

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

<i>Page.</i>	
40	L. 12 of the page for 'preceding' read 'presiding'
54	Sec. 4 L. 14 of Sec. for 'time' read 'term'
55	7 2 for 'a' read 'or'
55	7 9 before the word 'said' insert 'the'
56	9 3 for 'the' read 'her'
57	1 6 for 'to' read 'in'
58	1 5 for 'and' after the word 'house' read 'or'
61	in the title of the act, ch. vi. insert 'the' before the word 'crimes'
62	Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
69	16 8 for 'Treasurer' read 'Treasury'
73	1 15 after the word 'for' insert 'the'
77	13 6 for 'to' read 'of'
78	first line of the page, dele the word 'by'
80	L. 2 of the p. after the word 'willingly' insert 'aid or'
80	17 for 'counterfeited' read 'counterfeit'
82	1 after the word 'in' insert 'all'
82	Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or' and insert ' , '
83	Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
84	10 6 for 'and' read 'or'
90	1st L. of p. for 'Commissioner' read 'Commissioners'
90	L. 20 before the word 'Commissioner' insert 'said'
97	6 for 'assumst' read 'assumpsit'
97	14 for 'cover' read 'covin'
98	at the end of the act for 'January' read 'February'
99	L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and'
100	15 at the end of the line insert 'the'
105	at the end of the Act for '1820' read '1821'
108	L. 14 of page, for 'nuisances' read 'nuisance'
108	20 after the word 'each' insert 'one'
111	25 after the word 'fail' insert 'of'
113	11 for 'on' read 'or'
144	last for 'performance' read 'performing'
145	Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
147	7 6 before the word 'release' for 'to' read ' a '
150	Sec. 6 L. 2 of Sec. for 'in' read 'is'
151	in the title, before the word 'Lands' insert 'reserved'
153	1st line of the p. for 'whenever' read 'wherever'
155	last before the word 'Court' for 'a' read 'any'
156	Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
159	9 8 for 'purpose' read 'purposes'
167	14 5 for 'votes' read 'vote'
193	4 10 dele 'such'
199	17 1 for 'when' read 'where'
202	22 6 after the word 'near, dele 'to'
202	23 10 for 'be' read 'he'
203	24 16 for 'of' read 'in'
203	25 16 for 'meeting' read 'meetings'
205	L. 18 of p. before the word 'estate' insert 'other'
210	2 before the word 'tenement' insert 'other'
215	4 before the word 'guardians' insert 'guardian or'
226	Sec. 73 L. 6 of Sec. dele 'a'
229	3 last for 'agreeably' read 'agreeable'
230	7 19 for 'agreeably' read 'agreeable'
231	8 6 for 'resided' read 'reside'
242	2 5 for 'sentence' read 'sentences'
245	7 3 after the word 'herein' insert 'before'
247	L. 7 of the act, ch. 56, after the word 'otherwise' insert 'interested'
247	11 for 'statement' read 'statements'
247	Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
248	3 1 for 'whenever' read 'wherever'
248	3 14 for 'Justice' read 'Justices'

<i>Page.</i>	
252	L. 3 of p. for 'where' read 'wherein'
257	5 after the word 'have' insert 'his or'
265	Sec. 39 L. 3 of Sec. for 'when' read 'where'
271	L. 1 and 3 of p. for 'affect' read 'effect'
271	Sec. 6 L. 2 of Sec. before the word 'execution' insert 'the'
278	19 4 for 'on' read 'in'
280	L. 2 of p. for 'have' read 'had'
281	22 for 'of' read 'on'
283	13 for 'lies' read 'lays'
283	last before the word 'defendant' insert 'the'
284	Sec. 32 L. 2 of Sec. for 'a' read 'any'
288	5 18 for 'whenever' read 'wherever'
291	9 4 for 'as' read 'or'
292	L. 4 of p. for 'examinations' read 'examination'
293	Sec. 13 L. 5 of Sec. after the word 'article' insert 'or articles'
297	7 5 for 'and' read 'or'
301	L. 8 of p. for 'he' read 'be'
309	24 between the words 'the' and 'day' should be a ' , '
310	20 for 'debt' read 'debtor'
311	2 for 'with' read 'and of'
312	7 for 'summon' read 'summons'
312	9 between the words 'our' and 'Court' should be a ' , '
318	31 for 'writs' read 'writ a'
328	Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
353	L. 14 of p. at the end of the line insert 'the'
361	Sec. 1 L. 18 of Sec. for 'cause' read 'case'
370	3 10 for 'to' read 'of'
371	2 7 dele 'to'
373	L. 15 of p. before the word 'require' insert 'to'
376	Sec. 1 L. 10 of Sec. dele 'the' before the word 'payment'
378	at the end of the act, for '17' read '20'
378	in the title, for 'selection' read 'selecting'
379	Sec. 4 L. 5 of Sec. before the word 'divide' insert 'shall'
394	1 9 for 'part' read 'parts'
395	1 8 for 'acceptances' read 'acceptance'
404	1 34 before the word 'authorized' insert 'hereby'
407	7 4 dele 'the'
414	last word of the 1st act on the page, for 'therein' read 'thereon'
423	Sec. 3 L. 15 of Sec. after the word 'assignments' insert 'thereof, and also of the assignments'
424	Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
425	L. 7 of p. before the word 'action' insert 'an'
428	22 for 'twelve' read 'twenty'
431	8 for 'fifteen' read 'fifty'
432	first line of the page should be put after the third
432	L. 5 of the p. dele 'entering'
432	between the 28th and 29th lines of the p. insert 'Every blank writ of attachment, with a summons thereon, fifteen cents'
432	L. 37 of p. for 'judgment' read 'jurymen'
435	9 for 'appear' read 'appears'
435	10 for 'make' read 'makes'
435	18 for 'taking' read 'taxing'
444	Sec. 1 L. 6 of Sec. before the word 'records' insert 'the'
445	1 9 for 'within' read 'of'
445	1 19 after the word 'escape' insert 'sickness'
455	11 1 after the word 'of' insert 'the'

