394 1 9 for 'part' read 'parts'  
 395 1 8 for 'acceptances' read 'accep-  
 tance'  
 404 1 34 before the word 'authorized'  
 insert 'hereby'  
 407 7 4 dele 'the'  
 414 last word of the 1st act on the page, for 'therein'  
 read 'thereon'  
 423 Sec. 3 L. 15 of Sec. after the word 'assignments'  
 insert 'thereof, and also of the assignments'  
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'  
 425 L. 7 of p. before the word 'action' insert 'an'  
 428 22 for 'twelve' read 'twenty'  
 431 8 for 'fifteen' read 'fifty'  
 432 first line of the page should be put after the third  
 432 L. 5 of the p. dele 'entering'  
 432 between the 28th and 29th lines of the p. insert  
 'Every blank writ of attachment, with a sum-  
 mons thereon, fifteen cents'  
 432 L. 37 of p. for 'judgment' read 'jurymen'  
 435 9 for 'appear' read 'appears'  
 435 10 for 'make' read 'makes'  
 435 18 for 'taking' read 'taxing'  
 444 Sec. 1 L. 6 of Sec. before the word 'records' in-  
 sert 'the'  
 445 1 9 for 'within' read 'of'  
 445 1 19 after the word 'escape' insert  
 'sickness'  
 455 11 1 after the word 'of' insert 'the'

## CHAPTER XXXIX.

An Act respecting Mortgages, and the Rights in equity of Redemption.

Rights of redemption for 3 years after entry of mortgagee.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That where any mortgagee or vendee, claiming any lands or tenements granted upon condition by force of any deed of mortgage or bargain and sale with defeasance, or any person claiming and holding under them, have lawfully entered and obtained, or shall lawfully enter and obtain, the actual possession of such lands or tenements, for the condition broken, the mortgagor or vendor, or other person lawfully claiming under them, shall have right to redeem the same, at any time within three years next after such possession obtained, and not afterwards; and upon payment or tendering of payment of the original debt and damages, with lawful interest and costs, or performing or tendering performance of such other condition, as the case may require, or such part thereof as was remaining unpaid or unperformed at the time of such entry, together with such further reasonable sums as may have been disbursed and expended in necessary repairs of fences and buildings, and for the advancing and bettering such estate, over and above what the rents and profits thereof, upon a just computation, shall amount to, to such mortgagee, vendee or person lawfully claiming and holding under them, and in possession as aforesaid, within the time aforesaid; such mortgagee, vendee, or other person claiming, and in possession as aforesaid, to whom such tender has been, or shall be made, shall be obliged to accept such payment, or other performance of the condition, and thereupon to restore and deliver possession of such estate, and seal, execute, acknowledge and deliver a good and sufficient deed in the law of release and quitclaim, and all his right therein, to the person making such tender, having lawful right to redeem the same, or cause satisfaction and payment to be entered in the margin of the record of such mortgage in the Register's office, and shall sign the same, which shall forever after discharge and release such mortgage, and perpetually bar all actions to be brought thereupon in any Court of Record. And if, on payment or tendering of payment, performance

or tendering of performance as aforesaid, such mortgagee, vendee, or person lawfully claiming or holding under them, and in possession as aforesaid, doth or shall refuse or neglect to deliver possession, and release his right in such estate as aforesaid; such mortgagor, vendor or other person lawfully claiming as aforesaid, may have his bill in equity originally triable in the Supreme Judicial Court, or Circuit Court of Common Pleas in the county where the estate lies, and shall insert the same in a writ of attachment or original summons, returnable to the Court whose seal it shall bear, and shall cause such writ to be served on the adverse party, as other writs of attachment or original summons are by law to be served: *Provided however*, That the entry above described, shall be, by process of law, or by the consent in writing of the mortgagor or those claiming under him, or by the mortgagee's taking peaceable and open possession of the premises mortgaged, in presence of two witnesses.

Process in equity, in case mortgagee refuse to restore possession.

Proviso as to nature of mortgagee's entry.

