

8. And be it enacted, That from and after the commencement of this Ordinance the fifteenth and sixteenth laws of the thirty-first title of the third Partida, 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 are or any part thereof is inconsistent with or repugnant to any of the provisions of this Ordinance, shall be, and the same are hereby repealed. Repeals certain Laws.

9. And be it enacted, That this Ordinance shall take effect from and after the expiration of six calendar months next after the promulgation thereof. Commencement of Ordinance.

Passed in Council the twenty-third day of April, one thousand eight hundred and forty-five.

JAMES PORTER,

Acting Clerk of Council.

No. 10.--1845.

AN ORDINANCE for the Limitation of Actions and Suits relating to Real Property.

(L. S.) H. MACLEOD.

WHEREAS it is expedient that the laws relating to the limitation of time for the bringing of actions and suits, relating to real property in this Colony, should be amended, and that the same should be made more clear and determinate. Be it therefore enacted, by his Excellency the Governor in and over the Island of Trinidad and its dependencies, by and with the advice and consent of the Council of Government thereof, That the words and expressions hereinafter mentioned which in their ordinary signification have a more confined or a different meaning, shall in this Ordinance, except where the nature of the provision or the context of the Ordinance shall exclude such construction, be interpreted as follows, that is to say, the word "land" shall extend Meaning of the words in the Ordinance.

to messuages and all other corporeal hereditaments whatsoever, and also to any share, estate or interest in them or any of them, and the word "rent" shall extend to all services for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land, and the person through whom another person is said to claim shall mean 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, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee or otherwise; and the word "person" shall extend to a body politic, or corporate, and to a class of creditors or other persons, as well as an individual; and every word importing the singular number only shall extend, and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: and every proceeding in Terceria shall be deemed and taken to be an action within the meaning of this Ordinance.

No land or rent to be recovered but within sixteen years after the right of action accrued to the claimant or some person whose estate he claims.

2. And be it enacted, That from and after the commencement of this Ordinance no person shall make an entry or distress, or bring an action to recover any land or rent, but within sixteen years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to some person through whom he claims, or if such right shall not have accrued to any person through whom he claims, then within sixteen years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to the person making or bringing the same.

When the right shall be deemed to have accrued.

3. And be it enacted, That in the construction of this Ordinance, 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 is herein-after mentioned, (that is to say,) when the person claiming such land or rent, or some person through whom he claims, shall, in respect of the estate or interest claimed, have been in possession or receipt of the profits

In the case of an estate in possession.

of such land, or in receipt of such rent, and shall, while entitled thereto, have been dispossessed or have 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; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim 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 shall have 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; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have 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; and when the person claiming such land or rent, or the person through whom he claims, shall have 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.

On dispossession.

On abatement or death.

On alienation.

In case of future estates.

In case of forfeiture or breach of condition.

4. Provided always, and be it enacted, That 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

Where advantage of forfeiture is not taken by re-

remainder man,
hes shall have a
new right
when his
estate comes
into posses-
sion.

or breach of condition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have 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 shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

Reversioner
to have a new
right.

5. Provided also, and be it enacted, That the right to make an entry or distress or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession by the determination of any estate or estates in respect of which such land shall have been held or the profits thereof or such rent shall have been received, notwithstanding the person claiming such land, or some person through whom he claims, shall, at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of such land or in receipt of such rent.

An adminis-
trator to claim
as if he ob-
tained the es-
tate without
interval after
the death of
the deceased.

6. And be it enacted, That for the purposes of this Ordinance an administrator claiming the estate or interest of the deceased person of whose goods and effects he shall be 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.

7. And be it enacted, That when any person shall be in possession or in receipt of the profits of any land, or in 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 to recover 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.

No person
after a tenancy
from year to

8. And be it enacted, That when any person shall be 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 to 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 shall have been received (which shall last happen).

year to have any right but from the end of the first year or last payment of rent.

9. And be it enacted, That when any person shall be in 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 sterling or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have 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.

Where rent amounting to twenty shillings, reserved by a lease in writing, shall have been wrongfully received, no right to accrue on the determination of the lease.

10. And be it enacted, That no person shall be deemed to have been in possession of any land within the meaning of this Ordinance merely by reason of having made an entry thereon, and that 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.

A mere entry not to be deemed possession, and no right to be preserved by claim.

11. And be it enacted, That when any one or more of several persons entitled to any land or rent as co-heirs, joint-tenants, or tenants in common shall 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

Possession of one co-heir, &c., not to be the possession of the others.