same judgment) by a note or memorandum, in writing, directed and delivered to the officer who has him in custody, stating the reason and occasion of the discharge of the person of the debtor; and such a discharge shall not annul, or in any manner injure the original judgment: but in case the judgment creditor shall not within the seven days discharge the person of the debtor, in manner aforesaid, the process commenced as aforesaid, shall abate, and the debtor shall recover treble costs.

Such discharge not to injure original judgment.

Process to abate, unless discharged within 7 days.

[Approved February 28, 1821.]

CHAPTER LXII.

An Act for the Limitation of Actions real and personal, and of Writs of Error.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person shall sue or maintain any writ of right, or make any prescription, title or claim, to any lands, tenements or hereditaments, or to any rents, annuities, or portions issuing therefrom, upon the possession or seizin of his or their ancestor or predecessor, beyond the term of thirty years, next before the test of the same writ.

Limitation of writ of right to 30 years.

SEC. 2 *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person shall sue, have or maintain any writ of entry, upon disseizin done to any of his ancestors or predecessors, or any action possessory, upon the possession of any of his ancestors or predecessors, for any lands, tenements or hereditaments, unless the ancestor or predecessor, under whom the demandants shall claim, shall have been seized or possessed of the lands, tenements or hereditaments demanded, within twenty five years next before the test of the same writ or bringing such action.

Ancestral or possessory actions limited to 25 years.

SEC. 3. *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person or body cor-

—Of action on demandant's own seizin, 20 years.

porate or politic, shall sue for, have or maintain any action for any lands, tenements or hereditaments, upon his or their own seizin or possession above twenty years next before the test of the same writ.

Formedons and right of entry.

SEC. 4. *Be it further enacted*, That all writs of formedon in descender, formedon in remainder, or formedon in reverter, of any lands, tenements or hereditaments whatsoever, hereafter to be sued or brought, shall be commenced within twenty years next after the title or cause of action first descended, and at no time after the said twenty years. And no person, unless by judgment of law, shall at any time hereafter, make any entry into any lands, tenements or hereditaments, but within twenty years next after his right or title, first descended or accrued to the same, and in default thereof, such person so not entering, and his heirs, shall be utterly excluded and disabled from making such entry thereunto: *Provided always*, That when any person that is or shall be entitled to any of the writs of formedon aforesaid, or to make any entry into lands, tenements or hereditaments, shall at the time the said right or title first descended, accrued or fell, be within the age of twenty one years, feme covert, non compos, imprisoned or beyond seas, or without the limits of the United States, that then such person shall and may bring such suit or make such entry at any time within ten years after the expiration of the said twenty years aforesaid, and not afterwards.

Proviso in favour of femes covert, infants, &c.

In certain cases of entry into lands, the tenant, having had possession more than 6 years, may recover of the person entering the value of improvements, &c.

SEC. 5. *Be it further enacted*, That if any person shall make such entry into any lands, tenements or hereditaments, which the tenant or those under whom he claims, have had in actual possession for the term of six years or more before such entry, and withhold from such tenant the possession thereof, such tenant shall have right to recover of him so entering, in an action for money laid out and expended, the increased value of the premises, by virtue of the buildings and improvements made by such tenant or those under whom he claims; such right and value to be ascertained by the same principles as regulate such right and value under the Act for the settlement of certain equitable claims arising in real actions: *Provided*, Such entry so made by the proprie-

for or owner; shall have been made while the tenant was in actual possession of the premises and against his consent.