SEC. 2. *Be it further enacted*, That the Justices of either of said Courts are hereby empowered and authorized to receive and hear every such cause, as shall be brought before them as aforesaid; and on consideration of the several pleas and allegations made by either party (or by the party complaining, only in case the other party upon being duly called does not appear, but makes default) to decree and enter up judgment therein, agreeably to equity and good conscience, and to award execution accordingly; and in case of non-appearance of the party complained of, or of his refusal to accept such sum as the Court shall adjudge to be due, or to accept such other act or thing as the Court shall adjudge a reasonable and equitable performance of the condition of the deed, and thereupon to restore possession and execute a release as aforesaid, such sum being left in the custody of the Court on behalf and for the use of such party, or such other act or thing as the Court shall order and direct, being done by the complainant, judgment shall be entered up for the complainant to recover possession of such estate, and execution shall issue accordingly; and the Court may, at their discretion award costs to either party, as equity may require: *Provided*, That nothing herein contained shall be

Proceedings on the mortgagor's bill in equity.

Proviso for appeal from C. C. of C. Pleas.

construed to prevent an appeal from the judgment of any Circuit Court of Common Pleas, rendered upon any process given by force of this Act.

Judgment on mortgages to be conditional.

SEC. 3. *Be it further enacted*, That in all real actions, on mortgage, or bargain and sale with defeasance, the judgment shall be conditional, that if the mortgagor or vendor, his heirs, executors or administrators, shall pay unto the mortgagee or vendee, his executors or administrators, such sum as the Court shall adjudge due, within two months from the time of entering up judgment, with interest, then no writ of possession shall issue, otherwise the plaintiff shall be entitled to his writ of possession in due form of law.

In suits for redemption assignees of the estate may be made parties, if necessary :

SEC. 4. *Be it further enacted*, That when it shall appear to the Court, in any suit, which is, or may be pending for the redemption of lands or tenements, granted and held upon condition, by force of any deed of mortgage, or bargain and sale with defeasance, that, by reason of any assignment or conveyance thereof, before the commencement of such suit, or for any other cause, it is necessary to the attainment of justice, that some other person claiming or holding by force of such conveyance, should be made party to the suit with the original defendant, the Court may, on motion, and upon such terms, with regard to costs, as they shall deem reasonable, order such person to be made a party to the suit, by serving him with an attested copy of the original bill in equity, and the motion and order thereon, in such manner as the Court may direct. And upon the appearance or default of the person so summoned, the suit shall proceed in the same manner as if he had been originally made a defendant.

Proceedings if they appear.

Court may enter decree and issue executions jointly or severally.

SEC. 5. *Be it further enacted*, That when a decree shall be made for the redemption of any lands or tenements granted and held as aforesaid, the Court shall have power to enter a decree or judgment, and to award execution against any defendant or defendants, jointly or severally, as the case may require, for such amount in damages, as shall, in equity and good conscience, be found due from him or them respectively, for the rents and profits received, over and above the sums reasonably expended in repairing and bettering the estate to be redeemed.

SEC. 6. *Be it further enacted,* That when any sum of money shall have been brought into Court, in any suit for the redemption of lands or tenements, granted and held as aforesaid, the Court shall have power to deduct therefrom such sum as the party for whose use it was brought in, may be justly chargeable with, by reason of rents and profits which he has received, or costs awarded against him in the same suit; and the amount so deducted, shall be restored to the party who brought in the same. And if any person to whom money is tendered, in order to redeem lands or tenements granted and held as aforesaid, shall receive of the person tendering the same, a larger sum than he is justly entitled to retain, he shall be held to account for the excess, in manner aforesaid.

Court may deduct from money brought in the amount received by mortgagee for rents, &c. & restore it to the mortgagor.

SEC. 7. *Be it further enacted,* That whenever any mortgagor, who shall have mortgaged any real estate to the State, his executors, administrators, heirs or assigns, shall pay into the treasury the full sum due on such mortgage, the Treasurer may, and it shall be his duty, to sign and seal a discharge of such mortgage, and to release and quitclaim to the estate therein mentioned to be granted; and to acknowledge the same before a Justice of the Peace; which deed being recorded in the Registry of Deeds for the county where such estate is situate, shall effectually discharge such mortgage to all intents and purposes: *Provided however,* That nothing in this Act shall be construed to authorize any mortgagor, his heirs, executors, administrators or assigns, to redeem any mortgaged premises, after the expiration of three years from the entry of the State by the Treasurer, or his substitute, or any other person thereto authorized by law upon the mortgaged premises, for the breach of the condition of the mortgage.

State Treasurer may discharge a mortgage to the State.

No redemption, after end of 3 years from entry by treasurer.

