

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SIXTIETH LEGISLATURE

OF THE
STATE OF MAINE.

1881.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA :
SPRAGUE & SON, PRINTERS TO THE STATE.
1881.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1881.

CHAP. 84. the first day of January, April, July and October of each year.

SECT. 2. This act shall take effect when approved.

This Act was presented to the Governor the 10th day of March, 1881, and was retained by him for the period of five days—Sunday not included—when it was forwarded to the office of the Secretary of State, without approval.

Chapter 84.

An act relating to mortgages of real estate and actions thereon.

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

Sec. 2, ch. 90,
R. S., amended.

SECT. 1. Section two of chapter ninety of the revised statutes is hereby amended by inserting after the word "before," in the second line, the words 'or after;' by omitting the words "of the mortgage," in the third line; by striking out the words "debt is afterwards paid or the mortgage redeemed," in the fourth and fifth lines, and inserting in place thereof the words 'mortgage is afterwards redeemed;' and by striking out the words "the entry," in the sixth line, and inserting in their place the words 'taking possession,' so that said section as amended shall read as follows :

Mortgagee may enter before or after breach, unless otherwise agreed.

'SECT. 2. Any mortgagee, or person claiming under him, may enter on the premises, or recover possession thereof, before or after breach of condition, when there is no agreement to the contrary; but in such case, if the mortgage is afterwards redeemed, the amount of the clear rents and profits from the time of taking possession, shall be accounted for and deducted from the sum due on the mortgage.'

Sec. 3, amended.

SECT. 2. The first specification in section three of the same chapter is hereby amended by striking out the words "commence an action at law and," in the first line; and by striking out the word "the," in the second line, and inserting in place thereof the words 'a conditional;' and by striking out the words "in the action," in the second line, so that said specification as amended shall read as follows :

Modes of obtaining possession.

'*First:* He may obtain possession under a writ of possession issued on a conditional judgment, as provided in the eighth section, duly executed by an officer. An abstract of such writ, stating the time of obtaining possession, certified

by the clerk, shall be recorded in the registry of deeds of the district in which the estate is, within thirty days after possession obtained.' CHAP. 85.

SECT. 3. Section seven of the same chapter is hereby amended by striking out the words "the possession of the premises for breach of the condition of the mortgage," in the fifth and sixth lines, and inserting instead thereof the words 'possession, and that the condition was broken when the action was commenced;' also by striking out the words "hereinafter mentioned," in the seventh line; also by striking out the last two lines and inserting instead thereof the words 'or that the owner of the mortgage proceeded for foreclosure, conformably to sections five and six, before the suit was commenced, the plaintiff not consenting to such judgment; and unless such judgment be awarded, judgment shall be entered as at common law;' so that said section as amended shall read as follows:

SECT. 7. The mortgagee, or person claiming under him, in an action for possession, may declare on his own seizin, in a writ of entry without naming the mortgage or assignment; and if it appears on default, demurrer, verdict or otherwise, that the plaintiff is entitled to possession, and that the condition was broken when the action was commenced, the court shall, on motion of either party, award the conditional judgment, unless it appears that the tenant is not the mortgager or a person claiming under him, or that the owner of the mortgage proceeded for foreclosure conformably to sections five and six before the suit was commenced, the plaintiff not consenting to such judgment; and unless such judgment be awarded, judgment shall be entered as at common law.'

Form of declaring in a suit to obtain possession of mortgage.

Approved March 16, 1881.

Chapter 85.

An act to prevent Railroad Accidents.

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

Any person, other than a servant or employe of the road, or a passenger holding a ticket for a passage over the road, or mail agents or expressmen, who shall get upon or leave any

Punishment for getting upon or leaving railroad train when in motion.