

CHAPTER 86

Jamaica
Cap. 222.

THE LIMITATION OF ACTIONS LAW

[1st July, 1881.]

1. This Law may be cited as the Limitation of Actions Law.

Short title.

PART. I. *Limitation of Actions (Land)*

2. In this Part of this Law—

“land” extends to messuages and all other corporeal hereditaments whatsoever, and also to any share, estate or interest in them, or any of them, whether the same shall be a freehold or chattel interest;

Interpreta-
tion.

“rent” extends to all annuities and periodical sums of money charged upon or payable out of any land;

“the person through whom another person is said to claim” means any person by, through or under, or by the act of whom, the person so claiming became entitled to the estate or interest claimed, as heir, issue in tail, tenant by the curtesy, tenant in dower, successor, executor, administrator, legatee, husband, appointee, devisee or otherwise;

“person” extends to a body politic or corporate, and to a class of creditors or other persons, as well as to an individual.

3. No person shall make an entry or distress, or bring an action or suit to recover any land or rent, but within twelve years next after the time at which the right to make such entry or distress, or to bring such action or suit, has first accrued to some person through whom he claims, or, if such right has not accrued to any person through whom he claims, then within twelve years next after the time at which the right to make such entry or distress, or to bring such action or suit, has first accrued to the person making or bringing the same.

Right of
entry or
distress, or
bringing
action to
recover land
or rent,
limited to
twelve years.

4. The right to make an entry or distress or bring an action to recover any land or rent shall be deemed to have first accrued at such time as hereinafter is mentioned, that is to say—

When the
right shall be
deemed to
have accrued.

- (a) when the person claiming such land or rent or some person

through whom he claims has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of such land, or in receipt of such rent, and has while entitled thereto been dispossessed, or discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were or was so received;

- (b) when the person claiming such land or rent claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death;
- (c) when the person claiming such land or rent claims in respect of an estate or interest in possession granted, appointed or otherwise assured by any instrument (other than a will) to him, or some person through whom he claims by a person, being in respect of the same estate or interest in the possession or receipt of the profits of the land, or in the receipt of the rent, and no person entitled under such instrument has been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument;
- (d) when the estate or interest claimed has been an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession;
- (e) when the person claiming such land or rent, or the person through whom he claims, has become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred, or such condition was broken.

5. When any right of action to recover a breach of condition or interest in reversion has been recovered by entry or distress or otherwise, the right shall be deemed to have first accrued at the time when the breach happened, as if no recovery had been made.

6. A right to make an entry to recover any land or interest in respect of an estate or interest in reversion or other future estate or interest which became an estate or interest in possession or receipt of any estate or interest, or the profits of such land, notwithstanding that the person through whom the right was created of the estate or interest has been in the possession or receipt of such rent or profits.

But if the person claiming the right to make an entry to recover any future estate or interest in possession or receipt of such land or rent, at the time when the right was created, or distress shall be made by any person becoming entitled to such interest, but within the period of time to make an entry to recover of such land or interest shall have expired after the time when the possession became an estate or interest in possession, the periods shall be the periods for which the person claiming such entry or interest has been barred and shall not be entitled to the estate or interest until the right takes effect after the time when the right was created.

5. When any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued, in respect of such estate or interest, at the time when the same became an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

When forfeiture is not taken by remainderman, he shall have a new right when estate comes into possession.

6. A right to make an entry or distress, or to bring an action or suit to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land was held, or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which shall have determined, been in the possession or receipt of the profits of such land, or in receipt of such rent.

When the right shall be deemed to have accrued.

But if the person last entitled to any particular estate on which any future estate or interest was expectant had not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action or suit shall be brought, by any person becoming entitled in possession to a future estate or interest, but within twelve years next after the time when the right to make an entry or distress, or to bring an action or suit for the recovery of such land or rent, first accrued to the person whose interest shall have so determined, or within six years next after the time when the estate of the person becoming entitled in possession became vested in possession, whichever of those two periods shall be the longer; and if the right of any such person to make such entry or distress, or to bring any such action or suit, has been barred under this Part, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement, executed or taking effect after the time when a right to make an entry or distress,

or to bring an action or suit for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall make any such entry or distress, or bring any such action or suit, to recover such land or rent.

Mortgagee's right of recovery within twelve years after last payment of any principal or interest.

7. It shall and may be lawful for any person entitled to or claiming under any mortgage of land to make an entry, or bring an action or suit to recover such land, at any time within twelve years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than twelve years may have elapsed since the time at which the right to make such entry or bring such action or suit shall have first accrued.

An administrator to claim as if he obtained the estate without interval.

8. An administrator claiming the estate or interest of the deceased person of whose chattels he has been appointed administrator shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

In the case of a tenant at will the right shall be deemed to have accrued at the end of one year.

9. When any person is in the possession or in the receipt of the profits of any land, or in the receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or bring an action for the recovery of such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy at which time such tenancy shall be deemed to have determined:

Provided always, that no mortgagor or *cestui que trust* shall be deemed to be a tenant at will, within the meaning of this section, to his mortgagee or trustee.

No person, after a tenancy from year to year, to have any right but from the end of the first year or last payment.

10. When any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant, from year to year, or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods or at the last time when any rent payable in respect of such tenancy has been received (whichever shall last happen).

11. When any profits of any land, writing by which a shillings or upward lease has been re to be entitled to such upon the determination the rent reserved to such land or rent whom he claims, to after the determination accrued at the time first so received by t no such right shall l mination of such lea

12. No person sh land merely by reas

13. No continual preserve any right an action.

14. When any on or rent as coparc have been in possess their undivided shar or of such rent, for l person or persons o other share or shar receipt shall not be or by such last-men

15. When a you entitled as heir to th to the receipt of a thereof, such posses possession or receipt

11. When any person is in the possession or in receipt of the profits of any land, or in receipt of any rent, by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant upon the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease, or of the person through whom he claims, to make an entry or distress, or to bring an action, after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

When rent amounting to twenty shillings reserved by a lease in writing has been wrongfully received.

12. No person shall be deemed to have been in possession of any land merely by reason of having made an entry thereon.

A mere entry not to be deemed possession.

13. No continual or other claim upon or near any land shall preserve any right of making an entry or distress or of bringing an action.

No right to be preserved by continual claim.

14. When any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common, have been in possession or receipt of the entirety, or more than his or their undivided share or shares, of such land or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons or any of them.

Possession of one coparcener, etc., not to be the possession of the other.

15. When a younger brother or other relation of the person entitled as heir to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the person entitled as heir.

Possession of a younger brother not possession of the heir.

Acknowledgment in writing equivalent to possession or receipt of rent.

16. When any acknowledgment of the title of the person entitled to any land or rent has been given to him or his agent, in writing signed by the person in possession or in receipt of the profits of such land, or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same; and the right of such last-mentioned person, or any person claiming through him to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given.

Disabilities

Extension of time allowed in cases of disabilities.

17. If at the time at which the right of any person to make an entry or distress, or to bring an action or suit to recover any land or rent, first accrued as aforesaid, such person was under any of the disabilities hereinafter mentioned, that is to say, infancy, idiocy, lunacy or unsoundness of mind, then such person, or the person claiming through him, may notwithstanding the period of twelve years or six years (as the case may be), hereinbefore limited has expired, make an entry or distress, or bring an action or suit to recover such land or rent, at any time within six years next after the time at which the person to whom such right first accrued ceased to be under any such disability or died (whichever of those two events shall have first happened).

No time to be allowed for absence beyond seas.

18. The time within which any such entry shall be made, or any such action or suit may be brought as aforesaid, shall not in any case be extended or enlarged by reason of the absence beyond seas during all or any part of that time of the person having the right to make such entry, or to bring such action or suit, or of any person through whom he claims.

Utmost allowance of time in case of disabilities.

19. No entry, distress, action or suit, shall be made or brought by any person who, at the time at which his right to make any entry or distress, or to bring an action or suit to recover any land or rent, first accrues is under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within thirty years next

after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such thirty years, or although the term of six years from the time at which he ceased to be under any such disability, or died, has not expired.

20. When any person is under any of the disabilities hereinbefore mentioned at the time at which his right to make an entry or distress, or bring an action to recover any land or rent, first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent, beyond the said period of twelve years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued, or the said period of six years next after the time at which such person died, shall be allowed by reason of any disability of any other person.

No further time to be allowed for a succession of disabilities.

Where Right to Estate in Possession Barred

21. When the right of any person to make an entry or distress, or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited which is applicable in such case, and such person at any time during the said period was entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent, in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession.

When the right to an estate in possession is barred.

Tenant in Tail

22. When the right of a tenant in tail of any land or rent to make an entry or distress, or to bring an action to recover the same has been barred by reason of the same not having been made or brought within the time hereinbefore limited which is applicable in such case, no such entry, distress or action shall be made or brought

Where tenant in tail is barred remaindermen shall not recover.

by any person claiming an estate, interest or right which such tenant in tail might lawfully have barred.

