

# 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.**

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

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**Augusta:**

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

.....  
1841.

**CHAP. 124.**

Entry of the action, and filing papers.

1821, 57, § 4.  
1826, 347, § 5.  
1 Mass. 159.  
1 Greenl. 399.

Pleadings, and issue.

1821, 57, § 4.

Same subject.

1821, 57, § 4.

Evidence, and proceedings.

1821, 57, § 4.

Judgment.

1821, 57, § 4.  
10 Mass. 218.

Costs.

1821, 57, § 5.  
4 Mass. 614.  
1 Greenl. 255.  
2 Greenl. 397.

Original attachment, or bail, not continued by review.

1821, 57, § 6.

Form of judgment, if damages be reduced.

Form, if damages be increased.

Provision, in cases of replevin and set off.

**SECT. 5.** The plaintiff in review shall enter the action at the next term after it is granted, unless for special reasons the court on motion grant leave to enter it at the second term; and he shall produce in court, there to be filed, certified copies of the writ and judgment, and all proceedings in the former suit, and the originals or copies of all depositions, used and filed therein.

**SECT. 6.** The cause shall be tried on the issue joined in the former suit; but the court may allow amendments in any of the pleadings, as they might have done in the original action, or they may admit additional issues, or brief statements.

**SECT. 7.** If the former judgment was rendered on default, or without any issue joined, the proper pleadings shall be made on the trial of the review, and the cause be tried thereon.

**SECT. 8.** Each party may introduce any legal evidence, whether produced on the former trial or not; and the cause shall be disposed of by verdict, nonsuit, default or otherwise, as if it were an original suit.

**SECT. 9.** Judgment on the review shall be given, as the merits of the cause, upon law and evidence, shall require, without any regard to the former judgment, except as is hereinafter mentioned.

**SECT. 10.** The party, prevailing in the review, shall recover his costs, but this shall not prevent the court, when granting a review on petition, from imposing on him such terms as to costs, as they may deem reasonable.

**SECT. 11.** No attachment made, or bail, taken, in the original action, shall be liable to satisfy the judgment, which shall be rendered on the review.

**SECT. 12.** If any sum is recovered by the plaintiff in the original action for debt or damages, and that sum is reduced on the review, the original defendant shall have judgment and execution for the difference, with his costs; or, if the former judgment has not been satisfied, one judgment may be set off against the other, and an execution shall issue for the balance.

**SECT. 13.** If the original plaintiff shall recover on the review a greater sum for debt or damage, than was awarded to him on the original judgment, he shall have judgment and execution for the excess, and costs on the review.

**SECT. 14.** In review of actions of replevin, and in actions where an offset is filed, the defendant shall be considered, so far as it respects the damages, that may be awarded to him, in the original action, or on the review, like a plaintiff in other actions.

