

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



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CHAP. 89.

When sum first recovered is reduced, judgment, now rendered. R.S., c. 89, § 12. —and when wholly reversed.

—costs.

1 Me., 255.

2 Me., 397.

38 Me., 113.

47 Me., 440,

529.

48 Me., 288.

64 Me., 238.

73 Me., 247.

In replevin and set-off, plaintiff is as defendant. R.S., c. 89, § 13. When levy is void.

R.S., c. 89, § 14.

47 Me., 529.

Party prevailing, has costs; court may impose terms. R.S., c. 89, § 15.

SEC. 12. When the sum first recovered is reduced, the original defendant shall have judgment for the difference, with costs on the review; and if the former judgment has not been satisfied, one judgment may be set off against the other, and execution be issued for the balance. When the original judgment is wholly reversed, judgment shall be entered in review for the amount of the former judgment and costs, with interest thereon, and for such further sum as the prevailing party would have been entitled to recover as costs in the original action, if, in the opinion of the court, justice requires it. In such case, if the original judgment remains unpaid, it shall be cancelled by a set-off entered of record in the judgment on review, and execution shall issue for the balance only; otherwise for the amount of the latter judgment.

SEC. 13. When actions of replevin, and actions in which a claim in set-off was filed, are reviewed, the defendant is in the position of a plaintiff, so far as it respects the damages awarded to him.

SEC. 14. If, on a petition for review, commenced within one year after an execution issued on the original judgment is levied on real estate, such judgment is finally reversed, the levy is void.

SEC. 15. In all actions of review the party prevailing recovers costs, and shall also recover the costs to which he would have been entitled if he had prevailed in the original action, unless the court otherwise orders; but the court granting a review, may impose terms respecting costs. (a)

CHAPTER 90.

MORTGAGES OF REAL ESTATE.

- SEC. 1. How mortgages of real estate are made.
2. Mortgagee may enter before or after breach, unless otherwise agreed.
3. Modes of obtaining possession for foreclosure.
4. Foreclosure in three years.
5. Modes of foreclosing without taking possession.
6. Mortgagor may redeem within three years. Parties may agree on one year.
7. In case of mortgagee's death, proceedings for redemption.
8. Form of declaring in a suit to obtain possession on mortgage. Conditional judgment, and judgment as at common law, in certain cases.
9. Form of conditional judgment; when to be paid; form of judgment, when condition is for some act other than payment of money.
10. Judgment for defendant, if nothing is due.
11. Action for foreclosure by executor or administrator.
12. Mortgages shall be assets in hands of administrators, who shall be seized to the use of the heirs, and when paid may give discharges.
13. Against whom action on a mortgage shall be brought.
14. Proceedings in equity to redeem a mortgage.
15. Proceedings, when the amount due on a mortgage has been paid or tendered, and when not.

a) 1 Me., 255; 2 Me., 397; 40 Me., 332; 64 Me., 239; 73 Me., 247.

- SEC. 16. When bill to redeem is brought before entry, breach, payment or tender, court shall order notice, if mortgagee or assignee is out of the state. CHAP. 90.
Remedy of innocent assignee, in case of fraudulent mortgage.
17. Provisions for redemption when the mortgagee is out of the state.
 18. When mortgagee or assignee is out of state, provisions for redemption after payment or tender, and before foreclosure.
 19. Limitation of such bill in equity.
 20. Court may order others to be joined as defendants, and notified.
 21. Execution may be awarded jointly or severally, on decree of court.
 22. Deduction of rents and profits from sum brought into court for redemption.
 23. Treasurer of state may discharge or foreclose mortgages made or assigned to the State.
 24. Bill in equity for redemption may be filed against the State.
 25. Notice and proceedings thereon.
 26. On death of a person entitled, his administrator or heir may redeem.
 27. Tender may be made to guardian of mortgagee, if under guardianship.
 28. How mortgages may be discharged.
 29. How mortgage may be discharged by attorney at law. Proviso.
 30. Redemption of estate from purchaser of equity of redemption.
 31. Writ of entry against a mortgagee in possession, after mortgage has been paid, and before foreclosure is perfected.

