

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
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BRUNSWICK.

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.....
1821.

CHAPTER LXIX.

An Act directing and regulating the Process of Outlawry.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any person that now is charged, or hereafter shall stand charged of any criminal offence before the Supreme Judicial Court of this State, by the indictment or presentment of a Grand Jury, whether the same indictment or presentment be originally found in that Court, or removed thither from any inferior jurisdiction, by appeal, or writ of certiorari, shall abscond to avoid answering, or abiding and performing the judgment that may be given thereon, whether such absconding be before or after the Jury shall indict or present the offender, a writ shall issue to the Sheriff of the county where such offender was an inhabitant or resident, at the time of finding the same bill, directing him to make known unto such offender, that unless he shall appear on the first day of the next sitting of the said Supreme Judicial Court, and there traverse the same charge, and abide the judgment that may be given thereon, or appear and give such security therefor by way of recognisance as the said Court shall order, such person will then and there be declared an outlaw, and be subjected to all the penalties and disabilities in this Act declared to be incident to a person under sentence of outlawry, and the mode of executing the said writ of scire facias shall be, by leaving an authenticated copy thereof certified by the Sheriff at the offender's dwelling house or last place of abode, sixty days at the least before the same process shall be returnable, and shall cause an abstract or notification of the subject matter in the same writ mentioned, sixty days before the return day at the least, to be printed in one of the most public weekly newspapers, and to be continued five several weeks inclusive; and shall cause him to be publicly called in every Circuit Court of Common Pleas in his county, that shall be holden while the same process shall be in his custody; which writ of scire facias being served and returned in manner aforesaid, and filed in Court, shall be entered on the docket, and the party against whom the same is sued, after having been publicly called in the

Persons liable to the process of outlawry.

Form of writ and nature of proceedings against him.

said Supreme Judicial Court, to appear and answer the charge alleged against him as aforesaid; if he shall not appear upon such notice and proclamation, his default shall be recorded, and such offender may by the same Court be declared an outlaw, without any other act or ceremony; any former law usage or custom to the contrary notwithstanding: *Provided always*, It shall be in the power of the said Court, when the offence charged shall be by law bailable, to continue the same scire facias, or suspend passing judgment of outlawry thereon, until the next or some succeeding term, in case sufficient bail shall be given for the offender's answering and abiding the judgment of the said Court thereon. And that it may regularly and certainly be determined when a person may be said to have absconded to escape punishment:

When a person has appeared and pleaded to indictment, &c. and departed without leave—proceedings against him.

SEC. 2. *Be it further enacted*, That any person after having appeared and pleaded to an indictment or presentment, who shall have departed without leave of the Court, or shall have broken gaol after commitment upon, and before conviction on the charge alleged in the bill, or shall fail or neglect to appear and answer according to the tenor of a recognisance regularly taken for that purpose, or when the Sheriff of the same county whereof the offender was an inhabitant, or resident at the time of his committing the offence for which he shall stand indicted, or his deputy, shall make return upon a capias issued in consequence of the bill, wherein the term of four months at the least shall have elapsed, between the issuing the capias and the return day thereof, that after making diligent search and inquiry after such offender, he could not find him in his precinct, shall be deemed and taken as sufficient evidence of the absconding of such person within the intent of this Act.

If non est inventus be returned on the capias and alias capias issued from C. C. Pleas—no like process need issue from S. J. Court.

SEC. 3. *Be it further enacted*, That a capias and an alias capias issued from the Circuit Court of Common Pleas, on a bill of indictment or presentment there found, wherein fifty days at the least shall have elapsed between the issuing and return of the same writs respectively, and returned by the proper officer, that after diligent search and inquiry after such offender he could not find him in his precinct, before the removal of the record into the Supreme Judicial Court, shall render the issuing a like process in the Su-

preme Judicial Court before scire facias ut legatum unne-
cessary.