**CHAPTER 125.****OF MORTGAGES, THEIR REDEMPTION AND FORECLOSURE, AND OTHER LIENS ON REAL AND PERSONAL ESTATE.**

**SECT. 1.** How mortgages of real estate are made.  
2. Mortgagee may enter before breach, unless otherwise agreed.

**SECT. 3.** Modes of obtaining possession for foreclosure.  
4. Foreclosure in three years.

- SECT. 5. Modes of foreclosing, without taking possession.
6. Mortgager may redeem within three years.
7. Form of declaring, in a suit to obtain possession on mortgage. Conditional judgment.
8. Judgment as at common law, in certain cases.
9. Form of conditional judgment.
10. Judgment for defendant, if nothing be due.
11. Action for foreclosure by executor or administrator.
12. State treasurer may discharge or foreclose mortgages, made or assigned to the state.
13. Mortgages to be assets in the hands of administrators, who are to be seized to the use of heirs.
14. Against whom action on a mortgage shall be brought.
15. Form of judgment, when condition is for some act, other than payment of money.
- 16, 17, 18. Proceedings in equity, to redeem a mortgage.
19. Court to order notice, if mortgagee be out of the state.
20. Limitation of such bill in equity.
21. Court may allow other persons joined as defendants, and notified.
22. Award of execution, on decree of court.
23. Deduction of rents and profits from the sum brought into court for redemption.
- SECT. 24. Bill in equity, for redemption, may be filed against the state.
25. Where to be filed, and proceedings thereon.
26. On decease of a person entitled to redeem, his administrator or heir may redeem.
27. Tender to guardian of mortgagee, if under guardianship.
28. How mortgages may be discharged.
29. Redemption of mortgaged estate from purchaser of the equity of redemption.
30. Redemption of personal property mortgaged.
31. Tender of amount due, and proceedings to recover the same.
32. When mortgage of personal property must be recorded.
33. Town clerk to record the same. Fees.
34. Certain marine contracts need not be so recorded.
35. Lien on vessels, by ship carpenters and others.
36. Lien discharged, by tender of the just debt.
37. Lien on buildings erected or repaired by contract and on the land.
38. Such lien to be secured by attachment.
39. Dissolved by a tender.
40. Lien of landlord on buildings erected by the lessee.

SECTION 1. Mortgages of real estate, mentioned in this chapter, include not only those, made in the usual form in which the condition is set forth in the deed, but also those made by a conveyance, appearing on its face to be absolute, with a separate instrument of defeasance of the same date and executed at the same time.

SECT. 2. Any mortgagee, or person claiming under him, may enter on the premises, or recover possession thereof before any breach of the condition of the mortgage, when there is no agreement to the contrary; but, in such case, if the debt be afterwards paid or the mortgage redeemed, the amount of the clear rents and profits, from the time of the entry, shall be accounted for, and deducted from the amount due on the mortgage.

SECT. 3. After breach of the condition, if the mortgagee, or any one claiming under him, is desirous of obtaining possession of the premises, for the purposes of foreclosure, he may proceed in either of the following ways, viz:

*First.* He may commence an action at law, and obtain possession under a writ of possession, issued on the judgment in the action, as provided in the ninth section, duly executed by an officer;

*Second.* He may enter into possession, and hold the same, by

How mortgages of real estate are made.  
5 Mass. 109.  
1 Fairf. 197.  
4 Pick. 349.  
7 Pick. 157.

Mortgagee may enter before breach, unless otherwise agreed.  
5 Mass. 138.  
2 Greenl. 322.

Modes of obtaining possession for foreclosure.  
9 Mass. 258.

1821, 39, § 1.  
6 Mass. 239.  
4 Pick. 19.  
22 Pick. 556.

1821, 39, § 1.  
1839, 572.

## CHAP. 125.

13 Mass. 309.  
1821, 39, § 1.  
1839, 372.

consent, in writing, of the mortgager, or the person holding under him ;

*Third.* He may enter peaceably and openly, if not opposed, in the presence of two witnesses, and take possession of the premises; in which case, a certificate of the fact and time of such entry shall be made and signed and sworn to by such witnesses before any justice of the peace; and such written consent, and such certificate, shall be recorded in each registry of deeds, in which the mortgage is or by law ought to be recorded; and no such entry shall be effectual, unless such certificate, or consent in writing, shall be recorded within thirty days next after such entry is made.

Foreclosure in three years.  
1821, 39, § 1.

SECT. 4. Such possession obtained in either of the three modes above described, being continued for the three following years, shall forever foreclose the right of redemption.

Modes of foreclosing, without taking possession.

SECT. 5. If, after breach of the condition, the mortgagee or any person, claiming under him, is not desirous of taking and holding possession of the premises, he may proceed for the purpose of foreclosure, in either of the two following modes, viz :

1838, 333, § 1, 2.

*First.* He may give public notice in the newspaper, printed in the county, where the premises are situated, or, if there be none such, then in an adjoining county, or in the newspaper published by the printer to the state, three weeks successively, of his claim by mortgage on such real estate, describing such premises intelligibly, and naming the date of the mortgage, and that the condition in the same has been broken, by reason whereof he claims a foreclosure; and cause a copy of such printed notice, and the name and date of the newspaper, in which it was last published, to be recorded in each registry of deeds, in which the mortgage deed is, or by law ought to be recorded, within thirty days after such last publication; or,

1838, 333, § 1, 2.

