

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

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

the rents and profits while he held the premises after the demand. (R. S. c. 161, § 6. 1961, c. 317, § 580.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “plaintiff” for “demandant” near the beginning of the present second sentence and “a civil action” for “an action on the case” near the middle of that sentence.

Sec. 7. Plaintiff dying, pending action, executor or administrator may prosecute.—If the plaintiff dies during the pendency of an action for dower, her executor or administrator may prosecute the action to final judgment and recover therein the damages to which she would be entitled up to the time of her decease. He may commence an action, or prosecute one commenced by her under section 6, and recover the damages to which she would be entitled, if any. (R. S. c. 161, § 7. 1961, c. 317, § 581.)

Effect of amendment.—The 1961 amendment substituted “plaintiff” for “demandant” and “for” for “of” in the first sentence of this section and “section 6” for “the provisions of the preceding section” in the second sentence.

Sec. 9. Assignments of rents and profits.—When the estate, out of which the dower is to be assigned, consists of a mill or other tenement which cannot be divided without damage to the whole, the dower may be assigned of the rents and profits thereof, to be received by the plaintiff as tenant in common with the other owners of the estate. (R. S. c. 161, § 9. 1961, c. 317, § 582.)

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

Sec. 10. Costs apportioned.—In actions for dower, when it appears to the court that there has been no refusal to set out dower, the costs accruing on the assignment of dower shall be apportioned according to the interests of the parties. (R. S. c. 161, § 10. 1961, c. 317, § 583.)

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

Sec. 11. Waste.—If any woman endowed of lands commits or suffers any waste thereon, she forfeits the place wasted and the amount of the damages done to the premises, to be recovered in an action for waste by the person having the next immediate estate of inheritance therein; but the taking of fuel necessary for her own use and materials for the repair of buildings and for fences thereon from any woodlands of which she is endowed is not waste. (R. S. c. 161, § 11. 1961, c. 317, § 584.)

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

Chapter 176.

Partition of Real Estate.

Sec. 1. Partition, by a civil action.—Persons seized or having a right of entry into real estate in fee simple or for life, as tenants in common or joint tenants, may be compelled to divide the same by a civil action for partition. (R. S. c. 162, § 1. 1959, c. 317, § 358.)

Effect of amendment.—The 1959 amendment substituted “a civil action for partition” for “writ of partition at common law” at the end of this section.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, chapter 317, Public Laws 1959, provides as follows: “This act shall become effective