

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.

and be directed to the proper officer, and the lands of such judgment debtor may be taken on such execution and sold at auction; but, before proceeding to sell, the officer shall give notice of the intended sale, in like manner as is prescribed in the thirty seventh section of this chapter; except, that such notice shall be published also in the newspaper published by the printer to the state, and that the last publication in both newspapers shall be six days before the sale; and the officer, making such sale, shall make and execute to the purchaser a sufficient deed of the land sold; and the debtor shall have the same rights to redeem the same, in like manner, and on the same conditions, as a judgment debtor has, to redeem lands taken and set off on execution.

CHAPTER 95.

OF ESTATES IN DOWER, AND BY CURTESY, AND AT WILL.

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| <p>SECT. 1. Of what lands a woman is dowerable.
 2. Of what she is not dowerable.
 3. When judge of probate may assign dower.
 4. Mode of proceeding.
 5. Special assignment, in certain cases.
 6. Rights of widow, before assignment.
 7. Widow of naturalized alien.
 8. Proceedings, to recover dower by suit.
 9, 10, 11. How dower may be barred.
 12. Widow may waive jointure, in certain cases.</p> | <p>SECT. 13. She may waive provision in her husband's will.
 14. Remedy, if she be evicted of her dower.
 15. When dowerable of an equity of redemption.
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 17. Right of widow to remain in her husband's house.
 18. Tenancy by curtesy.
 19. Notice, to determine tenancy at will.
 20. Limitation of the preceding section.</p> |
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SECTION 1. Every woman shall be entitled to her dower, at common law, in the lands of her husband, with the exception hereafter mentioned, to be assigned to her after his decease, unless lawfully barred thereof.

Of what lands a woman is dowerable.
 1821, 40, § 1.
 4 Mass. 566.
 10 Mass. 364.
 5 Greenl. 479.
 22 Pick. 283.
 Of what she is not dowerable.
 15 Mass. 164.
 1 Pick. 21.
 7 Pick. 143.

SECT. 2. A widow shall not be endowed of wild lands, of which her husband shall die seized, nor of wild lands conveyed by him, although they should be cleared afterwards; but this shall not bar her right of dower in any wood lot or other land, used with the farm or dwelling house, though such wood lot or other land should have never been cleared.

SECT. 3. The judge of probate for the county, in which the estate of the husband is settled, may assign dower to the widow in the lands of which the husband died seized, in whatever counties they may be, where her right of dower is not disputed by the heirs or devisees.

When judge of probate may assign dower.
 9 Mass. 9.

SECT. 4. For the above purpose, the judge of probate may issue his warrant to three discreet and disinterested persons, empowering them to assign the dower by metes and bounds, when it can

Mode of proceeding.
 12 Mass. 454.

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be so done without prejudice to the whole estate: the commissioners to be first duly sworn before the judge of probate or a justice of the peace, to assign the same equally and impartially, and without favor and affection, as conveniently as may be, in one or more parcels, as shall be most for the interest of the parties.

Special assignment, in certain cases.
1821, 40, § 3.

SECT. 5. Where no division can be conveniently made by metes and bounds, dower shall be assigned in a special manner, as of a third part of the rents and profits, to be computed and ascertained in manner as aforesaid.

Rights of widow, before assignment.
1821, 40, § 5.
3 Pick. 475.

SECT. 6. Such widow, where her husband died seized, shall be entitled to receive one undivided net third part of the rents and profits, of such estate, until the heir or heirs shall assign her dower, or the same shall be assigned by the judge of probate, or judgment of court.

Widow of naturalized alien.
1821, 110, § 4.

SECT. 7. The widow of a citizen of the United States, who was an alien at the time of her intermarriage with such citizen, shall be entitled to dower in her husband's estate as other widows; except, as to land conveyed by him, or taken from him by execution, before the twenty third day of February, eighteen hundred and thirteen.

Proceedings to recover dower by suit.
1821, 40, § 1, 2.
12 Mass. 485.
1 Pick. 189.
22 Pick. 283.

SECT. 8. When the heir or other tenant of the freehold shall not, within one month after demand, assign to the widow of the deceased her dower in his estate, she may sue for and recover the same at common law, by writ of dower; and she may also recover her reasonable damages, in the manner prescribed in the one hundred forty fourth chapter.

How dower may be barred.
7 Mass. 14.
13 Mass. 223.
3 Greenl. 63.
13 Pick. 332.
8 Pick. 532.