*Second.* He may cause a copy of such notice to be served and attested as a true copy, by the sheriff of the county or his deputy, in which the mortgager or his assignee lives, if in this state, by a delivery to him in hand, or by leaving the same at his place of last and usual abode; and shall cause the original notice and the sheriff's return thereon to be recorded, within thirty days after such service, in manner aforesaid.

Mortgager may redeem within three years.  
1821, 39, § 1.  
7 Greenl. 31.  
22 Pick. 401.

SECT. 6. The mortgager or person, claiming under him, may redeem the mortgaged premises within three years next after taking possession, or publication, or service of the notice, mentioned in the preceding sections, and, if not so redeemed, his right of redemption shall be forever foreclosed.

Form of declaring, in a suit to obtain possession on mortgage. Conditional judgment.  
2 Greenl. 322.

SECT. 7. The mortgagee and, where the mortgage has been assigned, the person claiming under him, in an action for possession, may declare on his own seizin in a writ of entry, without naming the mortgage or assignment; and, if it shall appear to the court on default, demurrer, verdict or otherwise, that the plaintiff is entitled to the possession of the premises for breach of the condition of the mortgage, the court shall, on the motion of either party, award the conditional judgment hereinafter mentioned, unless it should appear that the tenant is not the mortgager, nor a person claiming under him.

SECT. 8. Should it appear, that the tenant is not the mortgager, nor a person claiming under him, and the plaintiff shall prevail in the suit, the judgment may be entered for possession, as at common law, unless the plaintiff should consent, that the conditional judgment should be rendered.

Judgment as at common law, in certain cases.

SECT. 9. When such judgment is rendered, the court shall ascertain, how much is due to the plaintiff on the mortgage, and then enter judgment, that if the defendant shall, within two months after the judgment, pay to the plaintiff the sum, so found due on the mortgage, with interest and costs of suit, the mortgage shall be void, and the defendant shall hold the premises discharged of the same; otherwise, that the plaintiff shall have his execution for possession of the premises, and costs.

Form of conditional judgment.  
1821, 39, § 3.  
9 Mass. 242.  
8 Pick. 500.

SECT. 10. If it shall be ascertained by the court, on inquiry, that nothing is due on the mortgage, then the action shall not be sustained, but judgment shall be rendered in favor of the defendant; and he shall hold the land discharged of said mortgage.

Judgment for defendant, if nothing be due.  
2 Greenl. 322.

SECT. 11. When a mortgagee, or person claiming under him is deceased, the same proceedings to foreclose the mortgage may be had by the executor or administrator of such deceased person, declaring on the seizin of such deceased person, as the testator or intestate might have, if living.

Action for foreclosure, by executor or administrator.  
1821, 39, § 9.

SECT. 12. When a mortgage is made, or assigned to the state, the treasurer may demand and receive the money due thereon, and, by his deed of release, discharge the mortgage; and, after breach of the condition, he may, in person or by his agent, make use of the like means, for the purpose of foreclosure, which an individual mortgagee might, as specially prescribed in the third, fourth and fifth sections of this chapter.

State treasurer may discharge or foreclose mortgages made or assigned to the state.

SECT. 13. Lands, mortgaged to secure the payment of debts, or the performance of any collateral engagement, and the debts so secured, in case of the decease of the mortgagee or person claiming under him, shall be assets in the hands of his executors or administrators; and they shall have the same control of them, as of a personal pledge; and, whenever they shall recover seizin and possession of them, they shall be seized and possessed of the estate so recovered, to the use and behoof of the widow and heirs, or devisees of the deceased, or his creditors, as the case may be; and may, when the mortgaged premises are redeemed, receive the redemption money, and give effectual discharges for the same, and releases of the mortgaged premises.

Mortgages to be assets in the hands of administrators, who are to be seized to the use of the heirs.  
1821, 39, § 9.  
13 Mass. 309.