SEC. 8. *Be it further enacted,* That whenever there shall be a disagreement between the Treasurer for the time being, and the person applying to redeem any real estate mortgaged to the State, as to the sum equitably due on such mortgage, the person so applying and having a right to redeem such estate, may file a bill in equity for the redemption thereof, in the Supreme Judicial Court in the county of Cumberland, and the same Court shall cause an attested

In case of disagreement between treasurer and mortgagor, he may file bill in equity.



Proceedings  
thereon.

Proviso as to  
costs and  
charges.

In case of  
mortgagee's  
death before  
obtaining pos-  
session, his ex-  
ecutor or ad-  
ministrator  
may dispose of  
the property  
as personal es-  
tate,

and may bring  
action for  
mortgaged es-  
tate,

of which when  
recovered  
they shall be  
seized to use  
of heirs, &c.

copy of such petition, with a summons thereon, to appear at the next term of said Court in said county, to be served fourteen days before the commencement thereof, on the Treasurer, who is hereby authorized in behalf of the State, to appear in said Court and answer to such petition; and the said Court within said county shall proceed to hear the parties, and shall determine and adjudge what sum is justly due on said mortgage to the State; and the Treasurer shall be empowered, and it shall be his duty to accept the sum adjudged by said Court, to be due on said mortgage, and upon receiving the same to discharge and release such mortgage in the manner prescribed in the third section of this Act: *Provided always*, that all the costs and charges of discharging such mortgage, and of the process for ascertaining the sum due on the same, shall be borne by the person or persons, applying to redeem the estate mortgaged, and not by the State or the Treasurer.

SEC. 9. *Be it further enacted*, That whenever any person or persons, to whom any lands, tenements or hereditaments may be mortgaged for the payment of debts, or the performance of any collateral promise or engagement whatsoever, shall decease before recovery of seizin and possession of the lands, tenements or hereditaments mortgaged, that then the debts due, on said deed or mortgage, and the lands, tenements or hereditaments, mortgaged by the same, shall be assets in the hands of executors or administrators, as personal estate, and the executors or administrators shall have the same control and power of disposal of all the estate which the said deceased had, in the lands, tenements and hereditaments mortgaged, as if they had been a pledge of personal estate; and executors or administrators may bring actions for recovery of seizin and possession of the lands, tenements and hereditaments mortgaged, as aforesaid; in which actions, it shall be sufficient to declare on the seizin and possession of the testator or intestate. And whenever executors or administrators shall recover seizin or possession of lands, tenements or hereditaments mortgaged as aforesaid, the executors or administrators, shall be seized and possessed of the estate so recovered to the sole use and

behoof of the widow and heirs of the intestate, or such devisees of the testator to whom said estate may be devised.

SEC. 10. *Be it further enacted,* That after executors or administrators shall recover seizin and possession of any lands, tenements or hereditaments, mortgaged as aforesaid, if any mortgagor, his heirs, executors, administrators or assigns, shall within the time limited for redeeming the estate mortgaged, redeem the mortgaged premises, the executors or administrators shall be entitled to receive the said redemption money, and are hereby authorized, empowered and directed to discharge the said mortgaged premises by release, quitclaim or other legal conveyance.

Executors and administrators having so recovered seizin of mortgaged estate, may receive redemption money & discharge mortgage.

SEC. 11. *Be it further enacted,* That in case the purchaser of any right in equity to redeem mortgaged real estate taken and sold on execution and redeemed from such sale by the execution debtor or debtors, within one year next after the time of executing, by the officer to the purchaser aforesaid, the deed thereof by the payment, by the debtor or debtors of such sum, as may by such sale, have been satisfied on such execution, with the interest thereof, deducting the rents and profits the purchaser or any under him may have received over and above repairs made by the purchaser or any under him, shall have satisfied and paid the mortgagee, his heirs or assigns, the sum due on said mortgage, the mortgagor shall have the right to redeem such mortgaged estate of such purchaser, or any under him, at the time and in the way and manner he might have redeemed the same of the mortgagee, had no such sale been made, and at such time only.

Mode of redeeming an estate from the purchaser of a right in equity taken on execution.

[Approved February 5, 1821.]

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## CHAPTER XL.

An Act concerning Dower.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when the heir or tenant of the freehold, shall not within one month next after demand, assign and set out to the widow of the deceased her dower in all lands, tenements or hereditaments whereof

Dower to be assigned within one month after demand —if not widow may sue: