

Passed in Council this eighth day of July, one thousand eight hundred and forty-four.

JAMES PORTER,
Acting Clerk of Council.

No. 8.—1844.

AN ORDINANCE for the Limitation of Personal and Mixed Actions.

(L. S.) H. MACLEOD.

WHEREAS it is expedient that the law relating to the limitation of time for the bringing of personal and mixed actions should be assimilated to the law of England: Be it therefore enacted by his Excellency the Governor, by and with the advice and consent of the Council of Government.

1. That in this Ordinance the word "land" shall extend to messuages, buildings, and all other immoveable property and corporeal hereditaments whatsoever; and the word "rent" shall extend to all annuities and periodical sums of money charged by any specialty upon and payable out of any land; and the word "person" shall extend to a body politic, corporate, or collegiate, and a class of creditors or other persons, as well as an individual; and any word importing the singular number only, shall extend and be applied to several persons and things as well as one person and thing; and any word importing the masculine gender only, shall extend and be applied to a female, as well as a male; and that every suit and proceeding instituted in any court of law or of equity, and every proceeding in Terceria shall be deemed and taken to be an action within the meaning of this Ordinance.

2. And be it further enacted and ordained, That from and after the commencement of this Ordinance, all actions, suits, or other proceedings, brought to recover any sum of money secured by any mortgage, judgment, or specialty, or charged upon or payable out of and being

proviso in case
of part pay-
ment or ac-
knowledg-
ment.

a lien upon any land or rent, or for the recovery of any dotal claims, or any legacy or share of any inheritance, and all actions of account between partners in land or commerce, or between co-heirs, or against any executor, guardian, trustee, curator, or administrator or agent, shall and may be brought at any time within twelve years next after a present right to receive or have the same shall have accrued to some person capable of giving a discharge for or release of the same, and not after twelve years, unless in the mean time some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto, or to maintain such action, shall have been given in writing, signed by the person liable or by whom the money shall be payable or his agent, to the person entitled thereto or his agent; and in such case no such action, 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.

No arrears of
rent or interest
to be recover-
ed for more
than six years.

3. And be it further enacted and ordained, That from and after the commencement of this Ordinance, no arrears of rent, or of interest in respect of any sum of money charged upon or payable out of, and being a lien upon, any land or rent, or in respect of any legacy or of any dotal claims or any damages in respect of such arrears of rent or interest, shall be recovered by an action or suit but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto or his agent, signed by the person by whom the same was payable or his agent.

Limitation of
other personal
and mixed ac-
tions.

4. And be it further enacted and ordained, That from and after the commencement of this Ordinance, all actions for the recovery of any chattel or moveable thing, or the possession thereof, all actions founded upon any simple contract without specialty, actions for damage or injury to persons or property, and all personal and mixed actions whatsoever, shall and may be commenced and sued within four years next after the cause of such actions, and not after; except, nevertheless, all actions by this Ordinance otherwise specially provided for, and

except also all actions of assault, battery, wounding, imprisonment, or any of them, and all actions of libel and slander, which said actions of assault, battery, wounding, imprisonment, libel, and slander, shall be commenced and sued within two years next after the cause of such actions, and not after.

5. Provided always, and be it enacted and ordained, That if any acknowledgment shall be made either by writing signed by the party liable upon any simple contract, or his agent, or by part payment or part satisfaction on account of any principal or interest being due thereon, it shall and may be lawful for the person entitled to such action to bring his action for the money remaining unpaid or so acknowledged to be due within four years after such acknowledgment or part payment or part satisfaction as aforesaid, or the last of such acknowledgments, part payments, or part satisfactions, if more than one.

Proviso in case of acknowledgment in writing or part payment in case of simple contract.

6. And be it further enacted and ordained, That from and after the commencement of this Ordinance, all actions for penalties, damages, or sums of money given to the party grieved by any Statute, Order in Council, or Ordinance, shall be commenced and sued within two years after the cause of such actions or suits, but not after, provided that nothing herein contained shall extend to any action given by any Statute, Order in Council, or Ordinance, where the time for bringing such action is or shall be by any such Statute, Order in Council, or Ordinance specially limited.

Limitation in respect of actions on any Statute, Order in Council, or Ordinance.

