

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

recovery of damages occasioned by the overflowing of lands as before mentioned, except in the special cases provided in this chapter, to enforce the payment of damages after they have been ascertained by process of complaint, as aforesaid.

SECT. 29. The party prevailing shall recover costs, unless when it is otherwise expressly provided.

Costs.
3 Fairf. 345.

SECT. 30. Such offers may be made by or to the respective tenants or occupants of the land, and of the mill and dam in question, in like manner and with like effect, as if made by the respective owners; except, that no agreements founded thereon shall bind the owners, unless made by their consent.

Tenants may
make such offers,
as well as
owners.

SECT. 31. When an annual compensation upon the acceptance of one party, of an offer made by the other, is established and signed by the respective owners of the mill or dam, and of the land, and recorded in the office of the clerk of the court in which the former judgment was rendered, with a reference on the record to the former judgment, to the book where the agreement is recorded, such agreement shall be as binding as a verdict and judgment on a new complaint.

Agreement of
parties binding,
if recorded.

SECT. 32. A judgment against a complainant, as not being entitled to any compensation, shall be no bar to a new complaint for damages, which have arisen after the former verdict, and for compensation for damages, subsequently sustained.

Judgment no
bar to a new
complaint.

SECT. 33. In case of an original complaint, the respondent may tender and bring money into court, as in an action at common law; and with the same advantages to himself; and, if the money is accepted, the judgment shall have the same effect as if rendered on a verdict.

Tender of dam-
ages, and effect
thereof.

SECT. 34. No complaint for flowing lands shall abate by the death of any party thereto; but the same may be prosecuted or defended by the surviving complainants or respondents, or the executors or administrators of the deceased.

Complaint not
to abate, by
death of either
party.

SECT. 35. If such complaint shall be abated or defeated for want of form, or if, after a verdict for the complainant, judgment should be reversed, the complainant may bring a new complaint at any time within one year, after abatement or reversal as above stated; and thereon recover such damages, as have been sustained during the three years next before the institution of the first complaint, or any time afterwards.

If complaint a-
bate, rights may
be preserved by
new complaint,
within a year.

CHAPTER 127.

OF INQUESTS OF OFFICE, AND INFORMATIONS FOR INTRUSION.

- SECT. 1. Proceedings, to revest in the state, lands granted on condition.
2. Attorney general to file information.
3. Scire facias to issue. Service.
4. Judgment on default.

- SECT. 5. Consequence of disclaimer, by defendant.
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- CHAP. 127. SECT. 7, 8. Proceedings, if it be adjudged, that defendant holds too much land.
9. Cases, in which information may be filed, without order of the legislature.
10. Notice, when there is no tenant in possession.
11. Proceedings, judgment and costs.
12. Information to recover escheats. Notice.
13. Tenant to set up no title, unless he claim under it.
- SECT. 14. Costs, if defendant recover.
15. Defendant may hold, by title subsequently acquired. What judgment, if the state recover.
16. Effect of judgment, that the state be re seized.
17. Tenant under the state to have betterments, though occupying less than six years.
18. Proceedings by attorney general to obtain betterments.
19. Execution therefor, how levied.

Proceedings, to
revert in the
state, lands
granted on con-
dition.
1821, 48, § 1.

Attorney gen-
eral to file in-
formation.
1821, 48, § 1.

Scire facias to
issue. Service.
1821, 48, § 1.

Judgment on
default.
1821, 48, § 1.

Consequence of
disclaimer by
defendant.
1821, 48, § 1.

Proceedings, if
defendant claim
title.
1821, 48, § 1.
11 Mass. 193.

Proceedings, if
it be adjudged,
that defendant
holds too much
land.
1821, 48, § 1.

Same subject.
1821, 48, § 1.

SECTION 1. Where lands have been granted by the colony or province of Massachusetts Bay, the commonwealth of Massachusetts, or by this state, or shall be hereafter granted on certain conditions alleged to have been violated, and the state shall claim to be re-vested in the same, the following proceedings shall be had.

SECT. 2. When the legislature shall 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, breaches and claims of the state.

SECT. 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, according to law, thirty days before the return day.

SECT. 4. Should the defendant not appear and answer to such information, judgment shall be rendered that the state be re seized of their lands.

SECT. 5. If the defendant appear and disclaim holding said lands or any part of the same, the attorney general shall take nothing by his information, so far as the same respects the lands disclaimed; and the defendant, and all claiming under him, shall be estopped from claiming or holding such disclaimed lands.

SECT. 6. If the defendant claims all or any part of such lands under such grant, and shall traverse the breaches, the cause shall be tried by jury in due course, and, if the issue be found in favor of the state, judgment shall be rendered, that the state be re seized of said estate, and for costs; but, if the issue shall be found for the defendant, he shall have judgment for his costs of suit, to be taxed and paid from the public treasury.

SECT. 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 the same shall be found by the jury, or the defendant's confession, the court shall assign to the defendant, by metes and bounds, so much of the land held by the defendant, as shall be equal in quantity to what he has a right to hold under the grant, and in such part thereof, as shall be judged reasonable by the court.

SECT. 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, they shall order an attested copy of such location and plan to be filed in the land agent's office, and judgment shall be rendered, that the state be re seized of the residue, and recover costs of suit.

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SECT. 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, when there is any tenant in possession.

