

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1853.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1853.

PUBLIC LAWS
OF THE
STATE OF MAINE.

1853.

CHAP. 40.

—in case of nonsuit. Claim for rent, evidence of, may be given upon trial.

Writ of possession to defendant, &c.

Statement of defendant, may be investigated by court.

Rent and damages, how recovered.

Writs of possession may be served by constables.

therefor. And in case of nonsuit, such damages may be determined by the court. And the plaintiff in any such case may be permitted to give evidence upon the trial, of any claim for rent of the demanded premises which he may have against the defendant, and may recover judgment and have execution for the balance, if any, that may be found due to him. And it shall be in the discretion of the court whether a writ of possession shall be issued to restore the premises to the defendant; but he shall, if he prevails, be entitled to his costs, whether such writ of possession is awarded or not.

SECT. 3. Should the defendant in any such proceeding plead not guilty, and file a brief statement as provided in the fourth section of said one hundred and twenty-eighth chapter, the judge, or justice, may, notwithstanding, if requested by the complainant in writing, so far proceed to examine the case as to ascertain to his satisfaction whether such brief statement is frivolous and intended merely for delay; and if upon such examination such judge, or justice, shall so determine, and adjudge, he may then proceed to try and adjudicate upon the plea of not guilty, and if the same is determined in favor of the complainant, such judge or justice may issue his writ of possession as provided in the preceding section of this act. And the same proceedings may be had upon such appeal as are provided in the preceding section of this act.

SECT. 4. All sums due for rent, whether upon lease under seal or otherwise, and all claims for damages by a tenant to premises under rent, may be recovered in an action of assumpsit, on an account annexed to the writ, specifying the items and amounts of charge claimed to be recovered.

SECT. 5. Writs of possession issued by any judge of a municipal court, or justice of the peace, may be directed to, and served by, constables.

[Approved March 30, 1853.]

Chapter 40.

An act to amend section eighteen of chapter one hundred and fifty-one of the revised statutes.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Registers of deeds, fees established.

SECT. 1. Section eighteen of chapter one hundred and fifty-one of the revised statutes is hereby so altered that registers

of deeds shall receive, instead of the fees provided by said eighteenth section, the sum of fifty cents and no more for each mortgage recorded; fifty cents for each deed; twenty-five cents for each assignment of a mortgage, and one dollar and fifty cents for each levy, and the same sum for certified copies of these several instruments as for recording the same; and said registers are required to make an alphabet to each volume of records, without charge to the county.

SECT. 2. All acts and parts of acts inconsistent with this act, are hereby repealed; and this act shall take effect from and after its approval by the governor.

[Approved March 30, 1853.]

Chapter 41.

An act concerning railroads.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. It shall be the duty of every railroad company on whose road any accident shall occur which shall result in the death of any person, to give immediate notice to the county attorney, whose duty it shall be to call forthwith upon some coroner of the county, whose residence is near the place where such accident shall occur, to take an inquest upon view of the dead body or bodies of such persons as shall have come to their death by such accident, in the manner provided by the revised statutes of this state; *provided, however,* that if the county attorney shall reside more than ten miles from the place of such accident, said railroad company shall first call upon some justice of the peace in the vicinity, to notify a coroner to hold such inquest, and then forthwith notify the county attorney as aforesaid, that he may be present at the hearing before said coroner.

Death, by accident on railroads, duty of company.

Proviso.

SECT. 2. Any person in charge of a locomotive engine, or acting as the conductor of a car or train, or as brakeman, or as switchman, in the employment of any company, who shall be intoxicated while so engaged on the railway, shall be deemed guilty of a misdemeanor, and liable to fine not exceeding one hundred dollars or imprisonment not exceeding six months, or both, at the discretion of the court before whom he may be tried.

Penalty, if officers in charge of train, &c., become intoxicated.

SECT. 3. Railroads shall not be carried along any existing highway, but must cross the same in the line of the railway,

Railroads not to pass along highways.