

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY LORING, SHORT & HARMON
AND
WILLIAM M. MARKS, PRINTER.
1884.

FARMINGTON STATE TEACHERS COLLEGE
LIBRARY

in the petition make some claim adverse to his estate, and praying that such persons may be summoned to show cause why they should not bring an action to try their alleged title. A person in the enjoyment of an easement is in possession of real property within the meaning and for the purposes of this section.

SEC. 48. Upon such petition the court shall order notice to the supposed claimants, returnable at a court to be held in the county where the property, or some portion of it lies, and if upon return of the order of notice duly executed they make default, or, having appeared, disobey the order of the court to bring an action and try their title, the court shall enter a decree that they be forever debarred and estopped from having or claiming any right or title, adverse to the petitioner, in the premises described. If the petitioner prefers, the petition may be inserted like a declaration in a writ, and served by copy like a writ of original summons. If the persons so summoned appear and disclaim all right and title adverse to the petitioner, they recover their costs. If they claim title, they shall by answer show cause why they should not be required to bring an action and try such title; and the court shall make such decree respecting the bringing and prosecuting of such action as seems equitable and just.

CHAP. 104.

—enjoyment of an easement is a sufficient possession.

Notice to supposed claimant. 1883, c. 146, § 2. —if claimant is defaulted or disobeys order of court to try title; decree to be entered against him. —how petition may be served. —if persons summoned disclaim title, they recover costs. —claimant must show cause why he should not bring action to try title.

CHAPTER 105.

LIMITATION OF REAL ACTIONS, AND RIGHTS OF ENTRY.

- SEC. 1. Rights of entry and of action are barred in twenty years.
2. From what time, such right begins to run.
- 3, 4, 5. When such right shall be deemed to accrue. Any person may enter for forfeiture or condition broken. Cases not specially provided for.
6. When action may be brought by a minister, or other sole corporation.
7. Saving in favor of minors, and certain other disabled persons.
8. Further saving, if the person first entitled, dies during such disability.
9. Consequence, if tenant in tail or remainder man dies before the expiration of the limitation.
10. What constitutes such a disseizin as to bar the right of recovery.
11. Limitation of actions by the State.
12. Limitation shall not take effect in certain cases, where the first suit fails.
13. No right of way, or other easement, can be acquired but by adverse use; and the owner, by notice, may prevent such acquisition.
14. How such notice must be given.
15. No action, for recovery of land, can be maintained, when tenant, and those under whom he claims, have been in possession over forty years.

SEC. 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 do so first accrued; or unless within twenty years after he, or those under whom he claims, were seized or possessed of the premises; except as hereinafter provided. (a)

Rights of entry and action are barred in twenty years. R.S., c. 105, § 1.

(a) 20 Me., 211; 21 Me., 204; 25 Me., 471; 35 Me., 463.

CHAP. 105.

When right begins to run. R.S., c. 105, § 2. 14 Me., 165. 21 Me., 374.

When such right shall be deemed to accrue. R.S., c. 105, § 3.

58 Me., 557.

Any person may enter for condition broken. R.S., c. 105, § 4.

Cases not specially provided for. R.S., c. 105, § 5.

When action may be brought by a minister, or other sole corporation. R.S., c. 105, § 6.

Saving in favor of minors, and other disabled persons. R.S., c. 105, § 7. 13 Me., 402.

Further saving, if the person first entitled dies during such disability. R.S., c. 105, § 8.

Consequence, if tenant in tail or remainder man dies, before expiration of the

SEC. 2. If such right or title first accrued to an ancestor, predecessor, or other person under whom the demandant claims, said twenty years shall be computed from the time when the right or title first accrued to such ancestor, predecessor or other person.

SEC. 3. The right of entry, or of action to recover land, as used in this chapter, first accrues at the times hereinafter mentioned.

I.—When a person is disseized, at the time of such disseizin.

II.—When he claims as heir or devisee of one who died seized, at the time of such death, unless there is a tenancy by the courtesy or other estate intervening after the death of the ancestor or devisor; in that case, his right accrues when such intermediate estate expires, or would expire by its own limitation.