SEC. 6. *Be it further enacted,* That in any writ or action which has been or may be hereafter brought for the recovery of any lands, tenements or hereditaments, it shall not be necessary for limiting the demandant and barring his right of recovery, that the premises defended shall have been surrounded by fences or rendered inaccessible by other obstructions, but it shall be sufficient if the possession, occupancy and improvement thereof by the defendant or those under whom he claims, shall have been open, notorious and exclusive, comporting with the ordinary management of similar estates in the possession and occupancy of those who have title thereunto, or satisfactorily indicative of such exercise of ownership as is usual in the improvement of a farm by its owner; and no part of the premises demanded and defended shall be excluded from the operation of the aforesaid limitation, because such part may be woodland or without cultivation.

Nature of the possession and occupancy of the tenant which will bar the action of demandant.

SEC. 7. *Be it further enacted,* That all actions of trespass *quare clausum fregit*, all actions of trespass, detinue, trover or replevin for goods or cattle, all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, all actions of debt, grounded upon any lending or contract, without specialty, all actions of debt for arrearages of rent, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, shall be commenced and sued within the time and limitation hereafter expressed and not after; that is to say: the said actions upon the case, other than for slander, and the said actions of account; and the said actions of trespass, debt, detinue and replevin for goods or cattle, and the said actions of trespass *quare clausum fregit*, within six years next after the cause of such actions or suits, and not after; and the said actions of trespass, of assault, battery, wounding, imprisonment or any of them, within three years next after the cause of such actions or suits, and not after; and the said actions upon the case for words, within two years next after the words spoken, and not after: *Provided always,* That if upon any of the

Limitation of personal actions.

Proviso in case of reversal of judgment, &c.

said actions or suits, judgment be given for the plaintiff, and the same be reversed by reason of error or a verdict passed for the plaintiff, and for matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, that in all such cases the party, plaintiff, his executor or administrator, as the case shall require, may commence a new action or suit, from time to time, within a year after such judgment reversed or such judgment given against the plaintiff, and not after.

What shall be deemed the commencement of a suit.

SEC. 8. *Be it further enacted,* That any action of the case or of debt grounded upon any lending or contract, or for arrearages of rent, which shall be actually declared upon in a proper writ, returnable according to law, purchased therefor, within the term of six years next after the cause of such action accrued; shall be deemed and taken to be duly commenced and sued within the meaning of this Act.

Limitation not to apply to femes covert, infants, &c. until disability is removed.

SEC. 9. *Be it further enacted,* That this Act shall not be understood to bar any infant, feme covert, person imprisoned or beyond sea, without any of the United States, or non compos mentis, from bringing either of the actions before mentioned in the seventh section of this Act, within the term before set and limited for bringing such action, reckoning from the time that such impediment shall be removed: and if any person or persons against whom there is, or hereafter shall be, any cause of suit, for every and any of the species of action herein before enumerated in said seventh section of this Act, who at the time the same accrued was without the limits of this State, and did not leave property or estate therein that could by the common and ordinary process of law be attached; that then and in such case, the person that is entitled to bring such suit or action, shall be at liberty to commence the same within the respective periods before limited after such persons return into this State.

Nor to actions on Cash notes witnessed, when brought by promisee, or his executor or administrator.

SEC. 10. *Provided always, And be it further enacted,* That this Act shall not extend to bar any action hereafter brought upon any note in writing, made and signed by any person or persons and attested by any one or more witnesses, whereby such person or persons has promised, or shall promise to pay to any other person or persons, any sum of money men-

tioned in such note, but all actions upon such note or notes, brought by the original promisee, his executor or administrator shall and may be maintained as if this Act had never been made; any thing herein contained to the contrary notwithstanding.

SEC. 11. *Be it further enacted,* That any action which shall be actually declared in as aforesaid, and in which the writ purchased therefor, shall fail of a sufficient service or return by any unavoidable accident or by the default, negligence or defect of any officer to whom such writ shall be duly directed, or when such writ shall be abated or the action thereby commenced shall be avoided by demurrer or otherwise, for informality of proceedings; then and in any such case, the plaintiffs or plaintiff, or his or her executor or administrator, may commence another action upon the same demand and shall thereby save the limitation thereof, any thing in this Act to the contrary notwithstanding: *Provided,* That such second action shall be duly commenced by declaring in the same aforesaid and pursued at the next Circuit Court of Common Pleas of the county in which trial of the cause may be had, or within three months next after the Court whereto such former writ was or shall be returnable, or wherein judgment of abatement or other evidence of such suit shall happen and not afterwards.

