

MAINE STATE LEGISLATURE

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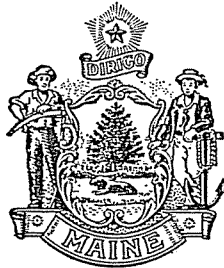
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OF THE
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Sec. 15. No action, for recovery of land after 40 years' possession. R. S. c. 119, § 15. No real or mixed action for the recovery of lands shall be commenced or maintained against any person in possession thereof, when such person or those under whom he claims have been in actual possession for more than 40 years, claiming to hold them by adverse, open, peaceable, notorious, and exclusive possession, in their own right.

See c. 84, § 102, re action for recovery of land after 40 years' possession; c. 158, § 44, re cases in which title deeds may be impeached; *109 Me. 67.

Sec. 16. Limitations of actions for uncultivated lands in incorporated places. R. S. c. 119, § 16. No real or mixed action for the recovery of uncultivated lands or of any undivided fractional part thereof, situated in any place incorporated for any purpose, shall be commenced or maintained against any person, or entry made thereon, when such person or those under whom he claims have, continuously for the 20 years next prior to the commencement of such action or the making of such entry, claimed said lands or said undivided fractional part thereof under recorded deeds; and have, during said 20 years, paid all taxes assessed on said lands or on such undivided fractional part thereof, however said tax may have been assessed whether on an undivided fractional part of said lands or on a certain number of acres thereof equal approximately to the acreage of said lands or of said fractional part thereof; and have, during said 20 years, held such exclusive, peaceable, continuous, and adverse possession thereof as comports with the ordinary management of such lands or of undivided fractional parts of such lands in this state.

118 Me. 129; 119 Me. 90, 269; 122 Me. 409; 126 Me. 299, 305.

CHAPTER 161.

ACTIONS OF DOWER.

Sec. 1. Widow may sue for dower. R. S. c. 117, § 1. When a woman is entitled to dower and it is not lawfully set out to her by the heir or tenant of the freehold, she may recover it by a writ of dower as herein provided.

39 Me. 428; 69 Me. 546.

Sec. 2. Demand and time of bringing action. R. S. c. 117, § 2. 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 of dower before 1 month nor after 1 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 1 year after the first demand.

35 Me. 95; 36 Me. 435; 37 Me. 514; 41 Me. 231; 45 Me. 487; 51 Me. 368; 55 Me. 372; 64 Me. 242; 70 Me. 180, 234; *82 Me. 236; *106 Me. 379.

Sec. 3. Demand on a corporation. R. S. c. 117, § 3. When a corporation is the tenant of the freehold, she must demand her dower in writing of any officer thereof on whom a writ in a civil action against it may be served; and the time between the demand and the suit shall be 60 days; but a second demand may be made as aforesaid.

70 Me. 181; *106 Me. 379.

Sec. 4. Non-tenure. R. S. c. 117, § 4. The defendant may plead in abatement, but not in bar, that he is not tenant of the freehold.

33 Me. 346; *106 Me. 379.

Sec. 5. Damages for detaining dower. R. S. c. 117, § 5. If the demandant 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.

28 Me. 510; 41 Me. 531; 69 Me. 518, *547.

Sec. 6. Suit to be against tenant of the freehold, but prior tenant is liable for damages. R. S. c. 117, § 6. 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; and if the demandant recovers her dower and damages, she may afterwards maintain an action on the case against the prior tenant of whom her demand was made, for the rents and profits while he held the premises after the demand.

62 Me. 576; 70 Me. 234.

Sec. 7. Demandant dying, pending action for dower, executor or administrator may prosecute. R. S. c. 117, § 7. If the demandant dies during the pendency of an action of 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 the provisions of the preceding section, and recover the damages to which she would be entitled, if any.

Sec. 8. Writ of seizin, and proceedings in setting off dower. R. S. c. 117, § 8. When judgment for dower is rendered in her favor, a writ of seizin shall be issued requiring the proper officer to cause her dower to be assigned and set out to her by 3 disinterested persons, to be appointed by the plaintiff, defendant, and officer, as in the levy of an execution on land; who shall be sworn to set it out equally and impartially, as conveniently as may be, and according to their best skill and judgment; and the officer shall make return of the writ and doings thereon to the court with the assignment of dower indorsed thereon or annexed thereto; which, being accepted, is conclusive.

See c. 157, § 1, re levy by appraisal; 16 Me. 81; 27 Me. 394; 38 Me. 449; 45 Me. 30; 69 Me. 519, *546; 72 Me. 313; 90 Me. 571.

Sec. 9. Assignments of rents and profits in certain cases. R. S. c. 117, § 9. 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 demandant as tenant in common with the other owners of the estate.

Sec. 10. Costs, how apportioned. R. S. c. 117, § 10. In actions of 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.

Sec. 11. Penalty, if waste committed. R. S. c. 117, § 11. 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 of 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.

13 Me. 278; 51 Me. 435; 52 Me. 142.

Sec. 12. Remedy, if evicted of dower. R. S. c. 117, § 12. If a woman is lawfully evicted of lands assigned to her as dower or settled upon her as a jointure, or is deprived of the provision made for her by will or otherwise instead of dower, she may be endowed anew as though no such assignment or provision had been made.

See c. 156, § 8 et seq., re rights of surviving husbands and wives; 23 Me. 277; 27 Me. 392.

CHAPTER 162.

PARTITION OF REAL ESTATE.

Sec. 1. Partition, by writ at common law. R. S. c. 102, § 1. 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 writ of partition at common law.

12 Me. 144, 327, 401; 16 Me. 391; 17 Me. 427; 21 Me. 49; *31 Me. 487; *35 Me. 110; 52 Me. 25; 64 Me. 99; *92 Me. 397; 110 Me. 63; 111 Me. 194; 125 Me. 219; 130 Me. 395; 131 Me. 435 et seq.

Sec. 2. Partition by petition; form of petition. R. S. c. 102, § 2. Persons entitled as provided in section 1, and those in possession or having a right of entry for a term of years, as tenants in common, may present a petition to the superior court held in the county where such estate is, clearly describing it, and stating whether it is a fee simple, for life, or for years, and the proportion claimed by them, the names of the other tenants in common, and their places of residence, if known, and whether any or all of them are unknown.

5 Me. 461; 12 Me. 145, 327; 16 Me. 391; 17 Me. 427; 39 Me. 164; 52 Me. 416; 64 Me. 99; 94 Me. 490; 111 Me. 194; 118 Me. 1; 125 Me. 219; 130 Me. 395; 131 Me. 435.

Sec. 3. Filing, if all cotenants are named; service. R. S. c. 102, § 3. The petition may be filed in the office of the clerk of the court in vacation, if all the cotenants are named in it. A copy thereof, attested by the clerk, left with each or at his last and usual place of abode 20 days before the session of the court to which it is addressed is sufficient service.

100 Me. 548.

Sec. 4. Order of notice when not all named. R. S. c. 102, § 4. When the cotenants are not all named in the petition, it may be presented to the court in that or in any other county, returnable in the county where the estate is, and such notice shall be given to the other cotenants as the court orders; and in case of non-compliance therewith, or other imperfection of notice, the court may order further notice to be given.

5 Me. 464; 94 Me. 490; 96 Me. 558.

Sec. 5. When those not notified may appear; pleadings. R. S. c. 102, § 5. A person interested and not named in the petition, or out of the state, and not so notified as to enable him to appear earlier, may, in the discretion of the court, be