SEC. 1. Mortgages of real estate, mentioned in this chapter, include those made in the usual form, in which the condition is set forth in the deed, and those made by a conveyance appearing on its face to be absolute, with a separate instrument of defeasance executed at the same time or as part of the same transaction. (a)

How mortgages of real estate are made. R.S., c. 90, § 1.

SEC. 2. A mortgagee, or person claiming under him, may enter on the premises, or recover possession thereof, before or after breach of condition, when there is no agreement to the contrary; but in such case, if the mortgage is afterwards redeemed, the amount of the clear rents and profits from the time of taking possession, shall be accounted for and deducted from the sum due on the mortgage. (b)

Mortgagee may enter before or after breach, unless otherwise agreed. 1881, c. 84, § 1.

SEC. 3. After breach of the condition, if the mortgagee, or any one claiming under him, desires to obtain possession of the premises for the purpose of foreclosure, he may proceed in either of the following ways, viz.: (c)

Modes of obtaining possession for foreclosure. R.S., c. 90, § 3.

I.—He may obtain possession under a writ of possession issued on a conditional judgment, as provided in section nine, duly executed by an officer. An abstract of such writ, stating the time of obtaining posses-

By writ of possession. 1881, c. 84, § 2.

(a) What constitutes a mortgage; 2 Me., 136; 5 Me., 88; 8 Me., 250; 10 Me., 199; 12 Me., 349; 18 Me., 105; 21 Me., 197; 23 Me., 241; 24 Me., 189; 27 Me., 533; 32 Me., 145; 36 Me., 123; 38 Me., 448; 40 Me., 382; 43 Me., 372, 566; 44 Me., 299; 47 Me., 236; 49 Me., 363, 479; 50 Me., 98, 175; 52 Me., 98; 53 Me., 11, 464; 55 Me., 388, 407; 68 Me., 488; 70 Me., 209; 71 Me., 533, 570.

(b) Rights of parties; 2 Me., 136, 175, 340; 5 Me., 92; 14 Me., 132; 15 Me., 307; 18 Me., 105; 19 Me., 55, 99, 433; 20 Me., 114; 21 Me., 249, 467, 500; 24 Me., 404; 25 Me., 218, 248, 345; 27 Me., 533; 29 Me., 116, 160; 30 Me., 367; 33 Me., 42; 34 Me., 90, 189; 35 Me., 40, 220, 551; 36 Me., 123, 284, 438; 40 Me., 255; 41 Me., 116, 252; 42 Me., 188; 44 Me., 120; 45 Me., 97, 388, 414; 47 Me., 513; 49 Me., 428; 50 Me., 165, 447, 463; 51 Me., 49; 52 Me., 98, 116, 130, 185, 406; 55 Me., 495, 522; 58 Me., 367; 66 Me., 275; 67 Me., 547; 72 Me., 281.

Transfers of mortgages; 2 Me., 331; 5 Me., 276; 8 Me., 283; 23 Me., 346; 24 Me., 189; 27 Me., 240; 31 Me., 313; 32 Me., 202; 41 Me., 223; 44 Me., 302; 46 Me., 447; 50 Me., 177; 51 Me., 123; 52 Me., 185; 71 Me., 377.

(c) 18 Me., 199; 21 Me., 128; 23 Me., 25; 24 Me., 156; 35 Me., 557; 40 Me., 523; 42 Me., 39; 48 Me., 62; 49 Me., 266, 373; 51 Me., 381.

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SEC. 3.

sion, certified by the clerk, shall be recorded in the registry of deeds of the district in which the estate is, within thirty days after possession has been obtained. (a)

By entry
with consent.
R.S., c. 90, § 3.

II.—He may enter into possession, and hold the same by consent in writing of the mortgagor, or the person holding under him. (b)

By peaceable
entry.
1883, c. 179.

III.—He may enter peaceably and openly, if not opposed, in the presence of two witnesses, and take possession of the premises; and a certificate of the fact and time of such entry shall be made, signed and sworn to by such witnesses before a justice of the peace; and such certificate, or consent, with the affidavit of the mortgagee or his assignee to the fact and time of entry indorsed thereon, shall be recorded in each registry of deeds in which the mortgage is or by law ought to be recorded, within thirty days after the entry is made. (c)

Foreclosure
within three
years.
R.S., c. 90, § 4.
See § 6.

SEC. 4. Possession obtained in either of these three modes, and continued for the three following years, forever forecloses the right of redemption. (d)

Modes of
foreclosing
without
possession.
R.S., c. 90, § 5.

SEC. 5. If after breach of the condition, the mortgagee, or any person claiming under him, is not desirous of taking and holding possession of the premises, he may proceed for the purpose of foreclosure in either of the following modes:

By publish-
ing notice.

I.—He may give public notice in a newspaper printed in the county where the premises are situated, if any, or if not, in the state paper, three weeks successively, of his claim by mortgage on such real estate, describing the premises intelligibly, and naming the date of the mortgage, and that the condition in it is broken, by reason whereof he claims a foreclosure; and cause a copy of such printed notice, and the name and date of the newspaper in which it was last published, to be recorded in each registry in which the mortgage deed is or by law ought to be recorded, within thirty days after such last publication. (e)

By serving
notice.

II.—He may cause an attested copy of such notice to be served on the mortgagor or his assignee, if he lives in the state, by the sheriff of the same county or his deputy, by delivering it to him in hand or leaving it at his place of last and usual abode; and cause the original notice and the sheriff's return thereon to be recorded within thirty days after such service as aforesaid; and in all cases the certificate of the register of deeds is prima facie evidence of the fact of such entry, notice, publication of foreclosure, and of the sheriff's return.

Mortgagor
may redeem
within

SEC. 6. The mortgagor, or person claiming under him, may redeem the mortgaged premises within three years after the first publication, or the

(a) 27 Me., 241; 33 Me., 198; 35 Me., 551; 45 Me., 452; 51 Me., 395; 52 Me., 469; 55 Me., 522.

(b) 28 Me., 353; 29 Me., 57; 33 Me., 364; 38 Me., 551; 41 Me., 71; 74 Me., 312.

(c) 4 Me., 495; 37 Me., 388; 47 Me., 296; 50 Me., 473; 52 Me., 135; 58 Me., 368; 64 Me., 161; 66 Me., 272.

(d) 3 Me., 263; 7 Me., 33; 23 Me., 25; 24 Me., 156; 37 Me., 388; 42 Me., 190; 58 Me., 368; 64 Me., 162; 66 Me., 273; 67 Me., 312.

(e) 25 Me., 392; 38 Me., 258; 45 Me., 99, 452; 46 Me., 274, 497; 49 Me., 103, 376; 53 Me., 73; 55 Me., 544; 58 Me., 367; 61 Me., 54; 63 Me., 544; 66 Me., 170; 71 Me., 444; 74 Me., 75.

service of the notice mentioned in the preceding section, and if not so redeemed his right of redemption is forever foreclosed; *provided*, that the mortgagor and mortgagee may agree upon a shorter time, not less than one year, in which the mortgage shall be forever foreclosed, which agreement shall be inserted in the mortgage and be binding on the parties, their heirs and assigns, and shall apply to all the modes prescribed for the foreclosure of mortgages on real estate.

SEC. 7. Whenever a mortgagee or his assignee dies, and there is no executor or administrator to receive the mortgage money, the mortgagor or person claiming under him having a right to redeem, may apply to the judge of probate of the county where the estate mortgaged is situated, for the appointment of an administrator upon such estate, and if, after due notice to all parties interested therein, they neglect or refuse to take out administration for thirty days, then the judge may commit administration to such person as he deems suitable, who may act as administrator with reference to said mortgage, as provided by law. In all such cases, however, personal notice shall first be given to the widow and heirs of the deceased known to be living in the state, either by service on them in person or by leaving such notice at their last and usual place of abode.