Possession adverse to a tenant in tail shall run on against the remaindermen.

23. When a tenant in tail of any land or rent entitled to recover the same has died before the expiration of the period hereinbefore limited which is applicable in such case for making an entry or distress, or bringing an action to recover such land or rent, no person claiming any estate, interest or right, which such tenant in tail might lawfully have barred shall make an entry or distress, or bring an action to recover such land or rent, but within the period during which if such tenant in tail had so long continued to live he might have made such entry or distress or brought such action.

Limitation against remaindermen in certain cases of adverse possession.

24. When a tenant in tail of any land or rent has made an assurance thereof which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at the time of the execution thereof, or at any time afterwards, is in possession or receipt of the profits of such land or in the receipt of such rent, and the same person, or any other person whosoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues or is in such possession or receipt for the period of twelve years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then, at the expiration of such period of twelve years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest or right, to take effect after or in defeasance of such estate tail.

Suits in Equity

Limitations as to suits in equity.

25. No person claiming any land or rent in equity shall bring any suit to recover the same, but within the period during which by virtue of the provisions hereinbefore contained he might have made an entry or distress, or brought an action to recover the same respectively, if he had been entitled at law to such estate, interest or right in or to the same as he claims therein in equity.

26. When any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such land or rent has been conveyed to a purchaser for valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

In cases of express trust, the right not to accrue until conveyance.

27. In every case of a concealed fraud, the right of any person to bring a suit in equity for the recovery of any land or rent of which he, or any person through whom he claims may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud was, or with reasonable diligence might have been, first known or discovered:

As to cases of fraud.

Provided that nothing in this section contained shall enable any owner of lands or rents to have a suit in equity for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents on account of fraud, against any *bona fide* purchaser for valuable consideration who has not assisted in the commission of such fraud and who at the time that he made the purchase did not know, and had no reason to believe, that any such fraud had been committed.

28. Nothing in this Part shall interfere with any rule or jurisdiction of any Court exercising equitable jurisdiction in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Part of this Law.

Saving the jurisdiction of equity.

29. When a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action or suit to redeem the mortgage but within twelve years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee or the person claiming through him; and in such case no such action or suit shall be brought but within twelve years next

Limitation in cases of mortgagees in possession.

after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given; and when there is more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there is more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money, or land or rent, by, from or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money, or land or rent; and where such of the mortgagees or persons aforesaid as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage.

Extinguishment of Right

At the end of the period of limitation the right to be extinguished.

30. At the determination of the period limited by this Part of this Law to any person for making an entry or distress, or bringing any action or suit, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, action or suit respectively might have been made or brought within such period, shall be extinguished.

Receipt of Rent

Receipt of rent deemed receipt of profits.

31. The receipt of rent payable by any tenant from year to year, or other lessee, shall as against such lessee, or any person claiming

under him (but subject to the lease), be deemed to be the receipt of the profits of the land for the purposes of this Part of this Law.

What shall not Defeat Right of Entry

32. No descent cast, discontinuance or warranty, which may happen or be made shall toll or defeat any right of entry or action for the recovery of land.

No descent, etc., to bar right of entry.

Money Charged upon Land, etc.

33. No action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twelve years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person by whom the same is payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit or proceeding shall be brought but within twelve years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one, was given.

Limitation in cases of charges and liens on land.

34. No action, suit or other proceeding shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, at law or in equity, and secured by any express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust.

Time for recovering charges and arrears of interest.

35. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit.

No arrears of dower to be recovered for more than six years.

No arrears of rent or interest to be recovered for more than six years.

36. No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action or suit, but within six years next after the same respectively has become due, or next after an acknowledgment of the same in writing has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or by his agent:

Provided, nevertheless, that where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which has become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years.

Limitation in cases of money or legacies secured by trusts, etc.

37. No action, suit or other proceeding shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, at law or in equity, and secured by an express trust, or to recover any arrears of rent, or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust.

PART II. *Crown Suits Limitation*

Crown barred after sixty years after title accrued, as to lands and revenues therefrom.