SECT. 14. An action on a mortgage deed may be brought against any person in possession of the mortgaged premises; and the mortgager, or person claiming under him, may, in all cases, be joined with him as a cotenant, whether he then has any interest or not in the premises; but he shall not be liable for any costs, when he has no estate in the premises, and makes his disclaimer thereto upon the records of the court.

Against whom an action on a mortgage shall be brought.

SECT. 15. When the condition of a mortgage is for doing some act, other than the payment of money, the court may vary the terms of the conditional judgment to be rendered, as circumstances may require; and award execution, unless the defendant shall,

Form of judgment, when condition is for some act, other than payment of money.

CHAP. 125. within two months after judgment, perform what shall be therein prescribed.

Proceedings in equity, to redeem a mortgage.  
1837, 286, § 1.  
17 Mass. 117.  
8 Greenl. 246.  
2 Pick. 540, 546.  
4 Pick. 6.  
5 Pick. 259.  
6 Pick. 420.  
10 Pick. 398.  
17 Pick. 47.

SECT. 16. Any mortgager or other person, having a right to redeem lands mortgaged, may bring his bill in equity for the redemption thereof, within the time limited in the sixth section of this chapter; and, if he shall, in his bill, offer to pay such sum as shall be found to be equitably due, or to perform such other condition, as the case may require, such offer shall have the like effect and force, as a tender of payment or performance made before the commencement of the suit; and the bill shall be sustained, without proof of such tender, provided the mortgagee, or person claiming under him, shall have refused or neglected on request, to render a true account of the sum due, before the commencement of the suit; and no costs shall be awarded against the defendant, unless it shall appear, that he unreasonably refused or neglected to render such account, when requested, of the money due, and of the rents and profits, and money expended in repairs and improvements, if any, or, in any other way by his default, had prevented the plaintiff from performing or tendering performance of the condition, before the commencement of the suit.

Same subject.  
1837, 286, § 2.  
12 Mass. 16, 514.  
17 Mass. 419.  
7 Greenl. 31.

SECT. 17. Whenever a sum of money, due on a mortgage, has been paid or tendered to the mortgagee, or person claiming under him, by the mortgager, or the person claiming under him, within the time limited as before mentioned, he may have a bill in equity for the redemption of the mortgaged premises, and compel the mortgagee, or person claiming under him, by a decree of the supreme judicial court, to release all his right and title in the land to the complainant; though such mortgagee, or his assignee, shall never have had actual possession of the premises for breach of the condition.

Same subject.  
1837, 286, § 2.

SECT. 18. Or, in such case, the mortgager or other person, having right to redeem, may have his bill in the manner prescribed in the sixteenth section of this chapter, without having made a tender before the commencement of the suit, and the cause shall be tried in the same manner.

Court to order notice, if mortgagee be out of the state.  
1837, 286, § 2.

SECT. 19. When the suit is brought, before an actual entry for breach of the condition, and before payment or tender, if the mortgagee, or the person claiming under him, be out of the state, and shall not have had actual notice, the court shall order proper notice to be given to the other party, and continue the cause, as long as necessary.

Limitation of such bill in equity.  
1837, 286, § 3.

SECT. 20. No bill in equity shall be brought for redemption of mortgaged premises, founded on a tender of payment or performance of the condition, made before the commencement of the suit, unless within three years next after making such tender.

Court may allow other persons to be joined as defendants, and notified.  
1821, 39, § 4.

SECT. 21. In any suit brought for redemption of mortgaged premises, when it shall appear necessary to the attainment of justice, that any other person, besides the defendant, claiming an interest in the premises, should be made a party with the original defendant, on motion, the court may order him to be served with an attested copy of the bill, in such manner as they may direct, and, on his appearance, the cause shall proceed, as though he had been originally joined.

SECT. 22. The court, when they shall make a decree for the redemption of mortgaged lands, shall have power to award execution, jointly or severally, as the case may require; and for such sums, as shall be found due from him or them, for rents and profits, over and above the sums reasonably expended in repairing and increasing the value of the estate redeemed.

