

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.

CHAP. 146. after any cause of action shall have accrued, the person against whom it shall have accrued, shall be absent from, and reside without the state, the time of his absence shall not be taken, as any part of the time limited for the commencement of the action.

Limitation of actions against executors and administrators.
 13 Mass. 201.
 15 Mass. 6.
 16 Mass. 429.
 1 Greenl. 156.
 3 Greenl. 17.
 5 Greenl. 108.
 14 Maine, 254, 320.
 4 Pick. 283.
 5 Pick. 140, 321.
 6 Pick. 276.
 8 Pick. 108, 394.

SECT. 29. No executor or administrator, after having given bond and notice of his appointment, as provided in chapter, one hundred and twenty, shall be held to answer to the suit of any creditor of the deceased, unless it shall be commenced within four years from the time of his giving bond, as aforesaid; excepting in the cases mentioned in said one hundred and twentieth chapter, where the provisions are distinctly stated.

CHAPTER 147.

OF LIMITATIONS OF REAL ACTIONS AND OF RIGHTS OF ENTRY.

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| <p>SECT. 1. Rights of entry and of action, barred in twenty years.</p> <p>2. From what time computation is to be made.</p> <p>3, 4, 5. When such right shall be deemed to have accrued.</p> <p>6. When action may be brought by a minister or other sole corporation.</p> <p>7. Saving, in favor of infants, and certain other disabled persons.</p> <p>8. Further saving, if the person, first entitled, die during such disability.</p> <p>9. Consequence, if tenant in tail, or remainder man die before the expiration of the limitation.</p> | <p>SECT. 10. Time, when the foregoing limitations shall take effect. Saving, as to minors, and certain others.</p> <p>11. What shall constitute such a disseizin as to bar the right of recovery.</p> <p>12. Limitation of actions by the state.</p> <p>13. Limitations not to take effect, in certain cases, where first suit fails.</p> <p>14. Right of way, or other easement, when acquired by adverse user.</p> <p>15. Notice, to prevent such acquisition.</p> <p>16. Such notice, how given.</p> |
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Rights of entry and of action, barred in twenty years.
 1821, G2, § 3.
 10 Pick. 297.

SECTION 1. No person shall commence any real or mixed action for the recovery of lands, or make an entry thereon, unless within twenty years after the right to make such entry, or bring such action, first accrued; or within twenty years after he, or those, under or from whom he claims, shall have been seized or possessed of the premises; except as hereinafter provided.

From what time computation is to be made.
 14 Maine, 163.

SECT. 2. If such right or title first accrued to an ancestor or predecessor of the person, who brings the action or makes the entry, or to any other person from, by or under whom he claims, the said twenty years shall be computed from the time, when the right or title so first accrued to such ancestor, predecessor or other person.

When such right shall be deemed to have accrued.

SECT. 3. In the construction of this chapter, the right of entry, or of action to recover land, shall be deemed to have first accrued at the respective times hereinafter mentioned:

First. When a person shall be disseized, his right of entry shall be deemed to have accrued at the time of such disseizin;

Second. When he claims, as heir or devisee of one who died seized, his right shall be deemed to have accrued at the time of such death, unless there is a tenancy by the curtesy or other estate, intervening after the death of such ancestor or devisor; in which

case, his right shall be deemed to accrue, when such intermediate estate shall expire, or when it would have expired, by its own limitation ;

Third. When there is such an intermediate estate, and, in all cases, when the party claims by force of any remainder or reversion, his right, so far as it is affected by the limitation herein prescribed, shall be deemed to accrue, when the intermediate estate would have expired by its own limitation, notwithstanding any forfeiture thereof, for which he might have entered at an earlier time.

SECT. 4. The preceding clause shall not prevent any person from entering, when entitled to do so, by reason of any forfeiture or breach of condition ; but, if he claims under such a title, his right shall be deemed to have accrued, when the forfeiture was incurred, or the condition broken.

Same subject.

