

# 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.

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BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
PUBLISHED BY BAILEY & NOYES.

## CHAP. 111.

## CHAPTER 111.

PREVENTION OF FRAUDS AND PERJURIES IN CONTRACTS, AND ACTIONS  
FOUNDED THEREON.

- SEC. 1. Cases in which promises must be in writing, but the consideration need not be expressed therein.
2. No action to be maintained on a contract made by a minor, unless ratified after becoming of age.
  3. Representation of another's ability or character, to be in writing.
  4. What contracts for sale of goods must be in writing.
  5. Agreement that goods sold and delivered and note taken therefor, shall remain the payee's, void unless in the note and recorded; clerk's fees for recording.
  6. When specific performance of a contract may be enforced by a bill in equity.
  7. What decree to be made; the conveyance to be good.
  8. Enforcement of the decree by writ of seizin.
  9. Provision in case of the death of the obligee before conveyance.
  10. Administrator of the contractor may petition for authority to make conveyance.

Cases in which promises must be in writing; but the consideration need not be expressed therein.  
R. S. c. 111, §§ 1, 2.

SEC. 1. No action shall be maintained in any of the following cases:

*First.*—To charge an executor or administrator upon any special promise to answer damages out of his own estate.

*Second.*—To charge any person upon any special promise to answer for the debt, default, or misdoings of another. (a)

*Third.*—To charge any person upon an agreement made in consideration of marriage.

*Fourth.*—Upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them. (b)

*Fifth.*—Upon any agreement that is not to be performed within one year from the making thereof. (c)

*Sixth.*—Upon any contract to pay a debt after a discharge therefrom under the bankrupt laws of the United States, or assignment laws of this state.

Unless the promise, contract, or agreement, on which such action is brought, or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or by some person thereunto lawfully authorized; but the consideration thereof need not be expressed therein, but may be proved otherwise. (d)

(a) 7 Me. 356; 21 Me. 410, 545; 22 Me. 395; 26 Me. 341; 36 Me. 113; 41 Me. 559; 46 Me. 141.

(b) 12 Me. 24, 506; 15 Me. 14, 61, 201; 16 Me. 212; 18 Me. 16; 22 Me. 360; 23 Me. 131; 35 Me. 213; 38 Me. 237; 41 Me. 298; 48 Me. 344; 53 Me. 147, 394; 54 Me. 196, 405; 55 Me. 105.

(c) 10 Me. 31; 15 Me. 201; 20 Me. 119; 31 Me. 555; 46 Me. 154; 56 Me. 187, 371.

(d) 3 Me. 409; 4 Me. 1, 258; 53 Me. 20.

SEC. 2. No action shall be maintained on any contract made by a minor, unless he, or some person lawfully authorized, ratified it in writing after he arrived at the age of twenty-one years, except for necessities, or real estate of which he has received the title and retains the benefit.

CHAP. 111.  
No action on a contract made by a minor, unless ratified after age.  
R. S. c. 111, § 3.

SEC. 3. No action shall be maintained to charge any person by reason of any representation or assurance, concerning the character, conduct, credit, ability, trade or dealings of another, unless made in writing, and signed by the party to be charged thereby or by some person by him legally authorized.

Representation of another's ability to be in writing.  
R. S. c. 111, § 4.

SEC. 4. No contract for the sale of any goods, wares, or merchandize, for thirty dollars or more, shall be valid, unless the purchaser accepts and receives part of the goods, or gives something in earnest to bind the bargain, or in part payment thereof, or some note or memorandum thereof is made and signed by the party to be charged thereby, or by his agent. (a)

What contracts for sale of goods must be in writing.  
R. S. c. 111, § 5.

SEC. 5. No agreement that personal property bargained and delivered to another, for which a note is given, shall remain the property of the payee till the note is paid, is valid, unless it is made and signed as a part of the note; nor when it is so made and signed in a note for more than thirty dollars, unless it is recorded like mortgages of personal property, and on receipt of twenty-five cents each, town clerks shall record such notes in a book kept for that purpose.

Agreement that goods sold and delivered, and note taken therefor, shall remain payee's, void, unless in the note and recorded.  
Clerk's fees for recording.  
1870, c. 143.

SEC. 6. If a person, who has contracted in writing to convey real estate, dies before making the conveyance, the other party may have a bill in equity in the supreme judicial court to enforce specific performance thereof, against his heirs, devisees, executors or administrators, if commenced within three years from the grant of administration, or the time when he is entitled to such conveyance, but not exceeding four years after the grant of administration, if written notice of the the existence of the contract, is given to the executor or administrator within one year after the grant of administration.

When specific performance of contract to convey real estate may be enforced after death of contractor.  
R. S. c. 111, § 6.  
1868, c. 167.

SEC. 7. If it appears that the plaintiff is entitled to a conveyance, the court may authorize and require the executor or administrator to convey the estate as the deceased ought to have done; and if any of the heirs or devisees are in the state, 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.

What decree to be made.  
Conveyance to be valid.  
R. S. c. 111, § 7.

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

Decree may be enforced by writ of seizin.  
R. S. c. 111, § 8.

(a) 9 Me. 79; 12 Me. 374; 13 Me. 424; 19 Me. 137; 26 Me. 397; 39 Me. 93; 41 Me. 65, 523; 48 Me. 211, 379; 53 Me. 508; 54 Me. 105.

CHAP. 112. 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 obligee before conveyance.  
R. S. c. 111, § 9.

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. 111, § 10.

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

Who may enter into recognizance, and the form thereof.  
R. S. c. 112, §§ 1, 2.

SEC. 1. Any person legally capable, may recognize to pay a debt by signing, sealing and acknowledging a recognizance before a justice of the peace, 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