

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE,

PASSED BY THE LEGISLATURE,

AT ITS SESSION, WHICH COMMENCED ON WEDNESDAY, THE THIRTY-FIRST DAY OF MAY, AND ENDED ON THE TWENTY-EIGHTH DAY OF JUNE, A. D. 1820.

TO WHICH IS PREFIXED,

THE

CONSTITUTION OF THE STATE.

Published agreeably to a Resolution of June 23, 1820.

PORTLAND :

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1820.

thirty days from the adjournment of the Courts, at which he may have received the same.

SECT. 5. *Be it further enacted*, That the Clerks now in office, shall continue to do and perform all the duties of their respective offices until the first day of August next, and until others are appointed and qualified according to the provisions of this act. And in case of a vacancy in said office, or the absence of any Clerk, the Judges of the several Courts, are hereby authorized and empowered to appoint a Clerk who is hereby authorized to do and perform all the duties of Clerk, during such vacancy or absence; and it shall be the duty of the several Clerks now in office to deliver over to their successors all the records, files and papers in their respective offices immediately upon the appointment of such successor.

Clerks now in office to continue.

Court to appoint a clerk in certain cases.

SECT. 6. *Be it further enacted*, That this act shall take effect, and have force from and after the first day of August next, and all acts and parts of acts inconsistent with the provisions contained in this act are hereby repealed.

June 27, 1820—Approved,

WILLIAM KING.

CHAPTER XXVIII.

AN ACT for the settlement of certain equitable claims arising in Real Actions.

SECT. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled*, That when any action has been or may hereafter be commenced against any person for the recovery of any lands or tenements, holden by such person by virtue of a possession and improvement, and which the tenant or person, under whom he claims, has had in actual possession for the term of six years, or more, before the commencement of such action, the Jury, which try the same, if they find a verdict for the demandant, shall, (if the tenant so request) also inquire, and by their verdict ascertain the increased value of the premises, by virtue of the buildings and improvements made by such tenant, or those under whom he may claim; and (if the demandant require it) what would have been the value of the demanded premises, had no buildings or improvements been made by such tenant, or those under whom he may claim; and if during the term in which such verdict shall have been given, the demandant shall make his election on record, in open Court, to abandon the demanded premises to the tenant, at the price estimated by the Jury as aforesaid, then no judgment for possession shall be rendered on the

Jury in certain cases to ascertain the value of improvements and of the land without them.

Demandant may abandon; judgment and execution in such case.

verdict, but judgment for the sum so estimated ; and after one year, a writ of execution may issue for the same sum with one year's interest thereon and costs of suit, unless the tenant shall, within one year after the rendition of said judgment, pay into the Clerk's office of said Court, for the use of the demandant, one year's interest of the said sum, together with one third part of the said sum, and the costs of suit, if taxed, in which case the said writ of execution shall further stay ; and if the tenant shall within two years after the rendition of said judgment further pay into the Clerk's office as aforesaid, one year's interest of two third parts of the said sum, together with one other third part of the said sum, then the said writ of execution shall further stay : otherwise may issue for two third parts of the said sum, and one years interest thereon ; and if the tenant shall within three years after the rendition of said judgment, pay into the Clerk's office as aforesaid, the remaining third part of the said sum, and one year's interest thereon, having made the several payments aforesaid, the writ of execution shall be perpetually stayed, otherwise it may issue for the said one third part of the said sum and one year's interest thereon ; and the said demanded premises shall be held for the security of the sum so estimated, and interest thereon, and costs of suit, until sixty days after a writ of execution might have issued as aforesaid, liable to be taken in execution, in like manner as real estate or equities of redemption attached on mesne process, notwithstanding any intermediate conveyance, attachment or seizure upon execution, and the demandant may cause his writ of execution, when issued as aforesaid, to be extended on the said premises, in like manner and with like effect in all respects, as executions may by law be extended on real estate ; or he may cause the same premises, or so much thereof as will satisfy said execution and costs, to be taken and sold upon the said execution in like manner and with like effect in all respects as equities of redemption may by law be taken and sold on execution ; and the tenant and his heirs shall have a good title to the demanded premises, against the demandant and his heirs forever, except the liability aforesaid. But should the tenant or his heirs afterwards be evicted therefrom, by a higher or better title of any claimant or claimants, if he shall have duly notified the original demandant, or his heirs, to aid him in the defence of such suit, and admitted him to aid accordingly, in case of his appearing and offering to aid, such tenant or his legal representative shall be entitled to receive and recover back the same money, with the lawful interest thereof from him, her or them, who shall have had the use and benefit thereof in an action for money had and received to the use of

Lien on the demanded premises.

May be extended on,

Or sold.

If the tenant is afterwards evicted he may recover back the money paid.

such tenant or his legal representative ; and if the demandant shall not so make his election on record as aforesaid, no writ of seizen or possession shall issue on a judgment founded on such verdict, unless the demandant shall, within one year from the rendition thereof, have paid into the Clerk's office of the same Court, or to such other person as the Court may for that purpose appoint, for the use of the tenant, or the person or persons justly entitled thereto, such sum with the interest thereof, as the Jury shall have assessed for buildings or improvements as aforesaid ; and a new action for the recovery of the same premises shall not be sustained in any Court, unless the demandant shall first have paid to the tenant, all such costs as would have been taxed for him had he prevailed in the first suit : *Provided nevertheless*, That nothing herein contained, shall extend to any action which is or may be commenced by any mortgagee, his heirs or assigns, against any mortgagor, his heirs or assigns.

If the demandant does not abandon, writ of seizen to be stayed one year.

Proviso.