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.

Acknowledgment in writing given to the person entitled or his agent, to be equivalent to possession or receipt of rent.

12. Provided always, and be it enacted, That when any acknowledgment of the title of the person entitled to any land or rent shall have 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 shall have been given, shall be deemed according to the meaning of this Ordinance, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have 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.

Where possession is not adverse at the time of promulgation of this Ordinance, the right not to be barred until the end of three years afterwards.

13. Provided also, and be it enacted, That when no such acknowledgment as aforesaid shall have been given before the promulgation of this Ordinance, and the possession or receipt of the profits of the land, or the receipt of the rent shall not at the time of the promulgation of this Ordinance, have been adverse to the right or title of the person claiming to be entitled thereto, then such person or the person claiming through him may, notwithstanding the period of sixteen years hereinbefore limited shall have expired, make an entry or distress, or bring an action to recover such land or interest at any time within three years next after the promulgation of this Ordinance.

Proviso for persons under disability. Such persons and their representatives to be allowed eight years from the termination of

14. Provided also, and be it enacted, That if at the time at which the right of any person to make an entry or distress, or bring an action to recover any land or rent shall have first accrued as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned, that is to say, infancy, coverture, idiotcy, lunacy or unsoundness of mind, then such person or the

person claiming through him may, notwithstanding the period of sixteen years hereinbefore limited shall have expired, make an entry or distress, or bring an action to recover such land or rent at any time within eight years next after the time at which the person to whom such right shall first have accrued as aforesaid shall have ceased to be under any such disability, or shall have died, which shall have first happened.

their disability or death.

15. Provided nevertheless, and be it enacted, That no entry or distress or action shall be made or brought by any person who at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent shall have first accrued shall be 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 shall have 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 eight years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

But no action, &c., shall be brought beyond thirty years after the right of action accrued.

16. Provided also, and be it enacted, That when any person shall be under any of the disabilities hereinbefore mentioned at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent shall have first accrued, and shall depart 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 the possession thereof, or such rent beyond the said period of sixteen 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 shall have first accrued, or the said period of eight years after the time at which such person shall have died shall be allowed by reason of any disability of any other person.

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

17. And be it enacted, That when the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession shall have been barred by the determination of the period herein-

When the right to an estate in possession is barred, the right of the same person to

future estates shall also be barred.

before limited which shall be applicable in such case, and such person shall at any time during the said period have been 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 mean time such land or rent shall have been recovered by some person entitled to an estate, interest, or right, which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

In cases of express trust the right shall not be deemed to have accrued until a conveyance to a purchaser.

18. Provided always, and be it enacted, That when any land or rent shall be vested in a trustee upon any express trust the right of the cestuique 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, according to the meaning of this Ordinance, at and not before the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

In cases of fraud no time to run whilst the fraud remains concealed.

19. And be it enacted, That 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 shall or with reasonable diligence might have been first known or discovered: Provided that nothing in this clause 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.

Saving the ju-

20. Provided always, and be it enacted, That nothing

in this Ordinance contained shall be deemed to interfere with any equitable rule or jurisdiction of the Supreme Civil Court of this Colony 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 Ordinance.

jurisdiction of equity on the ground of acquiescence or otherwise.

21. And be it enacted, That at the determination of the period limited by this Ordinance 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.

At the end of the period of limitation the right of the party out of possession to be extinguished.

22. And be it enacted, That the receipt of the 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 Ordinance.

Receipt of rent to be deemed receipt of profits.

23. And be it further enacted, That from and after the commencement of this Ordinance the following laws—that is to say: the 2nd, 4th, 8th, 9th, 14th, 18th, 19th, 20th, 21st, 22nd, 27th, and 28th laws of the 29th title, and the 15th and 16th laws of the 31st title of the 3rd Partida, the 32nd law of the 16th title of the second book, and the 6th and 9th laws of the 15th 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 is inconsistent with or repugnant to any of the provisions of this Ordinance, shall be, and the same are hereby declared to be, repealed.

Laws repealed

24. And be it enacted, That this Ordinance shall take effect upon and from and after the expiration of six calendar months next after the promulgation thereof.

Ordinance to take effect after the expiration of six calendar months after the promulgation.

Passed in Council the twenty-third day of April, one thousand eight hundred and forty-five.

JAMES PORTER,

Acting Clerk of Council.