

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

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CHAPTER 73.**CONVEYANCES BY DEED, THEIR FORM AND CONSTRUCTION. TRUSTS.**

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29. Pews deemed real estate. Record of deeds and levies of them may be made by town clerk.

SEC. 1. A person owning real estate and having a right of entry into it, whether seized of it or not, may convey it, or all his interest in it, by a deed to be acknowledged and recorded as hereinafter provided. Down trees lying on land at the time of conveyance, are real estate and pass by the deed; but if they are peeled, or cut into wood, logs or other lumber, they are personal property, and the owner may remove them in a reasonable time thereafter. Carpets and carpeting, stoves and funnels belonging thereto, are not real estate and do not pass by a deed thereof.

Conveyance by deed. What passes as realty, and what not. R. S. c. 73, § 1. 1866, c. 15. 1867, c. 88. 13 Me. 281. 47 Me. 595. 56 Me. 45, 126.

SEC. 2. An alien may take, hold, convey, and devise, real estate or any interest therein. All conveyances and devises of such estate or interest already made by or to an alien, are confirmed and made valid.

An alien may hold and convey real estate. R. S. c. 73, § 2.

SEC. 3. When a contingent remainder, executory devise, or estate in expectancy, is so limited to a person, that it will, in case of his death before the happening of such contingency, descend in fee simple to his heirs, he may, before it happens, convey or devise it subject to the contingency.

Contingent estates may be conveyed. R. S. c. 73, § 3. 45 Me. 90.

SEC. 4. A person seized of land as tenant in tail may convey it in fee simple. When a minor is so seized of land, his guardian, duly licensed to sell it for his support and education, or to invest the proceeds for his benefit, may convey it in fee simple. When land is owned by one person for life with a vested remainder in tail in another, they may by a joint deed convey the same in fee simple. Such conveyances bar the estate tail and all remainders and reversions expectant thereon.

Entailments may be barred by conveyance in fee simple. R. S. c. 73, § 4.

SEC. 5. A conveyance of a greater estate than he can lawfully convey, made by a tenant for life or years, will pass what estate he has, and will not work a forfeiture, and no expectant estate can be defeated by any act of the owner of the precedent estate, or by any destruction of it, except as provided in the preceding section.

Conveyance of a greater estate, conveys what is owned. R. S. c. 73, § 5.

SEC. 6. A conveyance or devise of land to a person for life and to his heirs in fee, or by words to that effect, shall be construed to vest an estate for life only in the first taker, and a fee simple in his heirs.

Effect of conveyance or devise to one for life and to his heirs. R. S. c. 73, § 6.

SEC. 7. Conveyances not in mortgage, and devises of land to two or more persons, create estates in common, unless otherwise

Conveyances to two or more. R. S. c. 73, § 7.

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24 Me. 482.

46 Me. 250.

Not effectual against others, unless recorded.

R. S. c. 73, § 8.

SEC. 8. No conveyance of an estate in fee simple, fee tail, or for life, or lease for more than seven years, will be effectual against any person, except the grantor, his heirs, and devisees, and persons having actual notice thereof, unless the deed is recorded as herein provided. (a)

Absolute deed not defeated by defeasance not recorded.
R. S. c. 73, § 9.

SEC. 9. A deed, purporting to convey an absolute estate in land, cannot be defeated by an instrument intended as defeasance, as against any other person than the maker, his heirs, and devisees, unless such instrument is recorded in the registry where the deed is recorded.

No estate in lands greater than tenancy at will, unless by writing signed.
R. S. c. 73, § 10.

SEC. 10. There can be no estate created in lands greater than a tenancy at will, and no estate in them can be granted, assigned or surrendered, unless by some writing signed by the grantor, or maker, or his attorney. (b)

No trust in lands unless by writing, or resulting.
R. S. c. 73, § 11.

SEC. 11. There can be no trust concerning lands, except trusts arising or resulting by implication of law, unless created or declared by some writing signed by the party or his attorney. (c)

Titles to estates not defeated by trusts without notice or record.
R. S. c. 73, § 12.
18 Me. 220.
46 Me. 250.

SEC. 12. The title of a purchaser for a valuable consideration, or a title derived from levy of an execution, cannot be defeated by a trust, however declared or implied by law, unless the purchaser or creditor had notice thereof. When the instrument, creating or declaring it, is recorded in the registry where the land lies, that is to be regarded as such notice.

Trustees in mortgage hold in joint tenancy. Survivors can convey.
R. S. c. 73, § 13.

SEC. 13. When real estate is conveyed in mortgage and in trust to two or more persons, with power to appoint a successor to one deceased, it is to be considered as held in joint tenancy, unless otherwise expressed. When one or more of the trustees, by death or otherwise, is divested of his interest, those remaining may convey such interest upon the same trusts, without impairing the joint tenancy, to trustees by them appointed, who will hold the title, have the rights, and be subject to the liabilities of the other trustees. Personal property, with real estate and upon the same trusts, is to be considered as held as the real estate is; and it may be conveyed by the remaining trustees with the real estate and held in like manner.

Deed of release conveys the interest of grantor. Deed of husband and wife conveys her interest.
R. S. c. 73, § 14.
43 Me. 432.
45 Me. 67.

SEC. 14. A deed of release or quitclaim of the usual form will convey the estate, which the grantor has and can convey by a deed of any other form. A joint deed of husband and wife will convey her estate, in which the husband has an interest.

(a) 19 Me. 274; 23 Me. 165, 170, 246; 29 Me. 140; 7 Me. 195, 464; 26 Me. 484; 32 Me. 287; 40 Me. 569; 43 Me. 519, 577.

(b) 13 Me. 209; 16 Me. 212; 20 Me. 18; 9 Me. 62; 56 Me. 126.

