

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

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PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

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BANGOR:  
WHEELER & LYNDE.

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1857.

CHAP. 111.

and competent to act, the court may direct them, instead of the executor or administrator, to convey the estate or join with either in such conveyance; which shall pass the estate as fully as if made by the contractor.

Enforcement of decree, &c.  
R. S., c. 136,  
§ 9, 10.

SEC. 8. If the defendant neglects or refuses to convey according to the decree, the court may render judgment for the plaintiff for possession of the land, to hold according to the terms of the intended conveyance, and issue a writ of seizin as in a real action, under which the plaintiff, having obtained possession, shall hold the premises as effectually as if conveyed in pursuance of the decree; or the court may enforce their decree by any other process according to chancery proceedings.

Provision in case of the death of the obligor before conveyance.  
R. S., c. 136,  
§ 11.

SEC. 9. If the person, entitled to such conveyance, dies before bringing his suit, or before the conveyance is completed, or such seizin and possession are obtained, his heir, devisee, or other person entitled to the estate under him, may bring and prosecute such suit, and shall be entitled to the conveyance, or seizin and possession, in like manner as the obligee.

Administrator may petition for authority to make conveyance.  
R. S., c. 136,  
§ 12.

SEC. 10. If the party, to whom any such conveyance was to be made, or those claiming under him, do not commence a suit as before provided, and 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 circumstances of the case; whereupon the court, by their decree, may authorize such executor or administrator to convey the estate as the deceased should have done; and such conveyance shall be deemed a performance of the contract, on the part of the deceased, so as to entitle his heirs, executors, or administrators, to demand a performance thereof on his part.

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## CHAPTER 112.

### RECOGNIZANCES FOR DEBTS.

- SEC. 1. Who may enter into recognizance.
2. Form of recognizance.
3. The justice, after recording it, to deliver it to the creditor.
4. May be filed and recorded with clerk of the courts; who may issue and renew execution thereon, to be executed by all proper officers.
5. When not to run against the lands or body of the debtor.
6. Administrator of creditor may take out execution; if debtor dies, or after three years, action of debt may be brought as on a judgment.
7. Consequence, if one of several debtors or creditors dies.
8. Remedy, if execution is wrongfully issued.

Who may enter into recognizance.  
R. S., c. 137,  
§ 1.

SEC. 1. Any person, legally capable, may enter into recognizance to pay a debt, as herein provided; and thereby subject his goods and estate, or his person, to be taken in execution.

SEC. 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 fail to pay said debt at the time aforesaid, I will and grant that the said debt be levied of my goods and chattels, lands, and tenements, and in want thereof upon my body.

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

SEC. 3. After such recognizance is signed, sealed, and acknowledged before said justice, and his certificate thereof is annexed, it shall be delivered to the creditor; and the justice shall keep a record of all recognizances taken by him.

SEC. 4. If the debt is not paid at the time appointed, the creditor may deliver the recognizance to the clerk of the court of the county where taken, who shall record it in a book kept for that purpose, and place it on the files of the court; and at any time within three years after the debt becomes due, without any order of court, he may issue an execution thereon, including all interest due by the terms of the recognizance, varying the form of the execution accordingly, to be renewed by the clerk, served, and executed by all proper officers, as any other execution.

SEC. 5. If the sum originally due on such recognizance does not exceed twenty dollars, execution shall not be issued against the lands of the debtor; and if the sum is less than ten dollars, it shall not be issued against his body.

SEC. 6. If the creditor dies before the debt is fully paid, his executor or administrator may renew such execution in his own name; and if the debtor dies, no execution shall issue of course, but the creditor in that case, and also after the expiration of three years from the time of payment in the recognizance, may have an action of debt as in case of judgment.

SEC. 7. Where there are several debtors or creditors, and one or more of them dies before the debt is paid, the rights of the surviving creditors, and the obligations of the surviving debtors, shall be the same as in case of a judgment.

SEC. 8. Any person, injured by the suing out or service of 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.

CHAP. 112.

Form of  
recognizance.  
R. S., c. 137,  
§ 2.

The justice,  
after recording  
it, to deliver it  
to the creditor.  
R. S., c. 137,  
§ 3.

May be filed  
and recorded  
with clerk of  
the courts, &c.  
R. S., c. 137,  
§ 4, 5, 6, 7.

When not to  
run against the  
lands or body  
of the debtor.  
R. S., c. 137,  
§ 8.

Administrator  
may take out  
execution, &c.  
1 Greenl. 159.  
R. S., c. 137,  
§ 9, 10, 11.

Consequence,  
if one of sev-  
eral debtors or  
creditors dies.  
R. S., c. 137,  
§ 12.

Remedy, if  
execution is  
wrongfully  
issued.  
R. S., c. 137,  
§ 13.