

MAINE STATE LEGISLATURE

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FIFTH REVISION.

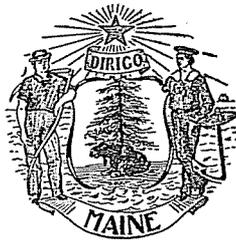
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
KENNEBEC JOURNAL PRINT,
1904.

tion of his counsel, shall be determined by the court and paid by the plaintiff, against whom execution may issue therefor in the name of the agent, guardian ad litem or next friend.

SEC. 51. After all the defendants have been served with process or notified as provided in the preceding section and after the appointment of an agent, guardian ad litem or next friend, if such appointment has been made, the court may proceed as though all the defendants had been actually served with process. Such suit shall be a proceeding in rem against the land, and a decree establishing or declaring the validity, nature or extent of the plaintiff's title may be entered, and shall operate directly on the land and shall have the force of a release made by or on behalf of all defendants of all claims inconsistent with the title established or declared thereby. The provisions of this and the two preceding sections shall not prevent the court from also exercising jurisdiction in personam against the defendants who have been actually served with process and who are personally amenable to its decrees.

SEC. 52. Any person or persons claiming an estate of freehold in wild land or in an interest in common and undivided therein, if the plaintiff and those under whom he claims, has for ten years next prior to the filing of the bill held such open, exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of wild lands in Maine, may maintain a suit in equity to quiet or establish the title thereto or to remove a cloud from the title thereto, as provided in the three preceding sections.

Note. No judgment divesting any person of title to real estate effectual unless recorded, c. 79, § 30.

Tenant in real action may be enjoined from committing waste, c. 97, § 7; liable in treble damages for strip or waste, c. 97, § 8.

Proceedings
in court.
1903, c. 149, § 3.

Bill by owners of wild
land.
1903, c. 149, § 4.

CHAPTER 107.

LIMITATION OF REAL ACTIONS, AND RIGHTS OF ENTRY.

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)

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 curtesy 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

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

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. 103, § 3.
83 Me., 178.

58 Me., 557.

(a) 20 Me., 211; 21 Me., 204; 25 Me., 471; 35 Me., 463; 82 Me., 237.

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when the intermediate estate would expire by its own limitation, notwithstanding any forfeiture thereof for which he might enter at an earlier time.

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

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.

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

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.

Action by a minister or other sole corporation.
R. S., c. 105, § 6.

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.

Saving in favor of minors, and other disabled persons.
R. S., c. 105, § 7.
13 Me., 402.
82 Me., 329.
83 Me., 178.

SEC. 7. When such right of entry or action first accrues, if the person thereto entitled is a minor, 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.

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

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.

Consequence, if tenant in tail or remainder man dies, before expiration of the limitation.
R. S., c. 105, § 9.

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.

What shall constitute a disseizin to bar right of recovery.
R. S., c. 105, § 10.

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 enclosed. (a)

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

SEC. 11. 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.

(a) 13 Me., 135; 29 Me., 131; 57 Me., 269; 61 Me., 419; 72 Me., 333; 83 Me., 102; 87 Me., 319.

SEC. 12. 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.

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.

SEC. 13. No right of way or other easement existing in, upon, over or through the land of another, shall be extinguished by the adverse obstruction thereof, unless such adverse obstruction has been continued uninterruptedly for twenty years; and a notice in writing given by the owner of such right of way or other easement to the person whose land is subject thereto, setting forth said owner's intention to contest the extinguishment of such right of way or other easement, and duly served and recorded as hereinafter stated, shall be deemed an interruption of such obstruction and prevent the extinguishment of such right of way or other easement.

Right of way shall not be extinguished by adverse obstruction, unless such obstruction has continued for twenty years.
1897, c. 229.
—interruption by notice.

SEC. 14. The notice mentioned in the two preceding sections may be given by the owner of the land, or of the right of way or other easement, his agent or guardian, or by an officer, by giving in hand to the claimant, or to the owner of the land subject to such right of way or other easement, his agent or guardian, if in the state, an attested copy thereof, or by leaving it at his dwelling-house; or, if the person to whom such notice is to be given is not in the state, such copy may be left with the tenant or occupant of the estate, if any; if there is no such tenant or occupant, such copy shall be posted in some conspicuous place upon said estate. The person serving or posting said notice shall make his return, verified by affidavit, on the original notice, and the whole shall be recorded in the registry of deeds in the county or district where the land lies, within three months from the time of such service.

Notice, how given.
R. S., c. 105, § 14.
1897, c. 229.

SEC. 15. If any person without right dwells upon or in any manner occupies any lands which on the first day of April, eighteen hundred and eighty-three were wild lands, any owner of such wild lands or of any legal or equitable interest therein may cause a notice to quit such lands to be served upon such person by any sheriff or deputy sheriff, by giving the same to such person in hand. Such officer shall make his return upon a copy of such notice certified by him to be a true copy, and within sixty days thereafter such owner may cause such copy and return to be recorded in the registry of deeds in the county or district where said land is located. Proceedings had and taken as above specified shall bar such person who has so entered or dwells upon such wild land from obtaining any rights by adverse possession to the land upon which he has so entered; *provided, however,* such person shall be entitled to the benefits of all the provisions of law relating to betterments.

Trespassers on wild lands.
1903, c. 157.

—notice to quit may be served.

—return.

—record of copy and return.

—proceedings shall bar rights by adverse possession.

—proviso.

SEC. 16. 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.

No action, for recovery of land, after forty years' possession.
R. S., c. 105, § 15.
14 How. 501.