38. Her Majesty the Queen, her heirs or successors shall not, at any time sue, impeach, question, or implead any person or persons, bodes politic or corporate, for or in anywise concerning any lands, tenements, rents or hereditaments whatsoever, or for or in anywise concerning the revenues, issues, or profits thereof, or make any title, claim, challenge or demand of, in, or to the same, or any of them, by reason of any right or title which hath not first accrued and grown, or which shall not hereafter first accrue and grow within the space of sixty years next before the filing, issuing, or commencing of every such action, plaint, information, commission, or other suit or proceeding as shall at any time or times hereafter be filed, issued, or commenced for recovering the same, or in respect thereof, unless

Her Majesty, or some of her progenitors, predecessors, or ancestors, heirs or successors, or some other person or bodies politic or corporate, under whom Her Majesty, her heirs, or successors, anything hath or lawfully claimeth, hath or shall have been answered by force and virtue of any such right or title to the same, the rents, revenues, issues, or profits thereof, within the said space of sixty years. All and every person or bodies politic and corporate, their heirs, and successors, and all claiming by, from, or under them, or any of them, for and according to their and every of their several estates and interests which they have or claim to have, or shall or may have, or claim to have in the same respectively, shall, at all times hereafter, quietly and freely have, hold, and enjoy, against Her Majesty, her heirs and successors claiming by any title which hath not first accrued or grown, or which shall not hereafter first accrue or grow within the said space of sixty years, all and singular lands, tenements, rents and hereditaments whatsoever, which he or they or his or their or any of their ancestors or predecessors, or those from, by, or under whom they do or shall claim, have or shall have held or enjoyed, or taken the rents, revenues, issues, or profits thereof, by the space of sixty years next before the filing, issuing, or commencing of every such action, plaint, information, commission, or other suit or proceeding as shall at any time or times hereafter be filed, issued, or commenced, for recovering the same, or in respect thereof; unless Her Majesty, or some of her progenitors, predecessors, or ancestors, heirs, or successors, or some other person or persons, bodies politic or corporate, by, from, or under whom Her Majesty, her heirs or successors, anything hath or lawfully claimeth, or shall have or lawfully claim in the said lands, tenements, rents, or hereditaments, by force of any right or title, have been or shall have been answered, by virtue of any such right or title, the rents, revenues, issues, or other profits thereof, within the said space of sixty years.

39. Her Majesty the Queen, her predecessors and successors, shall not be held, deemed, or taken, for the purposes of this Law, to have been answered the rents, revenues, issues or profits of any lands, tenements, rents, or hereditaments which have been held or enjoyed, or of which the rents, revenues, issues or profits, have been taken, by any other person or persons, by the space of sixty years next before the filing, issuing, or commencing of any such action, suit, plaint, information, commission, or other suit or proceeding for recovering the same, or in respect thereof, as in this Part

When rents shall not be deemed to be answered.

of this Law is mentioned, by reason only of the same lands, tenements, rents, or hereditaments having been part or parcel of any hereditaments of which the rents, revenues, issues, or profits have been answered to Her Majesty, or her predecessors or successors, or some other person under whom Her Majesty hath or lawfully claimeth or shall hereafter have or lawfully claim as aforesaid.

Reservation
as to Crown
rights in
reversion or
remainder.

40. Nothing in this Part shall extend to bar, impeach, or hinder Her Majesty, her heirs or successors of, for, or from, any tenement, rents, or hereditaments, whereof any reversion or remainder now is in Her Majesty, for or concerning the said reversion or remainder, nor of, for, or from any reversion or remainder, or possibility of reversion or remainder, in any of Her Majesty's progenitors, or predecessors, or ancestors, which by the expiration, end, or other determination of any limited estate of fee simple, or of any fee tail or other particular estate, hath or ought to have first fallen or become in possession, or which shall or may or ought hereafter first to fall or come in possession within the space of sixty years next before the filing, issuing or commencing of any such action, plaint, information, commission or other suit or proceeding as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof; nor of, for, or from any right or title first accrued or grown to Her Majesty, or any of her progenitors, predecessors or ancestors, or which shall first accrue, or grow to Her Majesty, or any of her heirs or successors, of, in or to any lands, tenements, rents or hereditaments, at any time or times within the space of sixty years next before the filing, issuing, or commencing of any such action, plaint, information, commission or other suit or proceeding as shall at any time or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof, and not before.

Limitations
of this Part
of Law as to
particular
estates.