SECT. 23. When any sum of money shall be brought into court, in a suit for redemption of mortgaged premises, the court shall have power to deduct therefrom such sum, as the defendant may be chargeable with, on account of rents and profits by him received, or costs awarded against him; and the person, to whom a sum of money is tendered to redeem such lands, if he shall receive a larger sum than he is entitled to retain, he shall refund the excess.

SECT. 24. If the treasurer of the state, and the person applying to redeem any lands mortgaged to the state, shall disagree, as to the sum due thereon, the person, so applying, may bring a bill in equity against the state for the redemption thereof.

SECT. 25. Such suit shall be brought in the supreme judicial court; and the court shall order notice to be served on the treasurer of the state in the usual form, and the court shall hear the cause and decide, what sum is due on said mortgage to the state, and award costs, as they may deem equitable: and it shall be the duty of the treasurer to accept the sum, adjudged by the court to be due, and discharge and release such mortgage.

SECT. 26. If any person, entitled to redeem any mortgaged estate, or to redeem an equity of redemption, which may have been sold on execution, or the right to redeem such right, or the right to redeem lands, set off on execution, shall die without having made any tender for that purpose, a tender may be made, and a bill for redemption commenced and prosecuted, as well by the executors or administrators, as by the heirs or devisees of the deceased person; and, if the plaintiff, in any such bill in equity, shall die pending the suit, the same may be prosecuted to final judgment, by his heirs or devisees, or his executors or administrators.

SECT. 27. When the mortgagee, or other person holding under him, is under guardianship, as an infant or otherwise, a tender may be made to such guardian; and he shall have power to receive the sum due on the mortgage; and, upon receiving it, or on performance of such other condition as the case may require, to execute a release or discharge of the mortgage.

SECT. 28. In all cases, the mortgage may be discharged by the deed of release of the person authorized to discharge it, or by his causing satisfaction and payment to be entered in the margin of the record of such mortgage, in the register's office, under his hand.

SECT. 29. If the purchaser of an equity of redemption, sold on execution, shall have satisfied and paid to the mortgagee, or those claiming under him, the sum due on the mortgage, the mortgager, or those claiming under him, having redeemed the equity of redemption within one year after such sale, shall have a right to redeem such mortgaged estate of such purchaser, or any person claiming under him, within the time and in the manner, he might have redeemed the same of the mortgagee, had there been no such sale made, and within such time only.

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Award of execution, on decree of court. 1821, 39, § 5.

Deduction of rents and profits from the sum brought into court for redemption. 1821, 39, § 6. 9 Pick. 171.

Bill in equity, for redemption, may be filed against the state. 1821, 39, § 8.

Where to be filed, and proceedings thereon. 1821, 39, § 8.

On decease of a person entitled to redeem, his administrator or heir may redeem. 9 Mass. 422.

Tender to guardian of mortgagee, if under guardianship. 12 Mass. 16.

How mortgages may be discharged. 1821, 39, § 1.

Redemption of mortgaged estate from purchaser of the equity of redemption. 1821, 39, § 11.



## CHAP. 125.

Redemption of personal property mortgaged.

Tender of amount due, and proceedings to recover the same.

When mortgage of personal property must be recorded. 1839, 390, § 1. 16 Pick. 33, 462.

Town clerk to record the same. Fees. 1839, 390, § 3.

Certain marine contracts need not be so recorded. 1839, 390, § 2.

Lien on vessels, by ship carpenters and others. 1834, 104, § 1. 6 Pick. 46, 120.

Lien discharged, by tender of the just debt. 1834, 104, § 2.

Lien on buildings, erected or repaired by contract and on the land. 1837, 273, § 1. 1837, 298, § 1.

SECT. 30. When the condition of any mortgage of personal property has been broken, the mortgager, or any person lawfully claiming or holding under him, may redeem the same at any time, within sixty days next after said breach, unless the property shall have been sold in the mean time; in pursuance of the contract between the parties, or on execution for the debt of the mortgager.

SECT. 31. The person, entitled to redeem such property, shall pay or tender to the mortgagee, or person holding under him, the sum due on the mortgage, with all reasonable and lawful charges, incurred in the care and custody of the property or otherwise, arising from the mortgage itself; and, if such property is not immediately restored, the person, entitled to redeem the same, may recover it in an action of replevin; or he may recover such damages, as he may have sustained by the withholding thereof, in an action of the case.

