

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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.

SEC. 2. *Be it further enacted,* That all grants and conveyances heretofore made to the inhabitants of any county, or to their Treasurer, committee, or any other person or persons, and by whatever form of conveyance for the use and benefit of such county in any manner whatever, shall be deemed and holden to be the property of such county; and all such conveyances shall have the same force and effect as if they had been made to the inhabitants of such counties by their respective corporate names.

Deeds of different forms for the benefit of counties confirmed.

SEC. 3. *Be it further enacted,* That the court which by law may have the powers in relation to county lands, may by their order of record, appoint an agent or agents, to sell and dispose of any real estate of said county, and the deed or deeds of such agent or agents under their proper hands and seals, for and in behalf of the inhabitants of such county, duly acknowledged and registered shall be sufficient to all intents and purposes to convey to the purchaser or purchasers, all the right, title, interest and estate whatever, which the county may then have to the premises so conveyed.

Certain courts may appoint agents to convey county lands, &c.

Their deeds valid to pass the estate.

SEC. 4. *Be it further enacted;* That in all cases where any real estate may be holden in trust, for the use and benefit of any county by any conveyance whatever, and no convenient and effectual remedy may exist at common law, to enforce the execution of such trust, the Supreme Judicial Court shall have full powers and process, and they are hereby empowered to enforce the execution of such trust, according to the course of proceedings in equity.

Sup. Judicial Court to exercise all necessary powers of Court of Equity, as to lands &c. holden in trust, for, or to use of a county.

[Approved March 15, 1821.]

— 00 —

CHAPTER XLVII.

An Act for the settlement of certain equitable claims arising in Real Actions.

SEC. 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

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

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 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 year's 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

Demandant
may abandon;
judgment and
execution in
such case.

Lien on the de-
manded prem-
ises.

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 such tenant or his legal representative; and if the demandant shall not so make his election on record as aforesaid, no writ of seizin 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.

May be extended on,

or sold.

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

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

Proviso.

Tenant not to cut wood in certain cases.

SEC. 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.

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

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

Proviso.

If the writ is amended, provision in such case.

SEC. 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.

SEC. 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 appraisal herein provided because the same may be woodland or without actual cultivation.

What shall constitute a possession and improvement.

SEC. 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 person shall be interested in a similar question, either as proprietor or occupant; but the same shall be good cause of challenge to such juror.

Who shall not sit on the jury.

Parts of Act,
March 1808,
repealed.

SEC. 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.

[Approved June 27, 1820.]

CHAPTER XLVIII.

An Act directing the manner in which Inquests of Office shall be taken to revest Real Estate in the State or to entitle the State thereto.

In what cases
inquests of of-
fice may be
taken in the
S. J. Court.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all cases where lands, tenements or hereditaments have heretofore been granted, or confirmed by the late Province or Colony of Massachusetts Bay, Commonwealth of Massachusetts, or by this State, or which may hereafter be granted or confirmed by this State, on certain conditions in such grants or confirmations mentioned, and the State shall claim to be revested in the same, for the breach of one or more of the said conditions, an inquest of office shall thereupon be taken in the Supreme Judicial Court in the county where the estate lies, in the manner following, that is to say, the Attorney General shall, upon the direction of the Legislature, file an information in behalf of the State, in the said Court, at any term thereof, in any county, setting forth among other things, the grant or confirmation, with the conditions therein mentioned, and assigning the breaches of such of the said conditions, as shall be directed by the Legislature; or such breach or breaches of conditions as to him shall appear proper; though there shall be no act of the Legislature designating the same; and alleging that by force thereof the State have right by law to be revested in the said estate, and praying that process may issue thereupon in due course of law; whereupon the Court shall order a scire facias to issue against such person or persons, bodies politic and corporate, or, proprietors as the

Attorney Gen-
eral to file in-
formation,

stating the
grant, condi-
tions and
breaches.

Court to issue
scire facias to
persons in-
formed
against.