

# MAINE STATE LEGISLATURE

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# **PUBLIC ACTS**

OF THE

# **STATE OF MAINE,**

PASSED BY THE

**FOURTH LEGISLATURE,**

AT ITS SESSION, HELD IN JANUARY, 1824.

PUBLISHED AGREEABLY TO THE RESOLVE OF THE 28<sup>TH</sup> JUNE, 1820.



PORTLAND:

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1824.

SECT. 2. *Be it further enacted*, That the Registers of Probate in the several counties within the State, shall give bond, with sufficient sureties, to the Treasurer of their respective counties, in the sum of not less than two hundred nor exceeding one thousand dollars, at the discretion and to the satisfaction of the Court of Sessions in their respective counties, conditioned, that they will truly and faithfully pay over all fees by them received and accruing to Judges of Probate in their respective counties, as required in the second section of the act to which this is in addition. And it shall be the duty of the Judges of Probate, in their respective counties, to examine the account of fees required by the act to which this is in addition, that the Registers of Probate shall keep and certify the true amount thereof, at the end of every three months, to the county Treasurer of their respective counties.

Register of Probate to give bond to account for Judges fees.

Judges to examine and certify Registers' account of fees

[*This Act passed February 18, 1824.*]

## CHAPTER CCLXVIII.

AN ACT directing the proceedings against forcible entry and detainer

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That any Justice of the Peace and of the *quorum*, shall have authority to enquire, as hereinafter directed, as well against those who make unlawful and forcible entry into lands or tenements within his county, and with strong hand detain the same, as against those, who having a lawful and peaceable entry into lands or tenements within such county, unlawfully and by force hold the same; and if it be found upon due enquiry, that an unlawful and forcible entry hath been made, and that the same lands or tenements are held and detained with force and strong hand, or that the same, after a lawful entry, are held unlawfully and with force and a strong hand,

Justices of the quorum to have jurisdiction in cases of forcible entry and detainer, without a jury.

then such Justice shall cause the party complaining to have restitution thereof.

SECT. 2. *Be it further enacted*, That when complaint shall be formally made, in writing, to any Justice of the Peace and of the *quorum*, of any unlawful and forcible entry into any lands or tenements, and detainer as aforesaid, or of any unlawful and forcible detainer of the same, after a peaceable entry, such Justice shall make out his warrant, under his hand and seal, directed to the Sheriff of the county, or his deputy, or to any Constable of the town in which the party complained of may dwell, commanding him to summon the said party to appear and shew cause, if any he have, why judgment should not be rendered, and a writ of possession should not issue against him for possession of the lands and tenements aforesaid, with costs of suit. Which summons shall be served upon the party complained against, by leaving a copy thereof at his last and usual place of abode, or delivering to him such copy seven days, at least, before the day appointed for the trial. And if such party being duly summoned, shall neglect to appear, or appearing, shall not shew sufficient cause, judgment may be rendered against him for possession of the premises described in said complaint, and costs, and the said Justice shall issue his writ of possession for the same, observing substantially the form of the writ of possession prescribed by law, as far as the nature of the case may require.

Proceeding in case title to real estate is specially pleaded.

SECT. 3. *Be it further enacted*, That if the defendant in such complaint shall specially plead the title to such lands or tenements, or any part thereof, to be in himself or some other person under whom he claims, in bar of the complaint, the Justice shall thereupon require and order the defendant to recognize to the complainant, in a reasonable sum, with sufficient surety or sureties, conditioned to pay all intervening damages and costs, which may be adjudged against him, together with reasonable intervening rent for the same lands and tenements, and shall also require and order the complainant to re-

cognize to the defendant in a reasonable sum, with sufficient surety or sureties, conditioned that he will enter said complaint at the next Court of Common Pleas in said county, and prosecute the same to final judgment, and also to pay to the defendant all costs which may be finally adjudged against him. And if either party shall neglect or refuse so to recognize, said Justice shall enter judgment against him so neglecting as in case of nonsuit or default. And any party aggrieved at the judgment of such justice, upon issue joined in such cause, may appeal therefrom to the next Court of Common Pleas, entering into recognizance with sufficient sureties to prosecute his appeal with effect, and to pay all costs which may be adjudged against him. And if the defendant shall so appeal, he shall further recognize with sufficient surety or sureties to pay such reasonable intervening rent for the same lands and tenements as such Justice shall adjudge, in case the judgment of said Justice shall not be reversed on such appeal.

SECT. 4. *Be it further enacted,* That whenever any tenant, whose estate in the premises is determined, shall unlawfully refuse to quit the same, after thirty days' notice given him in writing, for that purpose, by the lessor, his heirs or assigns, he shall be liable to the process provided by this act: *Provided, however,* That this act shall not extend to any person who has been in quiet possession of any lands or tenements three whole years together next preceding the filing of such complaint.

This process extended to cases of tenants holding over.

Proviso.

SECT. 5. *Be it further enacted,* That the act entitled, "An Act directing the proceedings against forcible entry and detainer," passed February 5, 1821, be, and the same is hereby repealed.

Repeal of former act.

[*This Act passed February 19, 1824.*]