

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

CHAPTER XXXV.

An Act to prevent Tenants in common, Joint Tenants and Coparceners, from committing waste, and for other purposes.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That all gifts, grants, feoffments, devises and other conveyances of any lands, tenements and hereditaments, which have been or shall be made to two or more persons, whether for years, for life, in tail or in fee, shall be taken deemed and adjudged to be estates in common and not in joint tenancy, unless it has been or shall be therein said that the grantees, feoffees or devisees, shall have or hold the same lands, tenements or hereditaments jointly, or as joint tenants, or in joint tenancy, or to them and the survivor or survivors of them, or unless other words be therein used, clearly and manifestly showing it to be the intention of the parties to such gifts, grants, feoffments, devises, or other conveyances, that such lands, tenements and hereditaments should vest, and be held as joint estates and not as estates in common: *Provided nevertheless,* Where any estate has already vested in the survivor or survivors, upon the principle of joint tenancy, it shall be held in like manner as it would have been held, if this Act had never been passed; any thing therein to the contrary notwithstanding.

Grants, devises, &c. of lands to two or more to be estates in common and not joint tenancy,

unless clearly expressed or designed to be otherwise.

Proviso, as to estates already vested.

No tenant in common to cut or carry away timber, &c. from the land without giving notice in writing to all the co-tenants 40 days previous.

Penalty for so doing, and how to be recovered and appropriated.

SEC. 2. *Be it further enacted,* That if any person holding any lands in common and undivided, shall cut down, destroy or carry away any trees, timber, wood or underwood whatsoever, standing or lying on such lands, or shall dig up or carry off any stone or ore, or any other valuable matter, or make any other strip or waste thereon, without first giving notice in writing under his or their hands, unto all the persons interested therein, or to their agents, factors or attornies, forty days beforehand, setting forth that he or they have occasion for, and shall enter upon and improve such lot or lots of lands lying in common as aforesaid, he shall forfeit and pay treble damages, to be recovered by any one or more of the persons interested in the same lands, who may prosecute and sue for the same, in an action of trespass in his or their own names, as well on the behalf of the

other co-tenants, except the defendant, without being held to name them in the writ, as of him or themselves, one moiety of the aforesaid penalties to be for the use of such person or persons who shall sue for the same, and the other to and for the use of all the co-tenants excepting the defendant, in proportion to their respective interest, in the land where the trespass hath been committed.

SEC. 3. *Be it further enacted*, That when any writ of partition shall be brought and served at the suit of any one or more persons so interested in any lot or lots of land, tenements, or hereditaments, or a petition shall be pending in Court for a partition of the same, no person or persons having a right or interest in any such lands, tenements or hereditaments, or holding any part or share of the same in common as aforesaid, while such suit or petition is depending, shall or may cut down, destroy or carry away any trees, timber, wood or underwood, stone or ore, or other valuable matter whatsoever, standing, growing or lying on, or belonging to such lands, or shall otherwise hurt or damage any such lands, tenements or hereditaments, until partition can be made of the same according to law; on pain that the person or persons so offending shall incur the like forfeitures, to be recovered in like manner and for such uses as are before mentioned and declared,

While writ or petition for partition is pending, no person interested in common in the lands, &c. shall cut or destroy timber, &c. &c.

Penalty for so doing.

SEC. 4. *Be it further enacted*, That if any person or persons shall commence and prosecute any action of ejectment, or other real action, for recovering possession of any lands and real estate, unjustly withheld from him or them by any person, and such person in possession or any other persons pending such action, and after the service of the writ therein, shall make strip or waste by cutting, felling or destroying the wood, timber, trees or poles standing or growing on such land sued for; he or they making such strip or waste, shall for every such offence, forfeit and pay to the party aggrieved, treble damages, to be recovered by action in any Court proper to try the same, after the plaintiff or defendant has recovered his title and possession of such estate sued for.

Penalty for defendants making strip or waste while a real action is pending against him;

how recovered.

[Approved March 15, 1821.]