SEC. 8. The mortgagee, or person claiming under him, in an action for possession, may declare on his own seizin, in a writ of entry, without naming the mortgage or assignment; and if it appears on default, demurrer, verdict, or otherwise, that the plaintiff is entitled to possession, and that the condition had been broken when the action was commenced, the court shall, on motion of either party, award the conditional judgment, unless it appears that the tenant is not the mortgagor or a person claiming under him, or that the owner of the mortgage proceeded for foreclosure conformably to sections five and six before the suit was commenced, the plaintiff not consenting to such judgment; and unless such judgment is awarded, judgment shall be entered as at common law. (a)

SEC. 9. The conditional judgment shall be, that if the mortgagor, his heirs, executor or administrator, pays the sum that the court adjudges to be due and payable, with interest, within two months from the time of judgment, and also pays such other sums as the court adjudges to be thereafter payable, within two months from the time that they fall due, no writ of possession shall issue and the mortgage shall be void; otherwise it shall issue in due form of law, upon the first failure to pay according to said judgment. And if, after three years from the rendition of the judgment, the writ of possession has not been served or the judgment wholly satisfied, another conditional judgment may, on scire facias sued out in the name of the mortgagee or assignee, be rendered, and a writ of possession issued as before provided. When the condition is for doing some other act than the payment of money, the court may vary the conditional judgment as the circumstances require; and the

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three years.
1876, c. 113.
20 Me., 271.
36 Me., 51.
—parties may agree upon a shorter time, not less than one year.

Mortgages, redemption of, in case of death of mortgagee.
1874, c. 243, § 1.

—administrator may be appointed.

—notice shall be given.

Form of declaration in a suit to obtain possession on mortgage.
1881, c. 84, § 3.

Form of conditional judgment, and when it must be paid.
R.S., c. 90, § 8.
35 Me., 551, 562.
53 Me., 78.
64 Me., 446.
70 Me., 345.

1872, c. 18.

R.S., c. 90, § 8.

(a) 2 Me., 332; 13 Me., 186; 14 Me., 299; 17 Me., 439; 19 Me., 276, 366; 28 Me., 135; 42 Me., 188; 53 Me., 77; 56 Me., 10; 63 Me., 545; 64 Me., 445.

CHAP. 90. writ of possession shall issue, if the terms of the conditional judgment are not complied with within the two months.

Judgment, if nothing is due.
R.S., c. 90, § 9.

SEC. 10. If it appears that nothing is due on the mortgage, judgment shall be rendered for the defendant and for his costs, and he shall hold the land discharged of the mortgage. (a)

Action for foreclosure by executor or administrator.
R.S., c. 90, § 10.

SEC. 11. When a mortgagee, or person claiming under him, is dead, the same proceedings to foreclose the mortgage may be had by his executor or administrator, declaring on the seizin of the deceased, as he might have had if living.

Mortgages are assets in the hands of executors and administrators; when paid, they may give discharges.
R.S., c. 90, § 11.
20 Me., 163.
31 Me., 313.
51 Me., 124.
56 Me., 210.

SEC. 12. Lands mortgaged to secure the payment of debts, or the performance of any collateral engagement, and the debts so secured, are on the death of the mortgagee, or person claiming under him, assets in the hands of his executors or administrators; they shall have the control of them as of a personal pledge; and when they recover seizin and possession thereof, it shall be for the use of the widow and heirs, or devisees, or creditors of the deceased, as the case may be; and when redeemed, they may receive the money, and give effectual discharges therefor, and releases of the mortgaged premises.

Against whom, action on a mortgage shall be brought.
R.S., c. 90, § 12.
14 Me., 299.
17 Me., 439.

SEC. 13. An action on a mortgage deed may be brought against a person in possession of the mortgaged premises; and the mortgagor, or person claiming under him, may, in all cases, be joined with him as a co-tenant, whether he then has any interest or not in the premises; but he is not liable for costs, when he has no such interest, and makes his disclaimer thereto upon the records of the court.