SECT. 9. A married woman may bar her right of dower, in any estate conveyed by her husband, by joining with him as a party in the deed of conveyance, and thereby releasing her claim of dower, or by a subsequent deed, executed jointly with her husband, or legally authorized guardian of her husband.

Same subject.
1823, 380, § 4.
7 Mass. 153.

SECT. 10. A woman may also be barred of her dower, in her husband's lands, by a jointure settled on her with her consent, before marriage; such jointure consisting of a freehold estate in lands, for the life of the wife at least, to take effect immediately on the husband's death; her assent to such jointure being expressed, if she be of full age, by becoming a party to the conveyance, by which it is settled, and if under age, by her joining with her father or guardian.

Same subject.
1821, 40, § 6.

SECT. 11. Any pecuniary provision made for the benefit of an intended wife, and in lieu of dower, shall, if assented to in the manner provided in the last section, bar her right of dower in her husband's lands.

Widow may waive jointure, in certain cases.

SECT. 12. If any such jointure or pecuniary provision be made before marriage, and without the assent of the intended wife, or if made after marriage, it shall bar her dower, unless she shall, within six months after the husband's death, make her election to waive such provision, and file the same in writing in the probate court.

She may waive provision in her husband's will.
1821, 38, § 15.
1 Greenl. 148.
12 Pick. 146.
1 Metc. 57.

SECT. 13. Where any such provision shall be made in the will of a husband, for the widow, she shall, within six months after probate of the will, make her election, whether to accept it, or claim her dower; but shall not be entitled to both, unless it appears by the will, that the testator plainly so intended.

SECT. 14. If a woman be lawfully evicted of lands, assigned to her as dower, or settled upon her as a jointure, or be deprived of the provision made for her by will, or otherwise, in lieu of dower, she may be endowed anew in like manner, as though no such assignment or provision had been made.

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Remedy, if she be evicted of her dower.
13 Mass. 168.
1 Metc. 66.

SECT. 15. If, upon any mortgage made by a husband, the wife shall have released her right of dower, or if the husband shall be seized of land, subject to a mortgage, made by another person, or made by himself before their intermarriage, his wife shall, nevertheless, be entitled to dower in the mortgaged premises as against every person except the mortgagee, and those claiming under him; provided, that if the heir or other person, claiming under the husband, shall redeem the mortgage, the widow shall repay such part of the money paid by him, as shall be equal to the proportion, which her interest in the mortgaged premises bears to the whole value thereof; or else she shall be entitled to dower only, according to the value of the estate, after deducting the money so paid for the redemption thereof.

How she may redeem land mortgaged by her husband, having signed the deed.
7 Greenl. 102.
5 Pick. 146.

SECT. 16. If any woman, endowed of lands, shall commit or suffer any waste thereon, she shall forfeit the place wasted, and also the amount of the damages done to the premises; to be recovered, in an action of waste, by the person having the next immediate estate of inheritance therein: but, taking fuel necessary for her own use, and materials for the repair of buildings and for fences thereon, from any wood lands, of which she may be endowed, shall not be considered waste.

Penalty, if she commit waste.
13 Maine, 273.
5 Pick. 191.
7 Pick. 152.
8 Pick. 309.

SECT. 17. A widow may remain in the house of her husband, ninety days next after his death, without being chargeable with rent therefor; and, in the mean time, she shall have her reasonable sustenance out of the estate.

Right of widow to remain in her husband's house.

SECT. 18. When a man and his wife shall be seized of lands in fee, in her right, which are under improvement, and issue shall be born alive, of the body of such wife, that may inherit the same, the husband shall have and hold such estate, after the decease of the wife, during his natural life, as tenant by the curtesy.

Tenancy by curtesy.
1821, 38, § 18.
15 Mass. 291.
2 Greenl. 400.
20 Pick. 121.

SECT. 19. All tenancies at will may be determined by either party, by three months' notice, in writing, for that purpose given to the other party; and, when the rent, due upon such lease, is payable at periods of less than three months, the time of such notice shall be sufficient, if it be equal to the interval between the days of payment; and, in all cases of neglect or refusal to pay the rent due on a lease at will, thirty days' notice to quit, given in writing by the landlord to the tenant, shall be sufficient to determine the lease.

Notice, to determine tenancy at will.

SECT. 20. The preceding section shall not be construed to extend, or be applicable, to the proceedings in cases of forcible entry and detainer, or the notice required in such cases.

Limitation of the preceding section.