

# 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.

Parts of Act,  
March 1808,  
repealed.

SEC. 7. *Be it further enacted,* That the third, fourth and fifth sections of an Act of the Legislature of Massachusetts passed on the second day of March one thousand eight hundred and eight, entitled "An Act for the limitation of certain real actions and for the equitable settlement of certain claims arising in real actions," and the Acts in addition to the said Act, be, and the same are hereby repealed, and of no further effect in this State.

[Approved June 27, 1820.]

### CHAPTER XLVIII.

An Act directing the manner in which Inquests of Office shall be taken to revest Real Estate in the State or to entitle the State thereto.

In what cases  
inquests of of-  
fice may be  
taken in the  
S. J. Court.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all cases where lands, tenements or hereditaments have heretofore been granted, or confirmed by the late Province or Colony of Massachusetts Bay, Commonwealth of Massachusetts, or by this State, or which may hereafter be granted or confirmed by this State, on certain conditions in such grants or confirmations mentioned, and the State shall claim to be revested in the same, for the breach of one or more of the said conditions, an inquest of office shall thereupon be taken in the Supreme Judicial Court in the county where the estate lies, in the manner following, that is to say, the Attorney General shall, upon the direction of the Legislature, file an information in behalf of the State, in the said Court, at any term thereof, in any county, setting forth among other things, the grant or confirmation, with the conditions therein mentioned, and assigning the breaches of such of the said conditions, as shall be directed by the Legislature; or such breach or breaches of conditions as to him shall appear proper; though there shall be no act of the Legislature designating the same; and alleging that by force thereof the State have right by law to be revested in the said estate, and praying that process may issue thereupon in due course of law; whereupon the Court shall order a scire facias to issue against such person or persons, bodies politic and corporate, or, proprietors as the

Attorney Gen-  
eral to file in-  
formation,

stating the  
grant, condi-  
tions and  
breaches.

Court to issue  
scire facias to  
persons in-  
formed  
against.

Attorney General in his information, shall allege, to hold the estate under such grant or confirmation, returnable to the said Court at one of the terms, to be holden in the county where the estate lies; which scire facias shall be served thirty days before the sitting of the Court to which the same is made returnable. And if the defendant shall not appear, or appearing shall refuse to plead, judgment shall be rendered, that the State be reseized of the estate described in the information; and if the defendants shall, by plea disclaim to hold the said estate, or any part thereof, then judgment shall be rendered that the Attorney General take nothing by his information so far as the same respects the estate so disclaimed, and the defendants, their heirs and assigns shall forever thereafter be estopped from claiming or holding the estate so disclaimed under the said grant or confirmation. But if the defendants shall claim to hold the said estate or any part thereof under such grant or confirmation, and shall traverse the breaches assigned, issue being joined thereon, the same shall be tried by Jury at the bar of the said Court, in the usual and due course of law; and a view may be granted or a plan ordered, when necessary as in the trial of real actions. And if the issue be found in favour of the State, judgment shall be rendered, that the State be reseized of the said estate, and recover costs of suit; for which costs, execution shall issue in due form of law: but if the issue shall be found for the defendants, judgment shall be rendered that they recover their costs of suit, to be taxed by the Court, and paid out of the public treasury, by warrant of the Governor and Council: *Provided nevertheless*, If the only condition alleged to be broken is, that the defendants hold more land under such grant or confirmation than they have right, by force thereof to hold, and the same shall appear, either by verdict of the Jury, or confession of the defendants; then the Justices of the said Court shall have power to assign to the defendants by metes and bounds, at their request and cost, so much of the land which shall be held by the defendants as aforesaid, as shall be equal in quantity to the land they might lawfully have held under such grant or confirmation, and in such part thereof, as shall be just and reasonable, under all the circumstances of the

Scire facias to be served thirty days before Court.

If no appearance, or total or partial disclaimer be pleaded—judgment, how to be entered, for whole or part as case may be. Effect of disclaimer.

If defence be made, what proceedings are to be had.

If issue be in favour of State judgment for reseizin and costs.

If defendant prevail—entitled to costs from treasury.

If condition broken be that defendant holds more land than he is entitled to, Court may assign true quantity.

to be located by persons appointed by the Court,

and return made to the Court thereof.

If confirmed by them judgment to be entered.

Inquest in all other cases to be taken in the county where the lands lie, by S. J. Court.

Substance of the information to be filed by Attorney General.

Notice and mode of it.

No person appearing, judgment for State.

If a defence—to be tried by jury.

View may be had. Proceedings & judgment.

If defendant recover judgment, costs to

case, and may order the same to be located by proper persons to be appointed for that purpose by the Court, at the expense of the defendants; which location with a plan thereof, shall be returned to the said Court, and may be confirmed by the same, unless good cause be shown to the contrary by the Attorney General or the defendants. And if such location shall be confirmed, then the Court shall order an attested copy thereof, and of the said plan, to be filed at the expense of the defendants in the Secretary's office, and judgment shall be rendered that the State be reseized of the residue and recover costs of suit.