SECT. 32. No mortgage of personal property, made since the twenty fourth day of April, eighteen hundred and thirty nine, or that shall be made hereafter, where the debt thereby secured amounts to more than the sum of thirty dollars, shall be valid against any other persons than the parties thereto, unless possession of the mortgaged property be delivered to, and retained by the mortgagee; or unless the mortgage has been, or shall be recorded by the clerk of the town, where the mortgager resides.

SECT. 33. The clerk, on payment of his fees, shall record all such mortgages, that shall be delivered to him, in a book kept for that purpose, noting in the book, and on the mortgage, the time when the same was received; and it shall be considered as recorded, when left, as aforesaid, with the clerk. His fees shall be the same, as are allowed for like services, to the register of deeds.

SECT. 34. Nothing in the two preceding sections, shall avoid or defeat any contract of bottomry, or respondentia, or transfer, assignment or hypothecation of any ship or goods at sea, or abroad, if the mortgagee shall take possession of such vessel or goods, as soon as may be, after the arrival of the same within the state.

SECT. 35. Any ship carpenter, caulker, blacksmith, joiner or other person, who shall perform labor or furnish materials, for or on account of any vessel, building or standing on the stocks; or under repairs after having been launched; shall have a lien on such vessel for his wages or materials, until four days after such vessel is launched, or such repairs afterwards have been completed; and may secure the same by an attachment on said vessel within that period, which shall have precedence of all other attachments.

SECT. 36. In case any such creditor shall demand or claim more for his said services performed or materials furnished, as aforesaid, than is just and reasonable, the owner, agent or contractor may tender the full, fair and just balance to such claimant, and such tender shall, if refused, absolutely discharge the lien on such vessel.

SECT. 37. Any person, who shall perform labor or furnish materials, for erecting, altering or repairing any house or other building or appurtenances, or furnish labor or materials for the above purposes by virtue of any contract with the owner thereof, or other person who had contracted with such owner, shall have a lien, to

secure the payment of the same, upon such house or building, and the lot of land, on which the same stands, and upon the right of redeeming the same when under mortgage; and such lien shall continue in force for the space of ninety days from the time, when such payment becomes due.

SECT. 38. Such person may secure the benefit of such lien by an attachment of such house or building, land or right of redemption, within the said ninety days; and such attachment shall have precedence of all other attachments, not made under any such lien.

SECT. 39. When the debtor shall tender to the creditor the sum justly due to him, as aforesaid, such lien shall cease.

SECT. 40. When any lot or parcel of land, or any mill privilege, may be leased for the purpose of having a house, shop, mill or other building erected or placed thereon, and rent is reserved in the lease, all the buildings erected as aforesaid, together with all the interest which the lessee before had, or may have, in the premises, by force of such lease, shall remain liable to be attached by any such lessor or his assignee to secure the rent due on such lease, notwithstanding any previous transfer of property by the lessee; provided, such attachment be made within six months from the time such rent becomes due.

CHAP. 125.

16 Maine, 268.

Such lien to be secured by attachment. 1837, 273, § 2.

Dissolved by a tender. 1837, 273, § 3.

Lien of landlord, on buildings erected by the lessee. 1824, 258, § 1, 2.

## CHAPTER 126.

### OF THE RIGHT OF ERECTING MILLS AND MILL DAMS, AND OF FLOWING LANDS; AND THE MODE OF OBTAINING DAMAGES THEREFOR.

- SECT. 1. Right to erect and maintain mill dams.
2. Not to injure a mill previously built.
  3. Not on another's land without consent.
  4. Restriction, as to height of dam.
  5. Damages for flowing, recoverable, on complaint.
  6. Form of complaint.
  7. How presented and served.
  8. Service, how made.
  9. What may be pleaded in bar.
  10. Mode of trial. Appeal.
  11. Costs for respondent, if complainant fail.
  12. Proceedings, if complainant recover.
  13. Trial by jury. Commissioners' report to be evidence.
  14. Acceptance of commissioners' report.
  15. Verdict or report, to bar any future action.
  16. Compensation to commissioners.
  17. Yearly damages, how fixed.