SECT. 2. *Be it further enacted*, That no tenant against whom judgment shall be rendered in any case, where the value of the buildings and improvements shall have been ascertained as aforesaid, shall unnecessarily cut any wood, or take any timber from off the premises recovered against him, her or them, or make any strip or waste thereof ; and such tenant shall be liable to answer therefor in the same way and manner he would have been had judgment for possession been rendered on the verdict, and possession actually been delivered in execution of such judgment.

Tenant not to cut wood in certain cases.

SECT. 3. *Be it further enacted*, That if the tenant, or person under whom he claims, shall have had in actual possession for the term of six years, or more, before the commencement of such action, any land or tenements more than shall be demanded, and by the tenant be defended in said action, lying in the same tract or parcel therewith, to recover which the demandant had, at the time of the commencement of his action, as high and as good a title as he had to recover the demanded premises, such tenant may request that the Jury may by their verdict ascertain the same, and if the Jury shall find, that the demandant had as high and as good a title to recover such lands or tenements not demanded or any part thereof, as he had to recover the demanded premises, they shall not proceed to ascertain any other point by their verdict, and the Court shall thereupon render judgment that the demandant take nothing by his writ, and that the defendant recover his costs : *Provided*, That if such request be made in any such action now pending or which may hereafter be pending, the Court may permit the demandant without costs so to amend his declaration as to include all the lands or tenements possessed and defended by the tenant in manner

If the tenant has in possession more than is demanded, provision in such case.

Proviso.

aforesaid, of which the demandant had as high and as good a title as he had of the premises originally demanded in the action.

If the writ is amended, provision in such case.

SECT. 4. *Be it further enacted,* That in any such action, the tenant or his attorney may in any stage of the process, and as often as the writ shall be amended as aforesaid, offer and give notice in open Court at what sum he consents, that the increased value of the premises, by virtue of the buildings and improvements shall be assessed, and also at what sum he consents that the value of the demanded premises, or such part thereof, as is by him defended, shall be estimated without the buildings and improvements, which notice shall be entered on the record of the Court; and if the demandant consent to the same, judgment shall be rendered on said consent of the parties in the same manner, as if the like sums had been found by the Jury in a verdict for the demandant; but if the demandant shall not consent to the said offer and shall proceed in the suit, and the Jury by their verdict shall not reduce the value of the buildings and improvements below the said offer, nor increase the value of the demanded premises as aforesaid above it, he shall not recover costs from and after the first entering of such notice upon the record, but the tenant shall from that time recover his costs, and have his separate judgment and execution for the same, although the verdict on the issue should be against him; unless the demandant shall prevail on a plea of disclaimer in the same suit.

What shall constitute a possession and improvement.

SECT. 5. *Be it further enacted,* That to constitute the possession and improvement intended by this Act, it shall not be deemed necessary that the premises defended shall have been surrounded by fences or rendered inaccessible by other obstructions; but it shall be sufficient if the possession, occupancy and improvement thereof by the tenant, or those under whom he claims, shall have been open, notorious and exclusive, comporting with the ordinary management of similar estates in the possession and occupancy of those who have title thereto, and satisfactorily indicative of such exercise of ownership as is usual in the improvement of a farm by its owner, and no part of the premises demanded and defended in manner aforesaid shall be excluded from the appraisement herein provided because the same may be woodland or without actual cultivation.

Who shall not sit on the Jury.

SECT. 6. *Be it further enacted,* That no person shall be allowed to sit upon a Jury for the trial of any such action, where the value of the buildings and improvements are to be ascertained or the value of the premises to be estimated by the verdict, where such persons shall be interested in a similar question, either as proprietor or occupant; but the same shall be good cause of challenge to such juror.

SECT. 7. *Be it further enacted*, That the third, fourth and fifth sections of an Act of the Legislature of Massachusetts passed on the second day of March one thousand eight hundred and eight, entitled "An Act for the limitation of certain real actions, and for the equitable settlement of certain claims arising in real actions" and the Acts in addition to the said Act, be and the same are hereby repealed, and of no further effect in this State.

Parts of Act,
March 1808, re-
pealed.

June 27, 1820—Approved,

WILLIAM KING.

CHAPTER XXIX.

AN ACT to establish Courts of Sessions.

SECT. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled*, That there shall be a Court of Sessions in the several counties within this State, to consist of one Chief Justice and not exceeding four nor less than two Associate Justices at the discretion of the Governor and Council, a majority of whom appointed for any county may constitute a quorum for doing business; to be appointed and commissioned by the Governor with advice and consent of Council, as soon as conveniently may be, who are hereby vested with all powers relative to the erection and repair of gaols, and other county buildings, the allowance and settlement of county accounts, the estimate, apportionment and issuing warrants, for assessing county taxes, granting licences, laying out, altering and discontinuing highways, appointing Committees and ordering Juries for that purpose; as well as all other duties appertaining to a Court of Sessions.

Courts establish-
ed.

Jurisdiction.

SECT. 2. *Be it further enacted*, That the Courts of Sessions shall be holden within and for the several counties in this State, at the times and places following, to wit: within and for the county of York, at York, on the Tuesday next preceding the third Monday of April, and at Alfred on the Tuesday next preceding the second Monday in September; within and for the county of Oxford, at Paris on the third Tuesday of June and first Tuesday of October; within and for the county of Cumberland, at Portland, on the fourth Tuesday in March, and on the second Tuesday in September; within and for the county of Kennebec, at Augusta, on the last Tuesday in April and on the first Tuesday in August; within and for the county of Somerset, at Norridgewock, on the second Tuesday in March, and on the second Tuesday in September; within and for the county of Lincoln, at Wiscasset, on the Thursday

Terms of the
Courts.