7. And be it further enacted and ordained, That in all actions for damage or trespass to land, hereafter to be brought wherein the defendant or defendants shall disclaim in his or their plea, to make any title or claim to the land in which the trespass or damage is by the declaration supposed to be done, and the trespass or damage was by negligence or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the damage or trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass or damage, before the action brought, whereupon or upon some of them the plaintiff or plaintiffs shall be enforced to join issue, and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited, the plaintiff or plaintiffs

After judgment or non-suit in actions for trespass or damage to property; the Plaintiff is barred to renew the suit.

shall be clearly barred from the said action or actions, and all other suits concerning the same.

In actions of slander the Plaintiff shall recover no greater costs than damages.

8. And be it further enacted and ordained, That in all actions for libel or slanderous words spoken, to be sued or prosecuted by any person or persons in the Superior Civil Court of this Colony, from and after the promulgation of this Ordinance, if upon the trial the damages shall be found and assessed under two pounds sterling, then the plaintiff or plaintiffs in such action shall have and recover only so much costs as the damages so given or assessed amount unto, any law, custom, or usage, to the contrary notwithstanding.

Remedy for infants, femes covert, &c.

9. Provided nevertheless, and be it further enacted and ordained, That if any person or persons, that is or shall be entitled to any such actions for money secured by mortgage, judgment, or specialty, or charged upon or payable out of and being a lien upon any land or rent, or for the recovery of any dotal claims or any legacy or share of any inheritance, or for an account as between partners in land or commerce, or between co-heirs, or as against any executor, guardian, trustee, curator, administrator, or agent, or to any such actions for the recovery of any chattel or moveable thing, or the possession thereof, or such actions founded upon any simple contract without specialty, and actions for damage or injury to persons or property, or to such personal or mixed actions, and to actions of libel and slander, and assault, battery, wounding and imprisonment, as in this Ordinance hereinbefore mentioned, be or shall be at the time of any such cause of action, given or accrued, fallen or come within the age of twenty-one years, feme covert or non compos mentis, that then such persons shall be at liberty to bring the same actions within the times hereinafter limited, and not after, that is to say, as to the said actions for money secured by mortgage, judgment, or specialty, or charged upon or payable out of and being a lien upon any land or rent, or for the recovery of any dotal claims, or any legacy or share of any inheritance, or for an account as between partners in land or commerce, or between co-heirs, or as against any executor, guardian, trustee, curator, administrator, or agent, within four years and not after, and as to the said actions for the recovery of any chattel, or the possession thereof, or

founded upon any simple contract without specialty, and for damage or injury to persons or property, and the said personal and mixed actions, and actions of libel and slander and assault, battery, wounding and imprisonment, within one year and not after, such persons coming to or being of full age, discovert, and of sane memory.

10. Provided also, and be it further enacted and ordained, That if in any action or suit in this Ordinance mentioned, judgment be given for the plaintiff, and the same be reversed upon appeal, or arrested, in all such cases the party plaintiff, his heirs, executors or administrators, as the case shall be and require, may commence a new action or suit from time to time within a year after such judgment reversed or arrested.

Limitation in case of judgments reversed or arrested.

11. And be it further enacted and ordained, That from and after the commencement of this Ordinance the following Laws—that is to say: the second, fourth, eighth, ninth, fourteenth, twentieth, twenty-first, twenty-second, twenty-seventh and twenty-eighth Laws of the twenty-ninth title of the third Partida, the thirty-second law of the sixteenth title of the second book, and the sixth and ninth Laws of the fifteenth title of the fourth book de las Leyes de Recopilacion, together with all other laws, Orders of Government, and Ordinances whatsoever relating to the several matters contained in this Ordinance, so far as the same or any part thereof are or is inconsistent with or repugnant to any of the provisions of this Ordinance, shall be, and the same are hereby declared to be, repealed.

Repeals certain laws, &c., so far as the same are repugnant to this Ordinance.

12. And be it further enacted and ordained, That this Ordinance shall commence and take effect from and immediately after the expiration of three calendar months next after the day of the promulgation of the same.

Commencement of Ordinance.

Passed in Council this eighteenth day of July, one thousand eight hundred and forty-four.

JAMES PORTER,

Acting Clerk of Council.