- SECT. 18. Security to be given for yearly damages, if required.
19. Lien upon mill and land, for damages.
  20. Complainant may sue for damages, if unpaid.
  21. Mill and land may be seized and sold on the execution, after thirty days.
  22. Effect of such sale.
  23. Right of redemption.
  24. Either party may file a new complaint.
  25. Restriction of this right.
  26. Owner may offer an increased compensation. Consequence.
  27. Injured party may offer to accept a less compensation. Consequence.
  28. Restriction of suits for damages.
  29. Costs.
  30. Tenants may make such offers, as well as owners.
  31. Agreement of parties binding, if recorded.
  32. Judgment no bar to a new complaint.

**The following page(s) from  
“An Act to Amend the Revised Statutes”  
include amendments to this chapter.**

same ought to have been entered; and no attachment made, and no bail taken, shall be revived or continued in force, by the entry of any such appeal or complaint by the original plaintiff, as provided in the two preceding sections; but such attachment and bail shall remain discharged.

bail not continued by entry of the appeal. 1821, 57, § 7.

SECTION 23. The one hundred and twenty fifth chapter shall be amended, by adding, at the end of the nineteenth section, the following words: R. S. ch. 125.

When such mortgagee or person claiming under him, being out of the state, or whose residence is unknown, shall have proceeded according to the provisions of the fifth section of this chapter, for the purpose of foreclosure, the mortgager, or other person having a right to redeem, may file his bill or petition, as provided in section, sixteen, and may at the same time pay to the clerk of the court the sum due, and the court shall order such notice to be given as they may judge proper; and such payment shall have the like effect and force, as a tender of payment made before the commencement of the suit.

If mortgagee or his assignee be out of the state, bill in equity may be filed on payment of redemption money to clerk of the court.

SECTION 24. The one hundred and fortieth chapter shall be amended, by inserting, at the end thereof, a new section, in the following words: R. S. ch. 140.

SECT. 38. When any insane person is arrested or imprisoned on mesne process or execution in any civil suit, any judge of the supreme judicial court or district court, or any judge of probate within his county, on application, may inquire into the case, and, if he think proper, may issue a writ of habeas corpus, and cause such person to be brought before him for examination; and, after notice to the creditor or attorney, if either be living in the state, and a hearing thereon, if it shall be proved to the satisfaction of said judge, that the person is insane, he may discharge such person from arrest or imprisonment; and, in that case, the creditor shall have a right to make a new arrest, upon the same demand, whenever such debtor shall become of sound mind. But, if such person be arrested on the same demand a second time before he becomes of sound mind, and be discharged again for the same reason, his body shall forever thereafter be exempted from arrest therefor.

Habeas corpus may issue for discharge of an insane person, arrested on mesne process or execution. Effect thereof.

SECTION 25. The one hundred and forty fourth chapter shall be amended, in section, one, by striking out the words, "to her satisfaction;" so that the said first section, as amended, will be as follows: R. S. ch. 144.

SECT. 1. When a woman is entitled to dower, and it is not set out to her by the heir or tenant of the freehold, according to the intentment of the law, nor assigned to her by the judge of probate, she may recover the same by a writ of dower, in the manner hereinafter prescribed.

Right of a widow to sue for dower.

SECTION 26. The one hundred and fifty sixth chapter shall be amended, by adding at the end of the chapter, a new section, as follows: R. S. ch. 156.

SECT. 16. Upon any conviction of burglary, robbery or larceny, unless it be before a justice of the peace for larceny, the court may order a meet recompense to the prosecutor, and also to the officer, who has secured or kept the stolen property, not exceeding their actual expenses, with a reasonable allowance for their time and trouble, to be paid by the county treasurer, and charged by him to the state.

Compensation for expenses of prosecutor to conviction, for larceny, &c. and officer. 1821, 7, § 16.