SECT. 10. When there is not any tenant in possession, then notice shall be given, as the court shall order, at least ninety days before the sitting of the court, to which it is returnable.

SECT. 11. If no person shall appear and answer to the information, or, after appearing and answering, and on trial by jury, a verdict should be 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 should be in favor of the defendant, and that he has good title to the land, he shall recover his costs of suit, to be taxed and paid as before provided.

SECT. 12. The attorney general may file an information, in manner before mentioned, for recovering seizin by the state for any real estate, supposed to have escheated to the state for want of legal heirs; and on such information being filed, the court shall order such notice, as they may judge proper.

SECT. 13. In such case, the defendant shall not be allowed to avail himself of the title of an alien or subject of another nation or sovereign, or any other person, unless he can show that he is tenant to, or agent or bailiff of such alien.

SECT. 14. If on trial the defendant shall prove himself to be such tenant or agent, or that he is himself the legal owner of such estate, then he shall recover his costs, to be paid as aforesaid.

SECT. 15. If the defendant be found not to have been the legal owner of such estate, or to have any right as tenant, agent or bailiff, when the process was commenced against him, but had afterwards acquired a good title, or become tenant, agent or bailiff, the attorney general shall cease further to prosecute the suit; but, when the defendant proves no title to such estate as owner, or interest therein as tenant, agent or bailiff, 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.

SECT. 16. When judgment shall, on information, be rendered, that the state be reseized, or seized, of any lands, the state shall be deemed and taken in law to be in fact so seized to all intents and purposes; and all judgments, so rendered, shall conclude all privies and parties, and those claiming under them, so long as such judgment shall remain in force; subject to the provisions of the following section.

SECT. 17. Should any person appear, and, by due process of law, prove himself to have a legal title to such estate, and recover the same against the state or its grantee or tenant, the same estate shall be liable for all expenses of improvement thereon made, over and above the rents and profits thereof; though the tenant and those claiming under the state had not been in possession six years.

SECT. 18. 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

Cases, in which information may be filed, without order of the legislature. 1821, 48, § 2.

Notice, when there is no tenant in possession. 1821, 48, § 2.

Proceedings, judgment and costs. 1821, 48, § 2.

Information, to recover escheats. Notice. 1821, 48, § 3.

Tenant to set up no title, unless he claim under it. 1821, 48, § 3. 16 Pick. 177.

Costs, if defendant recover. 1821, 48, § 4.

Defendant may hold, by title subsequently acquired. What judgment, if the state recover. 1821, 48, § 4.

Effect of judgment, that the state be reseized. 1821, 48, § 5.

Tenant under the state, to have betterments, though occupying less than six years. 1821, 48, § 6.

Proceedings, by attorney general, to obtain betterments. 1821, 48, § 6.

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recovering the same; and, after due notice and a copy of the bill, served on the defendant fourteen days before court, such court may try the cause, with or without a jury, according to the principles of law, and render judgment and issue execution for the sum found due.

Execution therefor, how levied. 1821, 43, § 6.

SECT. 19. The sheriff, by virtue of such execution, shall sell, at public auction, so much of said land, as will be sufficient to satisfy the execution and charges, unless otherwise paid.

CHAPTER 128.

OF FORCIBLE ENTRY AND DETAINER.

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| <p>SECT. 1. Jurisdiction of justices of the peace and quorum.</p> <p>2. Warrant, and service thereof, in such cases.</p> <p>3. Judgment for complainant, and writ of possession.</p> | <p>SECT. 4. Proceedings, if defendant plead title.</p> <p>5. Cases, in which this process lies, for unlawful detention.</p> <p>6. Jurisdiction of municipal and police courts.</p> |
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Jurisdiction of justices of the peace and quorum. 1824, 268, § 1. 4 Greenl. 484.

SECTION 1. Any justice of the peace and of the quorum, in the county in which he resides, shall have jurisdiction in all cases of forcible entry and detainer, except those arising within a city or town therein, in which a municipal or police court is, or may be established.

Warrant, and service thereof, in such cases. 1824, 268, § 2.

SECT. 2. On complaint made to him, in writing and on oath, of any unlawful and forcible entry into any lands or tenements; or any unlawful and forcible detainer, he shall issue his warrant under hand and seal, directed to the sheriff or his deputy, or a constable of the town, where the person charged resides, to summon him to shew cause, why judgment should not be rendered against him; which summons shall be served upon him, by reading the same in his presence and hearing, or by delivering him a copy, or leaving it at his last and usual place of abode, seven days at least before the day set for trial.

Judgment for complainant, and writ of possession. 1824, 268, § 1, 2.

SECT. 3. On return of such service, in case of the non appearance and default of the party charged, or his failing to show sufficient cause, judgment shall be rendered against him for possession of the premises, and the justice shall issue a writ of possession to remove him.

Proceedings, if defendant plead title. 1824, 268, § 3.

SECT. 4. Should the defendant plead not guilty to the complaint, and file a brief statement of title in himself, or some other person under whom he claims the premises in question, the justice shall thereupon order him to recognize to the complainant, with sufficient sureties, in such sum as the justice shall order, to pay all intervening damages and costs, and reasonable intervening rent for the premises; and said justice shall require the complainant to recognize to the defendant, with sufficient sureties in a reasonable sum, conditioned to enter the action at the next district court, and prosecute the same to final judgment, and pay all costs adjudged against him; and, if either party shall refuse so to recognize, said