SEC. 4. *Be it further enacted*, That where a capias shall issue from the Supreme Judicial Court, to apprehend an offender on a bill of indictment or presentment in any county where the said Court shall be held but once a year, the same capias may be made returnable to some session of the said Court in some other county, at the expiration of five or six months, if the said Court shall so order, to the end scire facias ut legatum may timely issue returnable to the next term, if the offender should not be taken on the capias.

How capias
from S. J.
Court is to be
made returnable.

SEC. 5. *Be it further enacted*, That all persons against whom judgment of outlawry shall be given, shall during the time the same judgment shall continue in force, be, and hereby are disabled from bringing or maintaining, in their own right any civil action or suit, in any Court of Law or Equity within this State, excepting a writ of error for reversing his outlawry; and shall be under such other disabilities and disqualifications in civil society as a person convicted and sentenced for the offence charged in the bill upon which he may be outlawed: and in all cases where a greater forfeiture does not by law accrue to the State upon a conviction and judgment on such bill of indictment, shall forfeit the issues and profits of all his real estate during the life of the outlaw, in case the judgment of outlawry shall so long remain in force; and be further liable to be apprehended, upon capias ut legatum, and sentenced in the same manner as if he was convicted by a Jury of the charge alleged in the bill.

Persons
against whom
a judgment of
outlawry is in
force—how
far disqualified,

SEC. 6. *Be it further enacted*, That the real estate of every person outlawed, shall be held liable, and be bound, from the time of issuing the scire facias ut legatum to respond the judgment that shall be given on the indictment or presentment, so far as relates to the fine and cost.

Real estate of
a person out-
lawed, bound
to respond
judgment, &c.

SEC. 7. *Be it further enacted*, That the lands and tenements of all persons recognising to the use of this State, before any authority duly authorized and empowered to take the same, are and shall be liable to respond the sum mentioned in the same recognisance, from the time the same is taken and acknowledged, notwithstanding any transfer or alienation thereof.

Estate of per-
sons recognis-
ing to State,
also bound,
though alien-
ated.

Proceedings
when a person
outlawed ap-
pears in Court
and confesses
or traverses,
&c.

SEC. 8. *Be it further enacted*, That every offender that may be outlawed, upon his appearing in open Court, and confessing the charge, and receiving sentence thereon, or appearing and traversing the charge, shall be acquitted by a Jury or on demurrer, or any other plea, the same shall be adjudged insufficient in law to compel the person accused to answer thereunto, or support a judgment thereon : in every such case, the proceeding shall be construed to operate as a full and effectual reversal of the judgment, of outlawry as though a formal reversal had been given upon a writ of error expressly brought for that purpose : *Provided*, The appearance upon which such acquittal shall be given shall be voluntary and without compulsion, and within one year and a day after judgment of outlawry shall be pronounced, and the cost accruing on the process of outlawry shall be first satisfied and paid. [Approved February 24, 1821.]

CHAPTER LXX.

An Act for regulating Marriage, and for the orderly solemnization thereof.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That no man or woman shall intermarry within the degrees hereafter named, that is to say :

Degrees, with-
in which mar-
riages are void,
as incestuous,

No Man shall marry his

Mother,
Grandmother,
Daughter,
Son's Daughter,
Daughter's Daughter,
Step Mother,
Grandfather's Wife,
Son's Wife,
Son's Son's Wife,
Daughter's Son's Wife,
Wife's Mother,
Wife's Grandmother,
Wife's Daughter,
Wife's Son's Daughter,
Wife's Daughter's Daughter,
Sister,
Brother's Daughter,
Sister's Daughter,
Father's Sister,
Mother's Sister,

No Woman shall marry her

Father,
Grandfather,
Son,
Son's Son,
Daughter's Son,
Step Father,
Grandmother's Husband,
Daughter's Husband,
Son's Daughter's Husband,
Daughter's Daughter's Husband,
Husband's Father,
Husband's Grandfather,
Husband's Son,
Husband's Son's Son,
Husband's Daughter's Son,
Brother,
Brother's Son,
Sister's Son,
Father's Brother,
Mother's Brother,