

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Effect of amendment.—The 1961 amendment substituted “action” for “suit” near the middle of this section and substituted

“a civil action” for “case of a writ of entry” near the end of the section.

Sec. 17. Betterments obtained.—For the purpose of ascertaining the amount of such improvements, the attorney general or the tenant or grantee of the estate may file a complaint in the superior court for recovering the same. Proceedings shall be had thereon as in other civil actions to ascertain and adjust the amount. (R. S. c. 159, § 17. 1961, c. 317, § 573.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “complaint” for “bill in equity in the supreme judicial court or” in

the present first sentence and substituted “civil actions” for “cases in equity” in the present second sentence.

Chapter 174.

Limitations of Real Actions. Rights of Entry.

Sec. 2. When right shall begin to run.—If such right or title first accrued to an ancestor, predecessor or other person under whom the plaintiff claims, said 20 years shall be computed from the time when the right or title first accrued to such ancestor, predecessor or other person. (R. S. c. 160, § 2. 1961, c. 317, § 574.)

Effect of amendment.—The 1961 amendment substituted “plaintiff” for “demandant” in this section.

Sec. 11. Limitation not to take effect in certain cases, when first action fails.—If the summons and complaint 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 action is dismissed; or if the action is defeated for any matter of form or by the death or other disability of either party, or if the plaintiff’s judgment is reversed on appeal, the plaintiff may commence a new action at any time within 6 months after the determination of the first action or the reversal of the judgment. (R. S. c. 160, § 11. 1961, c. 317, § 575; c. 417, § 184.)

Effect of amendments.—The first 1961 amendment substituted “the summons and complaint” for “a writ” near the beginning of this section, substituted “action is dismissed” for “writ is abated” near the middle of the section, substituted “plaintiff’s” for “demandant’s” and “appeal, the plain-

tiff” for “writ of error, the demandant” below the middle of the section and substituted “action” for “suit” near the end of the section. The second 1961 amendment deleted “abatement or” preceding “determination” near the end of the section.

Sec. 14. Trespassers on wild lands; notice to quit; return and record; roads privately owned in unorganized territory.

In roads privately owned in unorganized territory notwithstanding the other provisions of this chapter, no title or interest shall be acquired against the owners thereof by adverse possession, prescription or acquiescence, however exclusive or long continued.

(1961, c. 165.)

Effect of amendment.—The 1961 amendment added the paragraph set out above as the second paragraph of this section.

As the first paragraph was not affected by the amendment, it is not set out.

Sec. 16. Limitations of actions for uncultivated lands in incorporated places.

Adverse possession, to create title, does not consist alone of mental intentions, but

must also be based on the existence of physical facts which openly evince a pur-

pose to hold dominion over the land in hostility to the title of the real owner, and such as will give notice of such hostile intent. *Inhabitants of Island Falls v. A. K. R., Inc.*, 157 Me. 147, 170 A. (2d) 395.

Rule of constructive occupancy.—Ordinarily where one occupies a portion of land under a deed, his occupancy constructively extends to the whole of the land included in the deed. *Inhabitants of Island Falls v. A. K. R., Inc.*, 157 Me. 147, 170 A. (2d) 395.

And prerequisites to its application. — Where more than one lot is conveyed by

deed, unless the lots are enclosed by a common fence, embraced under one general description, or in some way merged into one parcel so that the occupation of a portion thereof could not be reasonably referred to anything less than the tract, the rule of constructive occupancy does not apply. *Inhabitants of Island Falls v. A. K. R., Inc.*, 157 Me. 147, 170 A. (2d) 395.

The burden of proof of title by adverse possession is upon the party asserting it. *Inhabitants of Island Falls v. A. K. R., Inc.*, 157 Me. 147, 170 A. (2d) 395.

Chapter 175.

Actions of Dower.

Sec. 1. Widow may sue for dower.—When a woman is entitled to dower and it is not lawfully set out to her by their heir or tenant of the freehold, she may recover it by a civil action for dower. (R. S. c. 161, § 1. 1961, c. 317, § 576.)

Effect of amendment.—The 1961 amendment substituted “civil action for dower” for “writ of dower as herein provided” at the end of this section.

Sec. 2. Demand and time of bringing action.—She must demand her dower of the person who is at the time, seized of the freehold if in the state, otherwise of the tenant in possession, and shall not commence her action before one month nor after one year from the time of demand; but she may make a new demand and commence an action thereon if an action is not brought within one year after the first demand. (R. S. c. 161, § 2. 1961, c. 317, § 577.)

Effect of amendment.—The 1961 amendment deleted “of dower” following “action” near the middle of this section.

Sec. 3. Demand on corporation.—When a corporation is the tenant of the freehold, she must demand her dower in writing of any officer, director or general agent; and the time between the demand and the action shall be 60 days; but a second demand may be made as aforesaid. (R. S. c. 161, § 3. 1961, c. 317, § 578.)

Effect of amendment.—The 1961 amendment substituted “director or general agent” for “thereof on whom a writ in a

civil action against it may be served” following “officer” and “action” for “suit” below the middle of such section.

Sec. 5. Damages for detaining dower.—If the plaintiff recovers judgment for her dower, she may, at the same time, recover damages for its detention to the time when the action was commenced, and subsequent damages in a separate action. (R. S. c. 161, § 5. 1961, c. 317, § 579.)

Effect of amendment.—The 1961 amendment substituted “plaintiff” for “demandant” near the beginning of this section.

Sec. 6. Action against tenant of freehold, but prior tenant liable for damages.—The action shall be brought against the person who is at the time tenant of the freehold; but if he is not the person of whom demand was made, he shall be liable for damages only for the time that he held the possession. If the plaintiff recovers her dower and damages, she may afterwards maintain a civil action against the prior tenant of whom her demand was made, for