III.—When there is such an intermediate estate, and in all cases, when the party claims by force of any remainder or reversion, his right accrues when the intermediate estate would expire by its own limitation, notwithstanding any forfeiture thereof for which he might enter at an earlier time.

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

SEC. 5. In all cases not otherwise provided for, the right of entry accrues when the claimant, or the person under whom he claims, first became entitled to the possession of the premises under the title on which the entry or action is founded.

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

SEC. 7. When such right of entry or action first accrues, if the person thereto entitled is a minor, married woman, insane, imprisoned, or absent from the United States, he, or any one claiming under him, may make the entry or bring the action at any time within ten years after such disability is removed, notwithstanding twenty years have expired.

SEC. 8. If the person first entitled to make the entry or bring the action dies during the continuance of the disability, and no determination or judgment has been had on his title or right of action, the entry may be made or action brought by his heirs, or other person claiming under him, at any time within ten years after his death, notwithstanding the twenty years have elapsed; but no such further time for bringing the action or making the entry, beyond that hereinbefore prescribed, shall be allowed by reason of the disability of any other person.

SEC. 9. When a tenant in tail, or a remainder man in tail, dies before the expiration of the period hereinbefore limited for making an 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, except within the period during which the tenant in tail or remainder man, if he had so long lived, might have done it.

SEC. 10. To constitute a disseizin, or such exclusive and adverse possession of lands as to bar or limit the right of the true owner thereof to recover them, such lands need not be surrounded with fences or rendered inaccessible by water; but it is sufficient, if the possession, occupation, and improvement are open, 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 woodlot, is not so inclosed.

SEC. 11. No real or mixed action for the recovery of lands shall be commenced in behalf of the State, unless within twenty years after the time when its title accrues. (a)

SEC. 12. If a writ in a real or mixed action fails of sufficient service or return by unavoidable cause; or if by the default or negligence of any officer to whom it was delivered or directed for service, the writ is abated; or if the action is defeated for any matter of form, or by the death or other disability of either party; or if the demandant's judgment is reversed on writ of error, the demandant may commence a new action at any time within six months after the abatement or determination of the first suit, or the reversal of the judgment.

SEC. 13. No person shall acquire a right of way, or other easement from, in, upon, or over, the land of another by the adverse use and enjoyment thereof, unless it is continued uninterruptedly for twenty years; and the owner of such land, to prevent such right, may give notice, in writing, to the person claiming it, of his intention to contest such right or easement, which, being served and recorded as hereinafter stated, shall be deemed an interruption of such use, and prevent the acquisition of a right thereto.

SEC. 14. Such notice may be given by the agent or guardian of the owner of the land, or by an officer, by giving to the claimant, his agent, or guardian, if in the state, an attested copy thereof, or by leaving it at his dwelling-house, or, if not in the state, a copy may be left with the tenant or occupant of the estate, if any; if not, such copy shall be affixed to the house or a conspicuous part of the premises. The officer shall make his return on the original notice; and the whole shall be recorded in the registry of deeds in the district where the land lies, within three months from the time of such service.

SEC. 15. No real or mixed action, for the recovery of lands, shall be commenced or maintained against any person in possession thereof, when such person or those under whom he claims have been in actual possession for more than forty years, claiming to hold them by adverse, open, peaceable, notorious, and exclusive possession, in their own right.

CHAP. 105.
R. S., c. 105, § 9.
Limitation.

What shall constitute a disseizin to bar right of recovery.
R. S., c. 105, § 10.
13 Me., 135.
29 Me., 131.
57 Me., 269.
61 Me., 419.
72 Me., 333.

Limitation of actions by the State.
R. S., c. 105, § 11.

Limitation shall not take effect in certain cases, when first suit fails.
R. S., c. 105, § 12.

Right of way, or other easement, is not acquired but by adverse use; how prevented by notice.
R. S., c. 105, § 13.
63 Me., 436.

How such notice must be given.
R. S., c. 105, § 14.

No action, for recovery of land, after forty years' possession.
R. S., c. 105, § 15.

(a) 69 Me., 77.