

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 110. have authority to take the acknowledgment and proof of the execution of any deed, other conveyance, or lease of any lands lying in this state; and of any contract, letter of attorney, or any other writing, under seal or not, to be used or recorded in this state.

R. S., c. 134,
§ 1.
1856, c. 222.

Legal effects of
their official
acts.

R. S., c. 134,
§ 2.

May adminis-
ter oaths, and
take deposi-
tions.

R. S., c. 134,
§ 3.

Qualification
and seal.

R. S., c. 134,
§ 4.

SEC. 2. Such acknowledgment or proof, taken according to the laws of this state, and certified by any such commissioner under his seal of office, annexed to or indorsed on such instrument, shall have the same force and effect, as if done by an officer authorized to perform such acts in this state.

SEC. 3. Every commissioner thus appointed may administer any oath, lawfully required in this state, to any person willing to take it; and take and duly certify all depositions, to be used in any of the courts in this state, in conformity to the laws thereof, on interrogatories proposed under commission from a court of this state, by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified, according to law, by a magistrate in this state.

SEC. 4. Every such commissioner, before performing any duty or exercising any power in virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or clerk of one of the superior courts of the state or country in which he resides, well and faithfully to execute and perform all his official duties under the laws of Maine; which oath, and a description of his seal of office, shall be filed in the office of the secretary of this state.

CHAPTER 111.

PREVENTION OF FRAUDS AND PERJURIES IN CONTRACTS, AND ACTIONS FOUNDED THEREON.

- SEC. 1.** Cases in which promises must be in writing.
2. The consideration need not be expressed therein.
 3. No action to be maintained on a contract made by a minor, unless ratified after becoming of age.
 4. Representation of another's ability or character, to be in writing.
 5. What contracts for sale of goods must be in writing.
 6. When specific performance of a contract may be enforced by a bill in equity.
 7. What decree to be made; the conveyance to be good.
 8. Enforcement of the decree.
 9. Provision in case of the death of the obligor before conveyance.
 10. Administrator of the contractor may petition for authority to make conveyance.

Cases in which
promises must
be in writing.

1848, c. 52, § 1.
R. S., c. 136,
§ 1.

SEC. 1. No action shall be maintained in any of the following cases:

First.—To charge an executor or administrator upon any special promise to answer damages out of his own estate. (a)

(a) 20 Maine, 21.

Second.—To charge any person upon any special promise to answer for the debt, default, or misdoings of another. (*a*)

Third.—To charge any person upon an agreement made in consideration of marriage.

Fourth.—Upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them. (*b*)

Fifth.—Upon any agreement that is not to be performed within one year from the making thereof. (*c*)

Sixth.—Upon any contract to pay a debt after a discharge therefrom under the bankrupt laws of the United States, or assignment laws of this state.

Unless the promise, contract, or agreement, on which such action is brought, or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or by some person thereunto lawfully authorized. (*d*)

SEC. 2. The consideration of any such promise, contract, or agreement, need not be expressed in said writing, but may be proved by any other legal evidence.

SEC. 3. No action shall be maintained on any contract made by a minor, unless he, or some person lawfully authorized, ratified it in writing after he arrived at the age of twenty-one years, except for necessities, or real estate of which he has received the title and retains the benefit.

SEC. 4. No action shall be maintained to charge any person by reason of any representation or assurance, concerning the character, conduct, credit, ability, trade or dealings of another, unless made in writing, and signed by the party to be charged thereby or by some person by him legally authorized.

SEC. 5. No contract for the sale of any goods, wares, or merchandize, for thirty dollars or more, shall be valid, unless the purchaser accepts and receives part of the goods, or gives something in earnest to bind the bargain, or in part payment thereof, or some note or memorandum thereof is made and signed by the party to be charged thereby, or by his agent. (*e*)

SEC. 6. If a person, who has contracted in writing to convey real estate, dies before making the conveyance, the other party may have a bill in equity, if filed within one year after the grant of administration in the supreme judicial court, to be heard and decided according to the proceedings in chancery, to enforce specific performance of the contract by his heirs, devisees, executor or administrator.