SEC. 2. *Be it further enacted,* That in all other cases where an inquest of office is necessary by law to entitle the State to hold lands, tenements or hereditaments, such inquest shall be taken by the Supreme Judicial Court in the county in which such estate lies, upon information of the Attorney General, describing among other things the estate claimed, and the title set up thereto by the State; and upon the filing of such information, the same proceedings shall be had as before directed, *mutatis mutandis*, unless where there is no tertenant, and in such case, notice shall be given to any person or persons claiming such estate, to show cause at such term of the said Court, as shall be mentioned in the notification, why judgment should not be rendered, that the State be seized of such estate, by causing an attested copy of such information with the order of Court thereon to be published in such public newspapers as the Court shall direct, three weeks successively, ninety days at least before the sitting of the said Court; and if no person shall appear, and by plea deny the title of the State to such estate, then judgment shall be rendered that the State be seized thereof: But if any person shall appear and by plea, deny the title set up by the State, the cause shall be tried by a jury at the bar of the Court; and a view or a plan may be ordered, as in the trial of real actions; and if a verdict shall be found that the State have good title to such estate, judgment shall be rendered, that the State be seized thereof and recover costs of suit against the defendant; for which costs execution shall issue in due form of law: but if the jury shall find, that the State hath no title to such estate, and that the defendant hath good

title thereto, the defendant shall recover his costs of suit to be taxed by the Court, and paid out of the public treasury by warrant of the Governor and Council; but if the Jury do not find that the defendant hath good title to such estate, then he shall not be allowed his costs.

be paid from State Treasury

SEC. 3. *Be it further enacted,* That when it shall be found by the Attorney General, for the time being, that there are any lands, tenements or hereditaments, which for want of legal heirs, have accrued to the State, that it shall be the duty of the Attorney General to prosecute a suit by inquest of office in the Supreme Judicial Court in the county wherein such estate is situated, in order to cause the State to become seized thereof; and that on such process and trial, the person, against whom such process and suit shall be so brought, shall not be allowed to give in evidence, or to avail himself of the title or right of any alien, or subject of another nation or sovereign, unless he can shew that he is tenant to, agent, servant or bailiff of such alien.

Attorney General to prosecute suit by inquest for lands, &c. that have accrued to State for want of heirs.

No defendant to avail himself of alien's title, unless he be his tenant, agent, &c.

SEC. 4. *Be it further enacted,* That if it shall appear to the Court that the person against whom such estate shall be demanded, had, at the time of the service of the process upon him, a good and valid title in himself to the premises demanded, or that he then was in the possession of the same as the tenant, agent, servant or bailiff of any alien who had a right thereto or to any part thereof, then the Court shall award the defendant his full cost, which shall be paid out of the public treasury, according to the Constitution of the State: but if such party had not a title in himself when the process was served upon him, nor was the tenant, agent, servant or bailiff of such alien at that time, but shall have afterwards acquired a title, been made a tenant, or become the agent, servant or bailiff of any alien in whom such estate is, then judgment shall be awarded against him for the full costs: and the Attorney General shall cease to prosecute further on the process.

If on trial the defendant prove himself owner or tenant, agent, &c. of an alien owner he shall be entitled to his costs, &c.

Proceedings in case of title acquired or privily existing after service of process on defendant.

SEC. 5. *Be it further enacted,* That when any judgment shall be rendered on any inquest of office, that the State be reseized, or seized of any lands, tenements or hereditaments, the State shall immediately upon the rendition of such judgment, be deemed and taken in the law, to be in fact

State to be deemed in actual possession immediately on judgment of reseizin.

Judgment to  
conclude all  
parties.

seized of all such estate, to all intents and purposes whatever; and all judgments rendered on any inquest of office, taken by virtue of this Act, shall conclude all parties and privies thereto, their heirs and assigns so long as such judgment shall remain in full force.

If after State  
become seized  
for want of  
heirs, owner  
appear and re-  
cover the es-  
tate by legal  
process,

SEC. 6. *Be it further enacted*, That if after the State shall become so seized of such estate, as having accrued thereto for want of legal heirs, any person shall appear, and make out his right to the same, and shall in due process of law recover the same against the State, its grantee, assignee, or tenant, that the same estate shall nevertheless be liable to all expenses of improvement thereon made, over and above the rents and profits thereof; and the Attorney General, or the tenant, grantee or assignee of the State, shall be empowered to file a bill in equity in the Supreme Judicial Court of the county where the land is, for the recovery of the same; and a summons shall be issued, with a copy of such bill thereunto annexed, and served on the owner of such land or on his tenant, fourteen days before the sitting of the Court to which it may be returnable; and that the Supreme Judicial Court shall proceed to try the same, by a Jury or otherwise, according to the principles of the laws and Constitution of the State and shall issue an execution against such estate for the payment of such sum as shall be adjudged on such process; and the Sheriff or other officer to whom the same shall be directed, shall at public auction sell so much of the same lands as shall be sufficient to pay the same, with all charges, unless the same shall be otherwise discharged.

It shall still be  
liable for im-  
provements  
above rents &  
profits,

the amount  
of which shall  
be ascertained  
on bill in equi-  
ty in S. J.  
Court, to be  
filed by Attor-  
ney General or  
tenant, &c.

[Approved February 24, 1821.]

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## CHAPTER XLIX.

An Act directing the manner of giving notice in certain cases.

Notice to be  
given in a  
Portland news-  
paper in cer-  
tain cases.

**BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That in every case, where any notice respecting real estate is now required by law to be given by advertisement, in one of the Boston