Proceedings in equity to redeem a mortgage.
R.S., c. 90, § 13.

SEC. 14. Any mortgagor, or other person having a right to redeem lands mortgaged, may demand of the mortgagee or person claiming under him a true account of the sum due on the mortgage, and of the rents and profits, and money expended in repairs and improvements, if any; and if he unreasonably refuses or neglects to render such account in writing, or, in any other way by his default prevents the plaintiff from performing or tendering performance of the condition of the mortgage, he may bring his bill in equity for the redemption of the mortgaged premises within the time limited in section six, and therein offer to pay the sum found to be equitably due, or to perform any other condition, as the case may require; and such offer has the same force as a tender of payment or performance before the commencement of the suit; and the bill shall be sustained without such tender, and thereupon he shall be entitled to judgment for redemption and costs. (b)

When the amount due on a mortgage has been paid or tendered; and when not.

SEC. 15. When the amount due on a mortgage has been paid or tendered to the mortgagee, or person claiming under him, by the mortgagor or the person claiming under him, within the time so limited, he may have a bill in equity for the redemption of the mortgaged premises,

(a) 2 Me., 322, 332; 31 Me., 394; 67 Me., 548; 72 Me., 202.

(b) 8 Me., 250, 282; 18 Me., 210; 19 Me., 366; 20 Me., 271; 21 Me., 129; 23 Me., 48, 178; 24 Me., 298; 25 Me., 387; 28 Me., 352; 34 Me., 271; 35 Me., 220; 36 Me., 123; 38 Me., 329; 39 Me., 112; 41 Me., 223; 42 Me., 246; 44 Me., 300; 46 Me., 299, 443, 448, 494; 48 Me., 61; 49 Me., 564; 50 Me., 174, 240; 51 Me., 348; 52 Me., 135, 408, 544; 53 Me., 142, 246, 353, 441; 54 Me., 180, 406; 55 Me., 157; 56 Me., 159; 62 Me., 577; 65 Me., 198, 288; 66 Me., 190, 272, 470; 68 Me., 192; 69 Me., 192; 70 Me., 388; 74 Me., 314.

and compel the mortgagee, or person claiming under him, by a decree of the supreme judicial court, to release to him all his right and title therein; although such mortgagee or his assignee has never had actual possession of the premises for breach of the condition; or, without having made a tender before the commencement of the suit, he may have his bill in the manner prescribed in the preceding section, and the cause shall be tried in the same manner.

SEC. 16. When a bill to redeem is brought before an actual entry for breach of the condition, and before payment or tender, if the mortgagee, or person claiming under him, is out of the state and has not had actual notice, the court shall order proper notice to be given him, and continue the cause as long as necessary. When a mortgage is alleged and proved to be fraudulent, in whole or in part, an innocent assignee of the mortgagor, for a valuable consideration, may file his bill within the time allowed to redeem, and be allowed to redeem without a tender.

SEC. 17. When a mortgagee, or person claiming under him, residing out of the state, or whose residence is unknown to the party entitled to redeem, has commenced proceedings under section five, or when such mortgagee or claimant having no tenant, agent, or attorney in possession on whom service can be made, has commenced proceedings under section three, in either case the party entitled to redeem may file his bill, as prescribed in section fourteen, and pay at the same time to the clerk of the courts the sum due, which payment shall have the same effect as a tender before the suit; and the court shall order such notice to be given of the pendency of the suit, as it judges proper.

SEC. 18. When an amount due on a mortgage has been paid, or tendered to the mortgagee, or person claiming under him, before foreclosure of the mortgage, and the mortgagee or his assignee is out of the state, and the mortgage is undischarged on the record, the mortgagor or person claiming under him, may have his bill in equity for the redemption of the mortgaged premises, as provided in section fifteen, or for the discharge of the mortgage; and on notice of the pendency of the bill, given by publication in some newspaper in the county where said premises are situated, for three weeks successively, the last publication being thirty days before the time of hearing, or in such other way as the supreme judicial court or a justice thereof, in vacation, orders, said court may decree a discharge of such mortgage; and the record of such decree in the registry of deeds in said county is evidence of such discharge.

