

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. 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

I shall fail of the payment of said debt, at the time aforesaid, I will and grant, that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof upon my body. CHAP. 137.

In testimony whereof, I have hereto set my hand and seal, this _____ day of _____, in the year _____."

SECT. 3. After such recognizance shall have been signed and sealed, and acknowledged before said justice, and his certificate thereof signed by him, the same shall then be delivered to such creditor or conusee; and the justice shall keep a record of all recognizances, taken by him. Justice may deliver it to the creditor, after recording it. 1821, 77, § 2.

SECT. 4. Should the debt not be paid at the time appointed, and the conusee be desirous to have a writ of execution on the recognizance, he may deliver the same to the clerk of the district court of the county, in which the same was taken; and such clerk shall record the same in a book, kept for that purpose, and place the original on the files of the court. May be filed, and recorded, with clerk of the courts.

SECT. 5. The clerk of the court may thereupon, without any order of court, at any time within three years after such debt became due, issue an execution on such recognizance in the name of the state, varying the established form of execution, so far only, as necessary, and adding to the principal sum due, interest thereon, from the time it became due, and also any interest, secured by the recognizance before its maturity. Clerk may issue execution thereon.

SECT. 6. All proper officers shall be bound to execute the same, and shall be answerable for their neglect, in like manner, as in case of execution issued on a judgment. Officers to serve such executions. 1821, 77, § 2.

SECT. 7. The clerk may renew such execution from time to time, as executions on judgments may be renewed; and all such executions may be directed to the proper officers of any county, and be there executed. Clerk may renew them. 1821, 77, § 2.

SECT. 8. But, if the sum, originally due on such recognizance, did not exceed the sum of twenty dollars, then the clerk shall not issue the execution against the lands of the conusor; and, if the sum be less than ten dollars, the clerk shall not issue execution against the body. When not to run against the lands or body of the debtor.

SECT. 9. If the conusee die before the debt shall be fully paid, his executor or administrator may sue out execution in the same manner, as the conusee might, had he been living; without suing out a scire facias, and the execution shall be varied accordingly. Administrator of conusee may sue out execution.

SECT. 10. If the conusor die before the debt shall be fully paid, no execution shall issue of course; but the conusee may have a writ of scire facias, or an action of debt, to recover the same as in case of a judgment. If conusor die, scire facias may issue against his administrator.

SECT. 11. After the expiration of said three years, from the time set for payment in the recognizance, the conusee may have a scire facias, or action of debt, against the party liable, as in case of a judgment. After three years, writ of scire facias or debt will lie. 1821, 77, § 3. 13 Mass. 493. 1 Greenl. 153.

SECT. 12. When there are several conusors or conusees, and one or more of them shall die before the debt is paid, the rights of the surviving conusees, and the obligations of the surviving conusors, shall be the same, as in case of a judgment. Consequence, if one of several conusors or conusees die.

SECT. 13. Any person, injured by the suing out or service of Remedy, if ex-

CHAP. 137. any such execution, shall have his remedy, by writ of audita querela, or otherwise, as in case the execution had been sued out upon a judgment.

execution be wrongfully issued.

CHAPTER 138.

OF REFERENCE OF DISPUTES, BY CONSENT, BEFORE A JUSTICE OF THE PEACE.

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| <p>SECT. 1. What controversies may be submitted.</p> <p>2. Manner and form of submission.</p> <p>3. Submission of all demands.</p> <p>4. Submission of a specific demand.</p> <p>5. No revocation, but by consent.</p> <p>6. Parties may agree upon the time of reporting.</p> <p>7. Report, how returned into court.</p> <p>8. Power of referees.</p> | <p>SECT. 9. Proceedings of court thereon. Recommitment.</p> <p>10. All the referees must hear, but a majority may decide.</p> <p>11. Costs. Compensation of referees.</p> <p>12. Report may be made to any court, by consent.</p> <p>13. Judgment may be reversed, on writ of error, or exceptions.</p> <p>14. A referee may take acknowledgment or administer oaths.</p> |
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What controversies may be submitted.
1821, 78, § 1.
3 Mass. 1.
5 Greenl. 38.
Manner and form of submission.
1821, 78, § 1.
1824, 262, § 1.
4 Mass. 242,
448.
13 Maine, 41.
20 Pick. 480.

SECTION 1. All controversies, which may be the subject of a personal action, may be submitted to one or more referees, in the manner provided in this chapter.

SECT. 2. The parties may appear, personally or by attorney, before any justice of the peace, and there sign and acknowledge an agreement, in substance, as follows:

“Know all men by these presents, that _____ of _____, in the county of _____, and _____ of _____, in the county of _____, have agreed to submit the demand, made by the said _____, against the said _____, which is hereunto annexed,” (and “all other demands between the parties,” as the case may be,) “to the determination of _____; the report of whom, (or the major part of whom,) being made within one year from this day, to the district court for the said county of _____, the judgment thereon shall be final. And, if either of the parties shall neglect to appear before the referees, after proper notice given to them, of the time and place appointed by the referees for hearing the parties, the referees may proceed in his absence.

Dated this _____ day of _____, in the year _____.”

The foregoing agreement, having been subscribed by the parties, shall be acknowledged by them or their attorneys, as their voluntary act, before the said justice, or any other justice.

SECT. 3. If all demands between the parties are submitted to the decision of the referees, no specific demand need be annexed to the agreement.

SECT. 4. If a specific demand only is submitted, the same shall be annexed to the agreement, and signed by the party making it; and such demands shall be stated in such a manner as to be readily understood, and be as certain, in substance, as the case will admit.

Submission of all demands.
5 Mass. 334.

Submission of a specific demand.
1821, 78, § 1.
3 Mass. 324,
398.
14 Mass. 43.
9 Greenl. 15.