

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

SEVENTEENTH LEGISLATURE,

JANUARY SESSION, 1837.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 23, 1820.

AUGUSTA:
SMITH & ROBINSON, PRINTERS TO THE STATE.

1837.

Chapter 286.

AN ACT further providing for the redemption of Mortgages.

SECTION 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That when any mortgagor, or other person, having the right to redeem lands or tenements mortgaged or granted, upon condition, by deed of bargain and sale with defeasance, shall bring his bill in equity for the redemption thereof, within three years next after the mortgagee or vendee or their assigns shall have obtained actual or legal possession of such lands or tenements, for condition broken, and shall, in his bill, offer to pay such sum as shall be found justly and equitably due, or to perform such other condition as the case may require, such offer shall have the like force and effect as a tender of payment or performance made before the commencement of the suit, and the bill shall be sustained without any allegation or proof of such previous tender: *Provided*, the mortgagee or those claiming under him, shall, on request, have refused or neglected truly to state his or their account of the sum due on such mortgage, before the commencement of such suit. And in such case no cost shall be awarded against the mortgagee or other defendant, unless it shall appear that he has unreasonably refused or neglected to render a just and true account, when thereto requested, of the money due on the mortgage, and of the rents and profits of the mortgaged premises, and the money expended in the repairs and improvements thereof, if any; or that he has otherwise, by his default, prevented the plaintiff or complainant from performing or tendering performance of the condition before the commencement of the suit.

SECT. 2. *Be it further enacted,* That whenever any mortgage of any lands or tenements has been or shall be made for securing the payment of money only, and the whole sum due thereon shall

When Mortgagor shall bring bill in equity, within 3 years after mortgagee shall obtain possession, and shall in his bill offer to pay amount due, or perform condition, as the case may require, such offer shall have the force and effect of a tender of payment or performance, before the commencement of the suit.

Provided Mortgagee shall have refused truly to state amount due on the mortgage before the commencement of the suit.

No costs to be taxed against Mortgagee in such case unless, &c.

Mortgagor of lands to secure the payment of money only, may, when whole sum is due, on pay-

ment or tender of payment, have his bill in equity, to compel Mortgagee to give deed of quitclaim &c. although such Mortgagee shall not have entered into possession.

have become payable, according to the terms of the contract, the mortgagor, his assigns, or other person having the right to redeem the same, on payment or tendering payment to the mortgagee or his assigns of the whole sum due thereon, may have their bill in equity for the redemption of the mortgaged premises, and compel the mortgagee or his assigns to seal, execute, acknowledge and deliver a good and sufficient deed of release and quit claim of the mortgaged premises, if such mortgagee or his assigns, shall, on request, neglect or refuse to give such release and quit claim, although such mortgagee or his assigns, shall not have entered and obtained actual or legal possession of the mortgaged premises for condition broken or otherwise; or the mortgagor or other person having the right to redeem as aforesaid, may in such case have his bill in equity, in manner provided in the first section of this Act, without having made such tender or payment, before the commencement of the suit, and in each case the cause shall be heard and determined in like manner as is by law provided on a bill in equity brought after an entry for the breach of the condition: *Provided*, That when the suit is brought before an actual entry by the mortgagee or his assigns, and before any tender or payment made as aforesaid, if the mortgagee his assigns or other defendant, to whom the money is payable, shall be out of the State, and shall not have actual notice of the suit, the Court in which the suit is pending, shall order notice to be given to such absent party, in such manner as the circumstances of the case may appear to require, and may continue the case as long as may be necessary in their discretion, to enable such absent party to appear and answer to the suit.

Or Mortgagor may in such case have bill in equity in manner provided in the 1st section of this Act without having made such tender before the commencement of the suit.

When Mortgagee lives out of State, Court shall order notice.

Bill in equity must be brought within three years.

SECT. 3. *Be it further enacted*, That no bill in equity shall be hereafter brought or maintained for the redemption of mortgaged lands or tenements founded on a tender of payment or of performance

of the condition, made before the commencement of the suit, unless the suit shall be commenced within three years from the time of passing this Act, or within three years next after the making of such tender.

SECT. 4. *Be it further enacted*, That all Acts and parts of Acts inconsistent with the provisions of this Act, be and the same hereby are repealed.

Acts and parts of Acts inconsistent repealed.

[Approved by the Governor March 29, 1837.]

Chapter 287.

AN ADDITIONAL ACT, providing for the distribution and repayment of the public money apportioned to the State of Maine, on deposit, by the Government of the United States.

SECTION 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That the time allowed to the respective cities, towns and plantations in which to take the census and make returns thereof to the State Treasurer, is hereby extended to the twentieth day of June next.

Time of taking Census and of making return to the State Treasurer extended to the 20th day of June.

SECT. 2. *Be it further enacted*, That the Treasurer is hereby directed to distribute the amount of the second instalment of the Surplus Revenue among the cities, towns and plantations according to the number of their respective scholars as borne on the School Fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census, required by the Act to which this is additional, shall be fully made and the returns thereof to the Treasurer completed by the first day of July next.

Treasurer of State to distribute second Instalment of Surplus Revenue according to scholars.

—also third instalment unless, &c.

SECT. 3. *Be it further enacted*, That the third and fourth instalment shall be distributed among the towns, plantations, cities and unincorporated places

Aggregate of the four Instalments to be in exact proportion to population.