SECT. 5. In all cases not specially provided for, the right of entry shall be deemed to have accrued, when the claimant or the person under whom he claims, first became entitled to the possession of the premises under the title, upon which the entry or action is founded.

Same subject.

SECT. 6. If any minister or other sole corporation shall be disseized, any of his successors may enter upon the premises, or may bring an action for the recovery of them, at any time within five years after the death, resignation or removal of the person disseized, notwithstanding the twenty years after the disseizin shall have expired.

When action may be brought by a minister, or other sole corporation.

SECT. 7. If, at the time when such right of entry, or of action upon or for any lands, shall first accrue, the person, entitled to such entry or action, shall be within the age of twenty one years, or a married woman, insane, imprisoned, or absent from the United States, such person, or any one claiming from, by or under him, may make the entry, or bring the action at any time within ten years after such disability shall be removed, notwithstanding the twenty years, before limited in that behalf, shall have expired.

Saving, in favor of infants, and other disabled persons. 1821, 62, § 4. 13 Maine, 397.

SECT. 8. If the person, first entitled to make such entry or bring such action, shall die during the continuance of any of the disabilities mentioned in the preceding section, and no determination or judgment shall have been had of or upon the title, right or action which accrued to him, the entry may be made, *on* [or] the action brought by his heirs, or any other person claiming from, by or under him, at any time within ten years after his death, notwithstanding the said twenty years shall have elapsed ; but no such further time for making such entry, or bringing such action, beyond what is herein before prescribed, shall be allowed, by reason of the disability of any other person.

Further saving, if the person, first entitled, die during such disability. 1821, 62, § 4.

SECT. 9. When a tenant in tail, or a remainder man in tail, shall die, before the expiration of the period herein before limited for making any entry, or bringing an action for lands, no person claiming any estate, which such tenant in tail or remainder man might have barred, shall make an entry, or bring an action, to recover such land, but within the period, during which the tenant in tail, or remainder man, if he had so long lived, might have made such entry, or brought such action.

Consequence, if tenant in tail, or remainder man, die before expiration of the limitation. 6 Mass. 323.

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Time, when the foregoing limitations shall take effect. Saving, as to minors, and certain others. 16 Pick. 161.

SECT. 10. The limitations, herein before prescribed, as to the time, within which an action may be brought to recover any land, shall take effect from and after the first day of April, in the year one thousand, eight hundred and forty three; and, if any person, who shall then be entitled to bring any real action, which is to be abolished after that day, as is mentioned in chapter, one hundred and forty five, shall then be within the age of twenty one years, a married woman, insane, imprisoned, or without the limits of the United States, the action may be brought at any time within five years after such disability shall cease, or after the death of the person, so disabled: provided, that no such action shall be maintained, after it would have been barred by the statutes of limitation in force, and immediately before the time when this chapter shall become a law.

What shall constitute such a disseizin, as to bar the right of recovery. 1821, 62, § 6. 4 Mass. 416. 10 Mass. 146. 13 Maine, 131.

SECT. 11. To constitute a disseizin, or such exclusive and adversary possession of lands, as to bar or limit the right of the true owner thereof to recover the same, it shall not be necessary, that such lands shall be surrounded with fences, or rendered inaccessible by water; but it shall be sufficient, if the possession, occupation and improvement are open and notorious, and comporting with the ordinary management of a farm; although that part of the same, which composes the woodland belonging to such farm, and used therewith as a wood lot, shall not be inclosed as before mentioned.

Limitation of actions by the state.

SECT. 12. No real or mixed action, for the recovery of any lands, shall be commenced by or on behalf of the state, unless within twenty years from and after the day, on which this chapter shall become a law, or within twenty years next after the time of the accruing of the title to the state.

Limitations not to take effect, in certain cases, where first suit fails.

SECT. 13. When any writ, in a real or mixed action, shall fail of sufficient service or return by an unavoidable cause, or by the default or negligence of any officer to whom it was delivered, or directed for service, or when such writ shall be abated, or the action otherwise avoided or defeated for any matter of form, or by the death or intermarriage or other disability of either party, accruing since the last continuance, or if a judgment for the demandant shall be reversed on a writ of error, the demandant may commence a new action, at any time within six months after abatement or determination of the first suit, or reversal of the judgment of the same.