41. Nothing in this Part shall extend to any lands, tenements, rents or hereditaments, mentioned to be granted or conveyed by any of Her Majesty's progenitors, predecessors or ancestors, or by any other under whom Her Majesty claimeth, to any person of any limited estate in fee simple, or of any estate in tail, or other particular estate, which several estates (if the same had been good and effectual in law), have or ought to have first fallen or become in possession, or will or ought first to fall or come in possession, within the space of sixty years next before the filing, issuing, or commencing of any such action, plaint, information, commission or other suit or proceeding

as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof as aforesaid; nor to any lands, tenements, rents or hereditaments, mentioned to be granted or conveyed by any of Her Majesty's progenitors, predecessors or ancestors, or by any other under whom Her Majesty claimeth, to any person in fee tail, or other particular estate, whereof the reversion or inheritance (if such estate tail, or other particular estate, had been good and effectual in law) should have been and continued in Her Majesty, or any of her progenitors, predecessors or ancestors, or should or ought hereafter to be and continue in Her Majesty, her heirs or successors, at any time within the space of sixty years next before the filing, issuing or commencing of any such action, plaint, information, commission or other suit or proceeding as shall at any time or times hereafter be filed, issued, or commenced, for recovering the same, or in respect thereof as aforesaid.

42. In the construction of this Part the right or title of Her Majesty the Queen to any lands, tenements, rents or hereditaments which are now or shall at any time hereafter be subject to, or comprised in any demise or lease for any term or term of years, or for any life or lives granted by or on behalf of Her Majesty, or any of her royal predecessors or successors, shall not be deemed to have first accrued or grown until the expiration or determination of such demise or lease as against any person whose possession, holding or enjoyment of such lands, tenements, rents or hereditaments, or whose receipt of the rents, issues or profits thereof, shall have commenced during the term of such demise or lease, or who shall claim from, by, or under any person whose possession, holding or enjoyment of such lands, tenements, rents or hereditaments, or whose receipt of the rents, issues or profits thereof, shall have so commenced as aforesaid.

When right is deemed to accrue in cases of leases for years or lives.

43. Anything in this Part to the contrary notwithstanding, all such rights, title, interest, estate, rents, commons, customs, duties, profits and other claims and demand whatsoever, in, to or out of the said lands, tenements or hereditaments, are reserved to every person and bodies politic and corporate (other than Her Majesty), as they or any of them had or ought to have had before the 22nd day of March, 1873.

Existing private rights, etc., reserved.

Liability to property tax, etc., and proceedings therefor not affected.

44. This Part shall not affect the liability to recover property tax or quit rents, or the liability to any proceedings, or to any forfeiture in consequence of non-payment of property tax or quit rents, but property tax and quit rents shall continue to be due and payable, and all proceedings in consequence of non-payment thereof, and all proceedings for forfeiture for such non-payment may be had, continued and commenced as if this Part had not been passed.

PART III. Boundaries

Reputed boundaries acquiesced in for seven years.

45. In all cases where the lands of several proprietors bind or have bound upon each other, and a reputed boundary hath been or shall be acquiesced in and submitted to by the several proprietors owning such lands, or the persons under whom such proprietors claim, for the space of seven years together, such reputed boundary shall for ever be deemed and adjudged to be the true boundary between such proprietors; and such reputed boundary shall and may be given in evidence upon the general issue, in all trials to be had or held concerning lands, or the boundaries of the same, any law, custom or usage to the contrary in anywise notwithstanding:

Provided always, that nothing herein contained shall extend to preclude minors under the age of twenty-one years, or persons of unsound memory, from contesting and disputing at law the truth of any boundaries set up or established during the minority, or insanity of the said respective persons:

Provided such persons shall contest and dispute the same within five years after such person under age shall attain the age of twenty-one years, or person of unsound memory shall become *compos mentis*.

PART IV. Limitation of Actions (Debt and Contract)

Acknowledgment or promise to take case out of the statute must be in writing.

46. In actions of debt, or upon the case grounded upon any simple contract, no acknowledgment or promise by words only shall be deemed sufficient evidence in any of the Courts of the Islands, of a new or continuing contract, whereby to take any case out of the operation of the Imperial Statute 21 James I. Cap. 16, which has been recognized and is now esteemed, used, accepted and received as one of the Laws of the Islands, or to deprive any party of the benefit thereof unless such acknowledgment or promise is made or contained by or in some writing, to be signed by the party chargeable thereby, or his agent duly authorized to make such acknow-

ledgment or promise; and where there are two or more joint contractors or executors or administrators of any contract, no such joint contractor, executor or administrator shall lose the benefit of the said enactment, so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them.

Provided always, that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatsoever.

Provided also, that in actions to be commenced against two or more such joint contractors or executors or administrators, if it appear at the trial or otherwise that the plaintiff, though barred by the Imperial Statute aforesaid as to one or more of such joint contractors or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment or promise, or otherwise, judgment may be given, and costs allowed for the plaintiff, as to such defendant or defendants against whom he recovers and for the other defendant or defendants against the plaintiff.