In case of failure of service of writ, &c. or abatement of it, what measures plaintiff may pursue to avoid the limitation.

SEC. 12. *Be it further enacted,* That any action of the case or of debt, grounded upon any lending or contract, or for arrearage of rent, which might have been or which may be sued and prosecuted by or against any person deceased, or who shall decease, at the time of his or her death, or within thirty days next preceding, shall and may be commenced by declaring in the same as aforesaid, and sued by or against the executor or administrator of such deceased person, within two years after the grant of letters testamentary, or of administration, and not afterwards, if otherwise barred by this Act, any thing which may be supposed herein to the contrary notwithstanding.

If creditor or debtor dies & suit might be brought within 30 days next before such death—how limitation applies.

SEC. 13. *Be it further enacted,* That in any action which shall be brought, for any debt upon simple contract, or promise in writing, not under seal, the defendant therein may give in evidence upon the general issue, his or her de-

In actions on simple contract or promise in writing, not under seal.

defendant may file account in offset, 7 days before Court.

In such cases limitation as to the account will relate to the commencement of the action.

Limitation of actions on penal statutes.

Limitation of writs of error.

mands against the plaintiff, for goods delivered, monies paid, or service done, whereof an account shall be duly filed in the Clerk's office of the Court whereto such action is, or shall be brought, seven days, and before a Justice four days, at least, preceding the time of trial. And in all cases of mutual demands as aforesaid, the account of the defendant, if any time of limitation shall be objected thereto by the plaintiff, shall be considered and allowed as if an action had been duly commenced thereon, by declaring in the same, at the time when the plaintiff's action was or shall be commenced, any law, usage or custom to the contrary notwithstanding.

SEC. 14. *Be it further enacted,* That all actions, suits, bills or informations which shall hereafter be had, brought, sued or commenced, for any forfeiture upon any penal statute, made or to be made, the benefit whereof is or shall be by the said statute limited in whole or in part to the person or persons who shall inform and prosecute in that behalf shall be had, brought, sued or commenced by any person that may lawfully pursue the same as aforesaid, within one year next after the offence committed, or to be committed against the said statute; and in default of such pursuit, then the same shall be had, brought or prosecuted for the State, at any time within two years after the offence committed; and if any action, suit, indictment or information, for any offence against any penal statute shall be brought after the time in that behalf limited, the same shall be void and of none effect, any act to the contrary notwithstanding: *Provided always,* That when any action, suit or information is or shall be limited by any penal statute, to be had, sued, commenced or brought within a shorter time than is above mentioned, in every such case, the action, suit or information, shall be brought within the time limited by such statute.

SEC. 15. *Be it further enacted,* That no judgment in any action or suit heretofore, or which hereafter may be rendered, shall be reversed or avoided for any error or defect therein, unless the writ of error brought for reversing the same be sued out within twenty years next after the rendition of such judgment: *Provided always,* That if any person who

is or shall be entitled to such writ of error, shall at the time such title accrued, be within the age of twenty one years, covert or non compos mentis; then such person, his or her heirs, executors or administrators notwithstanding the said twenty years expired, may bring a writ of error for the reversing of any such judgment, as such person might have done in case this Act had not been made, so as the same writ of error he sued out within five years after the coming of age, discoverture, coming of sound mind, or death of such person, whichever shall first happen, and not afterwards.

Proviso in favour of persons in capatitated, &c.

SEC. 16. *Be it further enacted*, That all actions against Sheriffs, for the misconduct and negligence of their deputies, shall be commenced and sued within four years next after the cause of action.

Limitation of actions against Sheriffs, for misconduct of their deputies.

[Approved March 19, 1821.]

CHAPTER LXIII.

An Act prescribing the Forms of Writs and other process in the cases therein mentioned.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That in all civil actions, the original and final process in the following cases betwixt party and party, shall be made out in the forms following, that is to say;

Forms of process.

[Summons.]

State of Maine.

Original summons.

SEAL. S—— ss. To the Sheriff of our county of S—— or his deputy,

Greeting.

We command you that you summon A. B. of C. [addition] (if he may be found in your precinct) to appear before our Justices of our —— Court of ——, to be holden at B. within and for our said county of S. on the —— day of —— then and there in our said Court to answer to D. E. of R. within our county of M. [addition] in a plea of ——; to the damage of the said D. E. (as he saith) the sum of —— dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness, E. H. Esq. at B. the —— day of —— in the year of our Lord ——.

A. D. Clerk,