SEC. 19. No bill in equity shall be brought for redemption of mortgaged premises, founded on a tender of payment or performance of the condition made before commencement of the suit, unless within one year after such tender.

SEC. 20. In any suit brought for the redemption of mortgaged premises, when it is necessary to the attainment of justice that any other person, besides the defendant, claiming an interest in the premises, should be made a party with the original defendant, the court on motion, may order him to be served with an attested copy of the bill amended in such

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R.S., c. 90, § 14.
7 Me., 33.
27 Me., 241.
30 Me., 360.
36 Me., 51.
40 Me., 117.
47 Me., 54.
52 Me., 561.

When bill is brought before entry, breach, payment or tender, notice to mortgagee if out of state; remedy for fraudulent mortgage.
R.S., c. 90, § 15.

Provisions for redemption, when the mortgagee is out of the state.
R.S., c. 90, § 16.
1872, c. 41.

R.S., c. 90, § 16.

Mortgages, redemption of, after payment or tender, and before foreclosure, when mortgagee is out of the state.
1874, c. 233, § 1.

—notice must be published.

—discharge.

Limitation of such a bill in equity.
R.S., c. 90, § 17.
60 Me., 233.

Court may order other persons to be joined as defendants, and notified.
R.S., c. 90, § 18.

CHAP. 90. manner as it directs, and on his appearance, the cause shall proceed as though he had been originally joined.

Award of execution on decree of court, jointly or severally. R.S., c. 90, § 19.

SEC. 21. The court, when a decree is made for the redemption of mortgaged lands, may award execution jointly or severally, as the case requires; and for sums found due for rents and profits over and above the sums reasonably expended in repairing and increasing the value of the estate redeemed.

Deduction of rents and profits from the sum brought into court for redemption. R.S., c. 90, § 20. 37 Me., 310. 53 Me., 67.

SEC. 22. When money is brought into court in a suit for redemption of mortgaged premises, the court may deduct therefrom such sum as the defendant is chargeable with on account of rents and profits by him received, or costs awarded against him; and the person to whom money is tendered to redeem such lands, if he receives a larger sum than he is entitled to retain, shall refund the excess.

Treasurer of state may discharge or foreclose mortgages made to the State. R.S., c. 90, § 21.

SEC. 23. When a mortgage is made or assigned to the State, the treasurer may demand and receive the money due thereon, and discharge it by his deed of release. After breach of the condition, he may, in person or by his agent, make use of the like means for the purpose of foreclosure, which an individual mortgagee might, as prescribed in sections three and five.

Bill in equity for redemption may be filed against the State. R.S., c. 90, § 22.

SEC. 24. If the treasurer of state, and the person applying to redeem any lands mortgaged to the State, disagree as to the sum due thereon, such person may bring a bill in equity against the State for the redemption thereof, in the supreme judicial court.

Notice and proceedings thereon. R.S., c. 90, § 23.

SEC. 25. The court shall order notice to be served on the treasurer of state in the usual form, and shall hear the cause, and decide what sum is due to the State on said mortgage, and award costs as it deems equitable; and the treasurer shall accept the sum adjudged by the court to be due, and discharge the mortgage.

On death of person entitled to redeem, his administrator or heir may redeem. R.S., c. 90, § 24.

SEC. 26. If a person, entitled to redeem a mortgaged estate, or an equity of redemption which has been sold on execution, or the right to redeem such right, or the right to redeem lands set off on execution, dies without having made a tender for that purpose, a tender may be made and a bill for redemption commenced and prosecuted by his executor or administrator, heirs or devisees; and if the plaintiff in such bill in equity dies pending the suit, it may be prosecuted to final judgment by his heirs, devisees, or his executor or administrator. When a mortgagor resides out of the state, any person may, in his behalf, tender to the holder of the mortgage the amount due thereon; and the tender shall be as effectual as if made by the mortgagor.

