

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.

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1841.

CHAP. 135. attendance, shall be fined as for contempt, not exceeding twenty dollars.

Same subject. 1821, 84, § 20. **SECT. 26.** Any juror, who is an inhabitant of Portland, who shall so fail of attendance at court, shall be fined not exceeding forty dollars, as for contempt; the fines in this and the preceding section, to be divided among the jurors, who shall attend and serve.

Penalty for fraud by town clerk or selectmen. 1821, 84, § 20. **SECT. 27.** Any town clerk or selectman, who shall be guilty of any fraud in practising on the box previous to the draft, or in the drawing a juror, or in returning the name of a juror into the box, which had been fairly drawn, and drawing another in his stead, or in any other mode, shall be fined not exceeding two hundred dollars.

Recovery, and appropriation of fines. 1821, 84, § 20. **SECT. 28.** All fines, imposed by the twenty first, twenty second, twenty third and twenty fourth sections, shall be for the use of the county, in which the offender dwelt, at the time of the neglect; and be recovered by indictment, information or action by the treasurer of the county, to be commenced within twelve months after commission of the offence.

Same subject. 1821, 84, § 20. **SECT. 29.** All fines imposed by the twenty seventh section, shall be recovered on indictment, one moiety to the use of the state, and the other to the prosecutor thereof.

When no traverse jurors are to be summoned, to the supreme judicial court. 1836, 196, § 2. **SECT. 30.** In each county, in which two terms of the supreme judicial court are annually holden, no traverse jurors shall be summoned to attend at the full or law term, unless the court shall otherwise order.

CHAPTER 136.

OF THE PREVENTION OF FRAUDS AND PERJURIES IN CONTRACTS, AND IN ACTIONS FOUNDED THEREON.

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| <p>SECT. 1. Cases, in which promises must be in writing.</p> <p>2. Consideration need not be expressed therein.</p> <p>3. Representation of another's ability or character, to be in writing.</p> <p>4. What contracts for sale of goods, must be in writing.</p> <p>5. When specific performance of a contract may be enforced by bill in equity.</p> | <p>SECT. 6. Proceedings thereon.</p> <p>7. What decree shall be made.</p> <p>8. Conveyance to be good.</p> <p>9, 10. Enforcement of such decree.</p> <p>11. Provision, in case of the death of the obligee before conveyance.</p> <p>12. Administrator of the contractor may petition for authority to make the conveyance.</p> |
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Cases, in which promises must be in writing. 1821, 53, § 1. **SECTION 1.** No action, shall be brought and maintained in any of the following cases:

First. To charge an executor or administrator, upon any special promise to answer damages out of his own estate;

Secondly. To charge any person, upon any special promise to answer for the debt, default or misdoings of another;

Thirdly. To charge any person, upon an agreement made in consideration of marriage;

Fourthly. Upon any contract for the sale of lands, tenements or hereditaments, or of any interest in or concerning them;

5 Mass. 133. 11 Mass. 342, 533. 3 Greenl. 340. 9 Greenl. 62. 3 Fairf. 506. 15 Maine, 14, 61, 201. 1 Pick. 43, 328. 16 Pick. 227. 17 Pick. 538. 20 Pick. 134.

Fifthly. Upon any agreement, that is not to be performed within one year from the making thereof:

Unless the promise, contract or agreement, upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and be signed by the party to be charged therewith, or by some person thereunto lawfully authorized.

SECT. 2. The consideration of any such promise, contract or agreement need not be set forth, or expressed, in the writing signed by the party to be charged therewith, but may be proved by any other legal evidence.

SECT. 3. No action shall be brought and maintained, to charge any person upon, or by reason of, any representation or assurance, made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance shall be made in writing, and signed by the party to be charged thereby, or by some person, thereunto by him lawfully authorized.

SECT. 4. No contract for the sale of any goods, wares or merchandise, for the price of thirty dollars or more, shall be allowed to be good, unless the purchaser shall accept part of the goods, so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or some note or memorandum, in writing, of the said bargain be made and signed by the party to be charged by such contract, or by his agent, thereunto by him lawfully authorized.

SECT. 5. When any person, who is bound by a contract in writing to convey any real estate, shall die before making the conveyance, the other party may have a bill in equity in the supreme judicial court, to enforce a specific performance of the contract by the heirs, devisees, or by the executor or administrator of the deceased party, such bill to be filed within one year after the grant of administration.

SECT. 6. The court shall hear and decide every such case, according to the proceedings in chancery, and shall make such decree therein, as justice and equity may require.