(c) 11 Me. 9; 16 Me. 268; 22 Me. 408; 23 Me. 269; 23 Me. 355; 29 Me. 410; 30 Me. 121; 33 Me. 530; 35 Me. 41.

SEC. 15. Deeds and contracts, executed by an authorized agent of an individual or corporation in the name of his principal, or in his own name for his principal, are to be regarded as the deeds and contracts of such principal.

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Deeds and contracts by agent bind principal.
R. S. c. 73, § 15.
1 Me. 231, 339.
23 Me. 55.

SEC. 16. Conveyances, in whatever form, made to the inhabitants of a county, or to their treasurer, or to a person or committee for its benefit, are as effectual as if made in the corporate name of the county.

Conveyances for benefit of county, how effectual.
R. S. c. 73, § 16.

SEC. 17. Deeds are to be acknowledged by the grantors, or one of them, or by their attorney executing the same, before a justice of the peace in this state, or any justice of the peace, magistrate, or notary public within any of the United States, or before any minister or consul of the United States, or notary public in any foreign country.

Deeds to be acknowledged.
R. S. c. 73, § 17.
17 Me. 418.
37 Me. 423.
20 Me. 413.

SEC. 18. When a grantor or lessor dies, or departs from the state without acknowledging his deed, its execution may be proved by a subscribing witness before any court of record in this state. No deed without one subscribing witness can, for this purpose, be proved before any court or justice.

When grantor dead or out of state, execution may be proved.
R. S. c. 73, § 18.

SEC. 19. When the witnesses are dead or out of the state, the hand writing of the grantor and subscribing witness may be proved by other testimony.

Execution how proved, when witnesses dead or out of the state.
R. S. c. 73, § 19.

SEC. 20. When a grantor refuses to acknowledge his deed, the grantee or person claiming under him may leave a true copy of it with the register of deeds, and it shall have the same effect for forty days as a record of the deed.

When grantor refuses to acknowledge, copy may be left with register.
R. S. c. 73, § 20.

SEC. 21. In such case, a justice of the peace where the grantor resides, or where his land lies, upon application of the grantee or person claiming under him, may summon the grantor to appear before him at a time and place named, to hear the testimony of the subscribing witnesses. The date of the deed, the names of the parties, and of the subscribing witnesses to it, must be stated in the summons, which must be served seven days before the time for proving the deed.

Grantor may be summoned before a justice and execution proved.
R. S. c. 73, § 21.

SEC. 22. When the justice at such hearing is satisfied by the testimony of witnesses, that they saw the deed duly executed by the grantor, he shall certify the same thereon, and state, in his certificate, the presence or absence of the grantor.

Justice, if satisfied, to certify on deed that it has been proved.
R. S. c. 73, § 22.

SEC. 23. A certificate of acknowledgment, or proof of execution as aforesaid, must be endorsed on or annexed to the deed, and then the deed and certificate may be recorded in the registry of deeds. No deed can be recorded without such certificate. (a)

Certificate of acknowledgment or proof to be put on deed, and none recorded without it.
R. S. c. 73, § 23.

SEC. 24. When a person, authorized to take acknowledgments, takes and certifies one in good faith after the expiration of his commis-

Certificate made after commission expired, valid.
R. S. c. 73, § 24.
37 Me. 423.

(a) 17 Me. 418; 19 Me. 274; 37 Me. 423.

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How a deed, lost before recording, may be effectually recorded.
1868, c. 204,
§§ 1, 2, 3, 4, 5.

SEC. 25. If a deed, duly executed and delivered, is lost or destroyed before being recorded, the grantee or person claiming under him, may file a copy of it in the registry of deeds in the county where the land lies; and it shall have the same effect as a record for ninety days; and he may thereupon proceed to have the depositions of the subscribing witnesses and others knowing the facts, taken as depositions are taken in perpetuum; but if any person supposed to have an adverse interest lives out of the state in an unknown place, a justice of the supreme judicial court in session or vacation, may order notice of the taking of such depositions by publication as he deems proper; and the filing and recording of such depositions and copy within said ninety days, shall have the same effect as if the deed itself had been recorded when said copy was first filed; and certified copies thereof shall be evidence when the original would be.

How a deed conveying lands in more than one county, lost before recorded in all, may be recorded in the others.
1869, c. 23.

SEC. 26. If a deed conveying lands in more than one county is lost before recorded in all, a certified copy from a registry where it has been recorded, may be recorded in any other county, and have the same effect as a record of the original.

How a person holding an unrecorded deed, may be compelled to have it recorded.
1865, c. 330.

SEC. 27. A person having an interest in real estate of which any prior grantee has an unrecorded deed or other evidence of title, may give the latter personal notice in writing to have the same recorded, and tender to him, or leave with the register, the legal fees therefor; and if he neglects to have it so recorded for thirty days, a justice of the supreme judicial court in session or vacation, on complaint, may cause said grantee or his heirs to be brought before him for examination, and unless sufficient cause is shown for such neglect, may order such deed or other evidence of title to be recorded, and the cost paid by the respondent.

Register to certify on deed when received, and enter it with names of parties in a book open to all.
R. S. c. 73, § 25.
12 Me. 499.
17 Me. 391.

SEC. 28. The register shall certify, on each deed by him recorded, the time when it was received, and it shall be considered as recorded at that time. Within one hour after its delivery to him, he shall enter such time, the names of the grantor and grantee, and their places of residence, in a book for that purpose, and open to inspection in business hours.

Pews deemed real estate. Deeds and levies thereof may be recorded in town clerk's office.
R. S. c. 73, § 26.

SEC. 29. Pews and rights in houses of public worship are deemed to be real estate. Deeds of them, and levies by execution upon them, may be recorded by the town clerk of the town where the houses are situated, with the same effect as if recorded in the registry of deeds.