Right of way, or other easement, when acquired by adverse user.

SECT. 14. No person shall acquire any right or privilege of way, air or light, or any other easement, from, in, upon or over the land of another, by the adverse use and enjoyment thereof; unless such use shall have been continued, uninterrupted for twenty years.

Notice, to prevent such acquisition.

SECT. 15. The owner of the land, in such cases, for the purpose of preventing such right, as is mentioned in the preceding section, may give notice, in writing, to the person claiming such right or privilege, of his intention to contest such right or easement; and such notice, being served and recorded, as hereinafter stated, shall be deemed an interruption of such use, and prevent the acquisition of a right thereto, by continuance of the use thereof for any length of time.

Such notice, how given.

SECT. 16. Such notice may be given by an officer, as in civil

actions, by his giving to such claimant, or his agent or guardian, if CHAP. 147.
 in the state, an attested copy of such writing, or by leaving the
 same at his dwelling house; or, if not resident in the state, then a
 copy may be left with the tenant or occupant, if there be one, of
 the estate; and, if not, then such copy shall be affixed to the house
 or other conspicuous part of the premises; and the return of the
 officer shall be made on the original writing, and the whole be
 recorded in the registry of deeds in the county, or registry district,
 within which such estate lies, within three months from the time
 of such service: and such notice may be given by the agent or
 guardian of the owner of the land.

CHAPTER 148.

OF THE RELIEF OF POOR DEBTORS.

ARTICLE I. OF ARRESTS AND DISCLOSURES ON MESNE PROCESS.

- SECT. 1. No arrest on mesne process on contract, except where specially provided.
2. Debtor, about to leave the state, may be arrested in certain cases.
 3. Disclosure, on such arrest.
 4. Notice to be given to the plaintiff.
 5. Mode of making disclosure.
 6. Justices may adjourn.
 7. Adjudication of the justices; effect of discharge.
 8. Lien on property disclosed, how preserved.
 9. Arrests allowed, in actions not founded on contract.
 10. Defendant may, in all cases, disclose, on return of writ.
 11. Effect thereof; lien on property disclosed.
 12. Certificate of real estate disclosed, to be filed in registry of deeds.
 13. Preservation of lien on personal estate.
 14. Disclosure on mesne process, by consent of parties.
 15. Execution to issue against the body, unless there be a disclosure and discharge.
 16. Certain property, not attachable, to be delivered up, on disclosure.
 17. Persons arrested may give bond to disclose in a certain time after judgment.

ARTICLE II. OF ARRESTS AND IMPRISONMENT ON EXECUTION, AND OF DISCLOSURES THEREON, OR AFTER JUDGMENT, AND EFFECT THEREOF.

- SECT. 18. No arrest on execution on contract, if debt be less than ten dollars.
19. Arrests in other cases, and object thereof.
 20. Bond may be given on such arrest. Condition and effect thereof.
 21. Application to a justice, by a debtor under bond or imprisoned, for privilege of the poor debtor's oath.
 22. Justice to appoint the place, and cite the creditor.
 23. Citation, how served.
 24. Examination before two justices of the quorum.
 - 25, 26. Mode of examination.
 27. When the justices shall administer the oath.
 28. Form of the poor debtor's oath.
 29. Certain property disclosed, not liable to attachment, may be appraised off to the creditor.
 30. Creditor may accept it, within thirty days.
 31. Justices' certificate of administration of the oath.
 32. Effect of such certificate.
 33. Preservation of creditor's lien on real estate disclosed.
 34. Lien on personal estate disclosed. Consequence, if debtor, or any person, transfer or conceal the same.
 35. Proceedings, if debtor have given bond, on mesne process.
 36. Debtor, in such case, may go at large thirty days, during the lien on the property disclosed.