SECT. 7. If it shall appear that the plaintiff is entitled to have a deed of conveyance, the court may authorize and require the executor or administrator of the deceased party to convey the estate in like manner as the deceased person might and ought to have done, if living; and, if his heirs or devisees, or any of them, are within the state, and competent to act, the court may direct them or any of them, instead of the executor or administrator, to convey the estate in the manner before mentioned, or to join with the executor or administrator in such conveyance.

SECT. 8. Every conveyance, made in pursuance of such decree, shall be effectual to pass the estate contracted for, as fully as if made by the contractor himself.

SECT. 9. If the defendant in such suit shall neglect or refuse to make a conveyance according to the decree, the court may enter judgment, that the plaintiff shall recover judgment for possession of the land contracted for, to hold according to the terms of the intended conveyance, and may issue a writ of seizin thereupon, in the form used in a real action; and the plaintiff, by force of said

CHAP. 136.

4 Greenl. 1, 258.
1 Fairf. 31.
18 Pick. 569.
22 Pick. 97.

Consideration need not be expressed therein.
7 Mass. 233.
17 Mass. 122.
4 Greenl. 180, 387.

Representation of another's ability or character to be in writing.

What contracts for sale of goods must be in writing.
1821, 52, § 3.
11 Mass. 6.
13 Mass. 87.
9 Greenl. 79.
1 Fairf. 374.
21 Pick. 205, 384.

When specific performance of a contract may be enforced by bill in equity.
1821, 52, § 13.
1826, 347, § 2.

Proceedings thereon.
1821, 52, § 13.

What decree shall be made.
1821, 52, § 13.

Conveyance to be good.
1821, 52, § 13.

Enforcement of such decree.

CHAP. 136. writ, having obtained possession of the premises, shall hold the same in like manner, as if conveyed in pursuance of the decree.

Same subject. **SECT. 10.** The preceding section shall not prevent the court from enforcing their decree, by any other proper process, according to chancery proceedings.

Provisions, in case of the death of the obligee before conveyance. **SECT. 11.** If the person, to whom the conveyance was to be made, shall die before such suit is brought, or before the conveyance is completed, any person, who would be entitled to the estate under him as heir, devisee or otherwise, in case the conveyance had been made according to the contract, may commence such suit, or prosecute it, if commenced; and the conveyance shall thereupon be so made, as to vest the estate in the same persons, who would have been so entitled to it.

Administrator of the contractor may petition for authority to make the conveyance. **SECT. 12.** If the party, to whom any such conveyance was to be made, or those claiming under him, shall not commence a suit, as before provided, and if the heirs of the deceased party are under age, or otherwise incompetent to convey the lands contracted for, the executor or administrator of the deceased may file a bill in equity in the supreme judicial court, setting forth the contract and the circumstances of the case, whereupon the court may, by their decree, authorize and require such executor or administrator to convey the estate, in the manner, the deceased should have done: and such a conveyance shall be deemed a performance of the contract on the part of the deceased, and sufficient to entitle his heirs, executors or administrators, to demand a performance thereof on his part.

CHAPTER 137.

OF RECOGNIZANCES FOR DEBTS.

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| <p>SECT. 1. Who may enter into recognizance.</p> <p>2. Form thereof.</p> <p>3. Justice may deliver it to the creditor after recording it.</p> <p>4. May be filed and recorded with clerk of the courts.</p> <p>5. Clerk may issue execution thereon.</p> <p>6. Officers to serve such executions.</p> <p>7. Clerk may renew them.</p> <p>8. When not to run against the lands or body of the debtor.</p> | <p>SECT. 9. Administrator of conusee may sue out execution.</p> <p>10. If conusor die, scire facias may issue against his administrator.</p> <p>11. After three years, writ of scire facias or action of debt will lie.</p> <p>12. Consequence, if one of several conusors or conusees die.</p> <p>13. Remedy, if execution be wrongfully issued.</p> |
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Who may enter into recognizance.

SECTION 1. Any person, capable of binding himself by a common bond, may enter into a recognizance for the payment of a debt, as hereinafter mentioned; and may thereby subject his person, or his goods and estate, to be taken in execution for such debt.

Form thereof. 1821, 77, § 1.

SECT. 2. Such recognizance may be taken before any justice of the peace, and shall be in substance, as follows:

"I, A. B., of _____, in the county of _____, do owe unto C. D., of _____, in the county of _____, the sum of _____ to be paid to the said C. D. on the _____ day of _____; and, if