—if residing out of the state, any one may tender for him.

Tender to guardian of mortgagee, who may discharge mortgage. R.S., c. 90, § 25.

SEC. 27. When the mortgagee, or person holding under him, is under guardianship, a tender may be made to the guardian, and he shall receive the sum due on the mortgage; and upon receiving it, or on performance of such other condition as the case requires, he shall execute a discharge of the mortgage.

How mortgages may be discharged.

SEC. 28. In all cases, the mortgage may be discharged by a deed of release from the person authorized to discharge it, or by causing satis-

faction and payment under his hand to be entered in the margin of the record of such mortgage in the register's office. (a)

SEC. 29. A mortgage may be discharged on the record thereof in the office of the registry of deeds by an attorney at law, authorized in writing by the mortgagee or person claiming under him; *provided, however*, that said writing is first recorded or filed in said office and a minute of the same is made by the register on the margin of the page in connection with said discharge.

SEC. 30. If the purchaser of an equity of redemption, sold on execution, has satisfied and paid to the mortgagee, or those claiming under him, the sum due on the mortgage, the mortgagor, or those claiming under him, having redeemed the equity of redemption within one year after such sale, may redeem such mortgaged estate from such purchaser, or any person claiming under him, within the time and in the manner that he might have redeemed it of the mortgagee if there had been no such sale made, and within such time only.

SEC. 31. When the mortgagee or person claiming under him has taken possession of the mortgaged premises, and the debt secured by the mortgage is paid or released after condition broken and before foreclosure perfected, the mortgagor or person claiming under him may maintain a writ of entry to recover possession of said premises, the same as if paid or released before condition broken.

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R.S., c. 90, § 26.

How mortgage may be discharged by attorney at law.
1874, c. 233, § 2.

—proviso.

Redemption of estate from purchaser of equity.
R.S., c. 90, § 27.
2 Me., 343.
6 Me., 237.
7 Me., 103.
21 Me., 105.
46 Me., 437.
49 Me., 266.
52 Me., 407.
55 Me., 253.

Writ of entry against mortgagee in possession, after mortgage has been paid and before foreclosure is perfected.
R.S., c. 90, § 28.
67 Me., 361.

CHAPTER 91.

MORTGAGES OF PERSONAL PROPERTY. LIENS AND THEIR ENFORCEMENT.

MORTGAGES OF PERSONAL PROPERTY.

- SEC. 1. Mortgages are not valid except between the parties, unless recorded by the clerk of the town where mortgagor lives, or possession of the property is taken.
2. Clerk shall record mortgages of personal property in a book, noting therein, and on the mortgage, when they are received.
3. How mortgages may be redeemed after breach of condition; the mortgaged property may be replevied, if not immediately restored.
4. Notice of foreclosure, how to be given and served.
5. Sworn copy of notice shall be recorded, and a copy of the record is evidence of the facts. Mortgagee or assignee out of the state, shall appoint agent to receive pay, or right to redeem is not forfeited.
6. Right of redemption is forfeited in sixty days. Exceptions.
7. Redemption of property held as security for debt by Holmes' note. Parties may stipulate for its relinquishment.

(a) What constitutes a discharge; 5 Me., 275; 6 Me., 260; 17 Me., 371; 18 Me., 11; 24 Me., 335; 25 Me., 346, 462; 27 Me., 219; 31 Me., 394; 33 Me., 451; 39 Me., 22; 44 Me., 115; 45 Me., 103; 54 Me., 466.

What does not; 17 Me., 371; 22 Me., 87; 23 Me., 390; 24 Me., 437; 29 Me., 451; 31 Me., 313; 34 Me., 51, 302; 37 Me., 13; 43 Me., 111; 49 Me., 416; 50 Me., 131, 176; 52 Me., 186; 56 Me., 159.