

1937

## The Statute of Uses

Ontario

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**R.S.O. 1897, Chapter 331.**

## An Act concerning Uses.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** This Act may be cited as *The Statute of Uses*. *New.* Short title.

**2.** Where any person stands or is seized of and in lands, tenements, rents, services, reversions, remainders, or other hereditaments, to the use, confidence or trust, of any other person, or of any body politic, by reason of any bargain, sale, feoffment, covenant, contract, agreement, will, or otherwise, by any means whatsoever it be, in every such case such person and body politic that shall have any such use, confidence or trust, in fee simple, fee tail, for term of life, or for years, or otherwise, or any use, confidence or trust, in remainder or reversion, shall from henceforth stand and be seized, deemed and adjudged in lawful seizin, estate and possession of and in the same lands, tenements, rents, services, reversions, remainders, and hereditaments, with their appurtenances, to all intents, constructions and purposes in the law, of and in such like estates as they had, or shall have, in use, trust or confidence, of or in the same. And the estate, right, title and possession, that was in such person that was, or shall be hereafter seized, of any lands, tenements, or hereditaments, to the use, confidence or trust, of any such person, or of any body politic, shall be from henceforth deemed and adjudged to be in him that hath such use, confidence or trust, after such quality, manner, form and condition, as he had before in or to the use, confidence or trust, that was in him. 27 Hen. VIII. c. 10, s. 1.

**3.** Where divers and many persons be, or hereafter shall happen to be, jointly seized, of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence or trust of any of them that be so jointly seized, then, in every such case, that person which shall have any such use, confidence or trust, in any such lands, tenements, rents, reversions, remainders, or hereditaments, shall, from henceforth, have, and be deemed to have, only to him, or them, that shall have such use, confidence or trust, such

Persons entitled to the use of lands, shall stand and be seized, and be deemed in lawful seizin and possession of the lands.

So where divers are seized to the use of any of them:

estate, possession, and seizin, of and in the same lands, tenements, rents, reversions, remainders, or other hereditaments, in like nature, manner and form, condition and course, as he or they had before in the use, confidence or trust, of the same lands, tenements or hereditaments; saving to all and singular those persons, and to their heirs, who are, or hereafter shall be, seized to any use, all such former right, title, entry, interest, possession, rents, customs, services, and action, as they, or any of them, might have had, to his or their own proper use, in or to any lands, tenements, rents, or hereditaments, whereof they be, or hereafter shall be, seized to any other use, as if this Act had never been made; anything<sup>a</sup> contained in this Act to the contrary notwithstanding. 27 Hen. VIII. c. 10, s. 2.

In case of uses for payment of rents, the parties entitled to the rents shall be deemed in possession and seizin thereof.

**4.** And where also divers persons stand and be seized of and in any lands, tenements, or hereditaments, in fee simple or otherwise, to the use or intent that some other person shall have and receive yearly to him and his heirs an annual rent of forty dollars more or less out of the same lands and tenements, and some other person another annual rent to him and his assigns, for the term of life, or years, or for some other special time, according to such intent and use as hath been heretofore declared, limited and made, thereof; in every such case the same person, his heirs and assigns, that hath such use and interest to have and receive any such annual rents out of any lands, tenements or hereditaments, shall be deemed to be in possession and seizin of the same rent, of and in such like estate as they had in the title, interest or use, of the said rent or profit, and as if a sufficient grant, or other lawful conveyance, had been made and executed to them by such as were or shall be seized to the use or intent of any such rent, to be had, made or paid, according to the very trust and intent thereof. And every such person as hath, or hereafter shall have, any title, use and interest, in or to, any such rent or profit, may lawfully distrain for non-payment of the said rent, and in his own name make avowries, or by his bailiffs or servants make cognizances and justifications, and have all other suits, entries and remedies for such rents, as if the same rents had been actually and really granted to him with sufficient clauses of distress, re-entry, or otherwise, according to such conditions, pains or other things, limited and appointed upon the trust and intent for payment, or surety of such rents. 27 Hen. VIII. c. 10, s. 3.

Women having jointures shall not have dower.

**5.** And where lands, tenements, and hereditaments, are conveyed unto a husband and wife, and to the heirs of the husband, or to the husband and to the wife and to the heirs of their two bodies begotten, or to the heirs of one of their bodies

begotten, or to the husband and to the wife for term of their lives, or for term of life of the said wife, or where any such estate or purchase of any lands, tenements, or hereditaments, hath been, or hereafter shall be, made to any husband and to his wife in manner and form above expressed, or to any other person or persons and to their heirs and assigns to the use and behoof of the said husband and wife, or to the use of the wife, as is before rehearsed, for the jointure of the wife, then, and in every such case, every woman married, having such jointure made, or hereafter to be made, shall not claim or have title to have any dower of the residue of the lands, tenements, or hereditaments, that at any time were her said husband's by whom she hath any such jointure, nor shall demand nor claim her dower of and against them that have the lands and inheritances of her said husband, but if she have no such jointure then she shall be admitted and enabled to pursue, have, and demand, her dower by action of dower after the due course and order of the laws of this Province; this Act or any law or provision made to the contrary thereof notwithstanding. 27 Hen. VIII. c. 10, s. 4.

**6.** Provided always that if any such woman be lawfully expelled or evicted from her said jointure, or from any part thereof, without any fraud or covin, by lawful entry, action, or by discontinuance of her husband, then every such woman shall be endowed of as much of the residue of her husband's tenements or hereditaments whereof she was before dowable, as the same lands and tenements from which she was so evicted and expelled shall amount or extend unto. 27 Hen. VIII, c. 10, s. 5.

Proviso for dower, where the wife is evicted of her dower.

**7.** Provided also that if any wife shall have any lands, tenements or hereditaments, unto her given or assured, after marriage, for term of her life or otherwise in jointure, except the same assurance be to her made by statute, and the said wife, after that, fortune to outlive her husband in whose time the said jointure was made or assured unto her, then the said wife so overliving shall and may at her liberty, after the death of her said husband, refuse to have and take the lands, and tenements, so to her given, appointed, or assured, during the coverture, for term of her life or otherwise in jointure, except the same assurance be to her made by statute as aforesaid, and thereupon have, ask, demand and take her dower, by action of dower or otherwise, according to law, of and in all such lands, tenements, and hereditaments, as her husband was and stood seized of any estate of inheritance, at any time during the coverture; anything contained in this Act to the contrary in any wise notwithstanding. 27 Hen. VIII. c. 10, s. 7.

Jointure made after marriage, except by statute, may be refused by the wife; who shall then have her dower.

This Act shall not extinguish recognisances, etc.

8. Provided also that this present Act, or anything therein contained, shall not extend, nor at any time hereafter be interpreted, expounded, or taken, to extinct, release, discharge, or suspend, any statute, recognisance, or other bond, by the execution of any estate of, or in, any lands, tenements, or hereditaments, by the authority of this Act, to any person; anything contained in this Act to the contrary thereof notwithstanding. 27 Hen. VIII. c. 10, s. 8.

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