

CHAP. LXXIV.

An act for the limitation of certain real actions, and for the equitable settlement of certain claims arising in real actions.

SECT. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the first day of January, which will be in the year of our Lord one thousand eight hundred and twelve, no person shall sue, or maintain any writ of right, or make any prescription, title or claim to any lands, tenements or hereditaments, or to any rents, annuities, or portions issuing therefrom, upon the possession or seizen of his or their ancestor or predecessor, beyond the term of forty years, next before the test of the same writ.

Claims limited.

SECT. 2. *Be it further enacted, by the authority aforesaid,* That from and after said first day of January, that no person shall sue, have, or maintain any writ of entry upon disseizen done to any of his ancestors, or predecessors, or any action possessory upon the possession, of any of his ancestors or predecessors, for any lands, tenements or hereditaments, unless the ancestor or predecessor, under whom the demandant shall claim, shall have been seized, or possessed of the lands, tenements or hereditaments, demanded within thirty years next before the test of the same writ, or bringing such action.

Estate demanded must have been held a certain time

SECT. 3. *Be it further enacted, by the authority aforesaid,* That where any action has been, or may hereafter be commenced against any person, for the recovery of any lands or tenements, which such persons now hold by virtue of a possession and improvement, and which the tenant or person, under whom he claims, has had in actual possession for the term of six years, or more, before the commencement of such action, the jury which tries the same, if they find a verdict for the demandant, shall (if the tenant request the same) also enquire; and by their verdict ascertain the increased value of the premises, at the time of trial, by virtue of the buildings and improvements made by such tenant, or those under whom he may claim; and (if the demandant shall 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 may be given, the demandant shall make his election on record,

Value of estates claimed may be ascertained.

in open court, to abandon the demanded premises to the tenant, at the price estimated by the jury as aforesaid, if the tenant shall not pay into the clerk's office of the said court, for the use of the demandant, the sum with the interest thereof, at which the demanded premises shall be estimated by the jury, within one year next after the verdict shall have been given, a writ of seizen shall issue in favor of the demandant for possession of the premises demanded with the improvements; but if the demandant shall not so make his election on record as aforesaid, no writ of seizen 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, on motion 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, and in case the demandant shall abandon the premises aforesaid, and the tenant shall pay into the clerk's office, the sum of money, at which they shall have been estimated as aforesaid, for the use of the demandant, the tenant and his heirs shall have a good title to the same premises, against the demandant and his heirs forever; 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, to aid him in the defence of such suit, and actually admit him to aid accordingly, such tenant or his legal representatives 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: *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 mortgager, his heirs or assigns, nor to any action which may be instituted against any person who shall hereafter enter upon any lands, without a license from the owners of the soil.

Writ to issue in case.

Provido.

SECT. 4. *Be it further enacted*, That no tenant against whom judgment shall be rendered in any case, where the value

value of the buildings, and improvements has 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 possession actually been delivered in execution of such judgment.

SECT. 5. *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, any law, usage or custom to the contrary notwithstanding.

Jurors to be un-interested.

[This act passed March 2, 1808.]

CHAP. LXXV.

An act to preserve and secure from damage Salter's Beach, so called, and the Meadows thereto adjoining, in the town of Duxbury.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the inhabitants of the town of Duxbury, in the county of Plymouth, be, and they hereby are authorized and empowered to build a sea wall, palisade, or hedge fences, to preserve and secure Salter's Beach, so called, and the meadows thereto adjoining, from the incursions and encroachments of the sea, and the same from time to time to repair as occasion may require, and for said purposes, to make use of any stones, sand, gravel or clay there found, and also to take and appropriate all the lumber which may at any time drift on to said beach, unless the same shall be reclaimed by the owner or owners thereof within sixty days.

Inhabitants empowered.

SECT. 2. *Be it further enacted,* That from and after the first day of April next, no neat cattle, horses or sheep shall be permitted to go at large on said beach or meadows: and if any person shall voluntarily turn or drive on to said beach or meadows, or any part thereof, any such creatures, he shall forfeit and pay to the use of said town, for every one of such creatures, excepting sheep, one dollar; and for every sheep, twenty-five cents.

penalty for driving cattle.

SECT.