SEC. 7. If it appears that the plaintiff is entitled to a conveyance, the court may authorize and require the executor or administrator to convey the estate as the deceased ought to have done; and if any of the heirs or devisees are in the state,

The consideration need not be expressed, &c.

R. S., c. 136, § 2.

No action on a contract made by a minor, &c. 1845, c. 166, § 1.

Representation of another's ability, to be in writing.

R. S., c. 136, § 3.

What contracts for sale of goods must be in writing.

R. S., c. 136, § 4.

When specific performance may be enforced, &c.

R. S., c. 136, § 5, 6.

What decree to be made, &c.

R. S., c. 136, § 7, 8.

(*a*) 7 Greenl., 356; 21 Maine, 410, 545; 22 Maine, 395; 26 Maine, 341; 36 Maine, 113.

(*b*) 12 Maine, 24, 506; 15 Maine, 14, 61, 201; 16 Maine, 212; 18 Maine, 16; 22 Maine, 360; 23 Maine, 131.

(*c*) 10 Maine, 31; 15 Maine, 201; 20 Maine, 119; 31 Maine, 555.

(*d*) 3 Greenl., 409; 4 Greenl., 1, 258.

(*e*) 9 Greenl. 79; 12 Maine, 374; 13 Maine, 424; 19 Maine, 137; 26 Maine, 397.

CHAP. 111.

and competent to act, the court may direct them, instead of the executor or administrator, to convey the estate or join with either in such conveyance; which shall pass the estate as fully as if made by the contractor.

Enforcement of decree, &c.
R. S., c. 136,
§ 9, 10.

SEC. 8. If the defendant neglects or refuses to convey according to the decree, the court may render judgment for the plaintiff for possession of the land, to hold according to the terms of the intended conveyance, and issue a writ of seizin as in a real action, under which the plaintiff, having obtained possession, shall hold the premises as effectually as if conveyed in pursuance of the decree; or the court may enforce their decree by any other process according to chancery proceedings.

Provision in case of the death of the obligor before conveyance.
R. S., c. 136,
§ 11.

SEC. 9. If the person, entitled to such conveyance, dies before bringing his suit, or before the conveyance is completed, or such seizin and possession are obtained, his heir, devisee, or other person entitled to the estate under him, may bring and prosecute such suit, and shall be entitled to the conveyance, or seizin and possession, in like manner as the obligee.

Administrator may petition for authority to make conveyance.
R. S., c. 136,
§ 12.

SEC. 10. If the party, to whom any such conveyance was to be made, or those claiming under him, do not commence a suit as before provided, and the heirs of the deceased party are under age, or otherwise incompetent to convey the lands contracted for, the executor or administrator of the deceased may file a bill in equity in the supreme judicial court, setting forth the contract, and circumstances of the case; whereupon the court, by their decree, may authorize such executor or administrator to convey the estate as the deceased should have done; and such conveyance shall be deemed a performance of the contract, on the part of the deceased, so as to entitle his heirs, executors, or administrators, to demand a performance thereof on his part.

CHAPTER 112.

RECOGNIZANCES FOR DEBTS.

- SEC. 1. Who may enter into recognizance.
2. Form of recognizance.
3. The justice, after recording it, to deliver it to the creditor.
4. May be filed and recorded with clerk of the courts; who may issue and renew execution thereon, to be executed by all proper officers.
5. When not to run against the lands or body of the debtor.
6. Administrator of creditor may take out execution; if debtor dies, or after three years, action of debt may be brought as on a judgment.
7. Consequence, if one of several debtors or creditors dies.
8. Remedy, if execution is wrongfully issued.

Who may enter into recognizance.
R. S., c. 137,
§ 1.

SEC. 1. Any person, legally capable, may enter into recognizance to pay a debt, as herein provided; and thereby subject his goods and estate, or his person, to be taken in execution.