47. If any defendant or defendants, in any action on any simple contract, pleads any matter in abatement, to the effect that any other person or persons ought to be jointly sued, and issue is joined on such plea, and it appears at the trial that the action could not, by reason of the Imperial Statute aforesaid, be maintained against the other person or persons named in such plea, or any of them, the issue joined on such plea shall be found against the party pleading the same.

48. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing, by or on the behalf of the party to whom such payment is made, shall be deemed sufficient proof of such payment, so as to take the case out of the operation of the said statute.

49. The Imperial Statute aforesaid and this Part of this Law shall be deemed and taken to apply to the case of any debt or simple contract alleged by way of set-off on the part of any defendant, either by plea, notice or otherwise.

Provision as to stamps.

Cap. 153.

Limitation of actions for "merchants' accounts."

Bonds, etc., on which no payment made or action brought for twenty years.

Provision respecting plea in abatement.

No endorsement, etc., of any payment upon any note, etc., shall be deemed sufficient.

21 Jac. I, ch. 16, and this Part of Law to apply to case of debt or simple contract by way of set-off.

Provision as
to stamps.

Cap. 159.

50. No memorandum or other writing, made necessary by the preceding sections of this Part of this Law shall be deemed to be an agreement within the meaning if the Stamp Duty Law.

Limitation of
actions for
"merchants"
accounts.

51. All actions of account, or for not accounting, and suits for such accounts, as concern the trade of merchandise between merchant and merchant, their factors or servants, shall be commenced and sued within six years after the cause of such actions or suits, and no claim in respect of a matter which arose more than six years before the commencement of such action or suit shall be enforceable by action or suit by reason only of some other matter of claim comprised in the same account having arisen within six years next before the commencement of such action or suit.

Bonds, etc.,
on which no
payment
made or
action
brought for
twenty years,
void.

52. All bonds and every other writing obligatory whatsoever, whereon no payment has been made or action brought within the space of twenty years from the time they respectively became or shall become due, or from the last payment thereon, shall be null and void to all intents, constructions and purposes whatsoever:

Provided always that the limitation herein mentioned shall not extend or be construed to extend to any infant or person of unsound mind:

Provided also, that such persons shall bring their actions to recover any such demands within three years next after such disability ceased.

Absence be-
yond seas or
imprison-
ment of a
credit or not
to be a dis-
ability.

53. No person or persons who shall be entitled to any action or suit with respect to which the period of limitation within which the same shall be brought is fixed by the Act of Parliament of the twenty-first year of the reign of King James the First, chapter 16, section 3, or by the Act of Parliament of the fourth year of the reign of Queen Anne, chapter 16, section 17, shall be entitled to any time within which to commence and sue such action or suit beyond the period so fixed for the same by the enactments aforesaid, by reason only of such person, or some one or more of such persons, being at the time of such cause of action or suit accrued beyond the seas, or in the cases in which by virtue of any of the aforesaid enactments imprisonment is now a disability, by reason of such person, or some one or more of such persons, being imprisoned at the time of such cause of action or suit accrued.

54. Where such cause of action or suit with respect to which the period of limitation is fixed by the enactments aforesaid, or any of them, lies against two or more joint debtors, the person or persons who shall be entitled to the same, shall not be entitled to any time within which to commence and sue any such action or suit against any one or more of such joint debtors who shall not be beyond the seas at the time such cause of action or suit accrued, by reason only that some other one or more of such joint debtors was or were at the time such cause of action accrued beyond the seas; and such person or persons so entitled as aforesaid, shall not be barred from commencing and suing any action or suit against the joint debtor or joint debtors who was or were beyond the seas at the time the cause of action or suit accrued after his or their return from beyond seas, by reason only that judgment was already recovered against any one or more of such joint debtors who was not or were not beyond the seas at the time aforesaid.

Where such cause of action lies against two or more debtors person entitled shall not have any time within which to commence and sue such action or suit, etc.

55. In reference to the provisions of the Act of Parliament of the twenty-first year of the reign of King James the First, chapter 16, section 3, when there shall be two or more co-contractors or co-debtors, whether bound or liable jointly only or jointly and severally, or executors or administrators of any contractor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of the said enactment, so as to be chargeable in respect or by reason only of payment of any principal, interest, or other money by any other or others of such co-contractors or co-debtors, executors or administrators.

Part payment by one contractor, etc., not to prevent operation of statute in favour of another contractor, etc.