

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.

the final adjudication, when a certiorari is granted, the court may, in their discretion, award costs against any party, who shall appear and undertake to maintain or object to the proceeding in question.

SECT. 13. No such application for a writ of certiorari shall be sustained, unless made therefor within six years next after the proceeding which is complained of, or within six years after this chapter shall take effect; provided, that the saving clause in the tenth section of this chapter shall apply to this section also.

CHAP. 143.

Limitation of applications for certiorari.

CHAPTER 144.

OF THE ACTION OF DOWER.

SECT. 1. Right of a widow to sue for dower.
 2. Previous demand. Time of bringing the action.
 3. Demand upon a corporation, and time for commencing the action.
 4. Pleadings in such action.
 5. Damages for detaining dower.
 6. Suit to be against tenant of the freehold. Liable for damages only whilst in possession.

SECT. 7. Separate action for damages against the person, on whom the demand was made.
 8. Writ of seizin, and proceedings in setting off dower.
 9. Assignment of rents and profits in certain cases.
 10. Recovery of dower by a woman divorced.

SECTION. 1. When a woman is entitled to dower, and it is not set out to her, by the heir, or tenant of the freehold, to her satisfaction, according to the intendment 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.
 1821, 40, § 1.

SECT. 2. She must demand her dower of the person, who is seized of the freehold at the time of making the demand, if he be in this state, otherwise, of the tenant in possession, and shall not commence her action to recover the same before the expiration of one month after making such demand, nor after the expiration of one year from the same time; but this shall not preclude her making a new demand and commencing an action thereon, if an action should not be brought within one year after the first demand.

Previous demand. Time for bringing the action.
 1821, 40, § 1.

SECT. 3. When any corporation is the tenant of the freehold, she must demand her dower in writing of any officer of such corporation, on whom by law, a writ in a civil action against the same may be served; but she shall not commence her action against such corporation before the expiration of sixty days, nor after the expiration of one year from such demand; but a second demand may be made, if necessary, as provided in the preceding section.

Demand upon a corporation, and time for commencing the action.
 1839, 363, § 1.

SECT. 4. In an action of dower, the defendant may plead in abatement, that he is not tenant of the freehold, but not in bar of the action.

Pleadings in such action.
 1839, 363, § 2.

SECT. 5. If the demandant recovers judgment for her dower, she shall also in the same action recover her damages for the detention thereof.

Damages for detaining dower.
 1821, 40, § 2.

SECT. 6. The action shall be brought against the person, who

Suit to be a-

CHAP. 144. is tenant of the freehold at the time the suit is commenced ; but, if he is not the same person against whom demand is made, he shall be liable for damages only for the time, during which he held the possession.

gainst tenant of the freehold. Liable for damages only whilst in possession. 1 Mass. 469.

Separate action for damages against the person on whom the demand was made.

Writ of seizin, and proceedings in setting off dower. 1821, 40, § 2.

Assignment of rents and profits in certain cases. 1821, 40, § 3.

Recovery of dower by a woman divorced. 1821, 71, § 5.

SECT. 7. In the case mentioned in the preceding section, if the demandant shall recover her dower and damages in the writ of dower, she may afterwards maintain an action on the case, against the prior tenant of the freehold, of whom her demand was made, for the rents and profits for the time, during which he held the premises, after the making of the demand.

SECT. 8. When judgment for her dower is rendered in favor of the demandant, a writ of seizin shall be issued, requiring the proper officer to cause her dower to be assigned and set out to her by three disinterested persons, to be appointed by the plaintiff, defendant and officer, as in case of the levy of an execution on land ; they shall be duly sworn, to set out the same equally and impartially, and as conveniently as may be, and according to their best skill and judgment ; and the officer shall make return of the writ and doings thereon to the court, with the assignment of dower indorsed thereon, or annexed thereto ; which being accepted, shall be conclusive.

SECT. 9. When the estate, out of which the dower is to be assigned, consists of a mill or other tenement, which cannot be divided without damage to the whole, the dower may be assigned of the rents and profits thereof, to be had and received by the demandant, as tenant in common with the other owners of the estate.

SECT. 10. Any woman, who is divorced from her husband, for his fault, may recover her dower in the manner before provided, against her former husband, or whoever shall be the tenant of the freehold.

CHAPTER 145.

OF REAL ACTIONS.

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| <p>SECT. 1. All writs abolished, but writs of entry.</p> <p>2. Saving, in favor of infants, and certain others.</p> <p>3. Recovery of estates by writ of entry. Mode of service.</p> <p>4, 5. Allegations in the declaration.</p> <p>6. Proof of seizin.</p> <p>7. Right of entry must be proved.</p> <p>8. Such right of entry not defeated by descent or discontinuance.</p> <p>9, 10. Who may be considered a disseisor. Disclaimer.</p> <p>11. Proof, to entitle the demandant to recover, on trial.</p> <p>12. Joinder of demandants.</p> | <p>SECT. 13. Demandant may recover, upon proof of title.</p> <p>14. Recovery of damages by demandant.</p> <p>15, 16, 17. Estimation of rents and profits.</p> <p>18. Recovery of damages against other persons.</p> <p>19. Real actions not to abate by death or intermarriage of a party. Proceedings in such case.</p> <p>20. Appointment of guardians for minors ; amendments.</p> <p>21. Writs of possession to conform to the case. Estoppel.</p> <p>22. Allowance of costs, and stay of execution, in such case.</p> |
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**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.