

## CHAP. LXXXVIII.

An Act continuing the Massachusetts Charitable  
Mechanic Association.

Act extended.

**BE** *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Massachusetts Charitable Mechanic Association, incorporated by an act, entitled "an act to incorporate Jonathan Hunnewell, and others," shall and may remain a Corporation during the pleasure of the Legislature, from and after the time limited for the continuation of said Corporation, by an act passed on the twenty-sixth day of February, one thousand eight hundred and fourteen, with the same powers and privileges it now enjoys, excepting that its personal and real estate may amount to one hundred thousand dollars, and that it may establish schools and libraries for the use of apprentices, and the improvement of the arts.

[Approved by the Governor, February 15, 1826.]

## CHAP. LXXXIX.

An Act providing further remedies for Landlords  
and Tenants.

**SEC. 1.** **BE** *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That where the tenant and occupant of any house or tenement, shall hold such house or tenement without right, and after notice in writing to quit the same; whoever has the right of possession thereof, may summon

such tenant or occupant to answer to his complaint before the Justices' Court of the County of Suffolk, if such house or tenement be within the County of Suffolk, and before any Justice of the Peace for any other county wherein such house or tenement may be; the form of which summons shall be as follows: the same being suitably altered, when it is returnable before the Justices' Court of the County of Suffolk.

S—ss. To the Sheriff of the said county, or either of his Deputies, or the Constables of the town of —, within the said county, or to any or either of them, Greeting :

Form of sum-  
mons.

In the name of the Commonwealth of Massachusetts, you are required to summon A—B—, of C—, aforesaid, (addition) (if he may be found in your precinct) to appear before me, D— E—, esquire, one of the Justices of the Peace for the county aforesaid, at my dwelling-house in—, in said county, on—the—day of—, at—of the clock in the—noon; then and there to answer to the complaint of F—G—, of—, in—, (addition) wherein said F— G—complains, that said A—B—, on the day of the date hereof, is in possession of [the premises demanded] without law, and against the right of the said F—G—, as shall then and there appear. Hereof fail not: and make due return of this writ, and of your doings therein, unto myself, at or before the said time or day of trial. Dated at— aforesaid, the—day of—, in the year of our Lord —: Which summons shall be served at least seven days before the return day thereof, by the officer to whom it is directed, by reading the same, in the hearing and presence of the tenant or occupant therein named, or by leaving a true copy thereof, upon the demanded premises. If the complainant shall duly enter such writ, and the defendant neglect to appear and answer thereto, or if the defendant shall duly appear and answer, and after issue joined, it shall be considered by the

Summons to be  
served.

Court, trying the same, that the complainant hath sustained his complaint, then judgment shall be rendered, that the complainant have possession of the demanded premises, and for his costs; and thereupon the complainant shall have the writ of *facias habere possessionem*, provided in the twenty eighth chapter of the Statute of this Commonwealth, Anno Domini seventeen hundred and eighty-four; the same being so far altered as the case may require. And if, after issue joined, it shall be considered by the said Court that the complainant hath failed to sustain his complaint, then the defendant shall have judgment that the complaint be dismissed, and for his costs; and shall have execution accordingly.

May appeal.

SEC. 2. *Be it further enacted*, That any party aggrieved by the judgment of any Court, in any action brought upon this statute, where both parties have appeared and pleaded, may appeal therefrom to the next Court of Common Pleas, to be held within the same county; and the complainant shall, before his appeal is allowed, recognize, with sufficient surety or sureties, in such reasonable sum as the Court shall order, to pay all intervening damages and costs, and to prosecute his appeal with effect; and the defendant shall, before his appeal is allowed, recognize, with sufficient surety or sureties, in such reasonable sum as the Court shall order, to pay all rent due and in arrears, and all intervening rent, damages and costs; and each party appealing shall be held to produce a copy of the whole case, at the Court appealed to; and both parties shall be allowed to offer any evidence at the trial at the Common Pleas, in the same manner as if the cause had been originally commenced there. And the Court of Common Pleas shall, whenever any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages and costs as have arisen in consequence

Damages may be awarded.

of the said appeal; and execution shall issue accordingly.

SEC. 3. *Be it further enacted*, That when in any action brought upon this statute, the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title to the freehold of the demanded premises in question. And when the defendant, in any such action, shall plead the title of himself, or any other person, to the freehold of such demanded premises in justification, the Court shall thereon order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties, to enter the said action at the next Court of Common Pleas, to be holden within the same county, and to prosecute the same with effect, and to pay all rent due and in arrears, and all intervening rent, damages and costs; and if the defendant shall refuse so to recognize, the Justice shall render judgment against him in the same manner as if he had refused to make answer to the suit: And either party in such case, shall be allowed to appeal from the judgment of the Court of Common Pleas, in the same manner as if the suit had been originally commenced there: *Provided*, that when the defendant so pleads and recognizes, and the Justice, or Justices of the Court of Common Pleas, or of the Supreme Judicial Court, holding the Court to which the case is removed or appealed, shall, either upon default of the defendant to enter his case therein, or upon trial of the same, certify, that in his or their opinion, such plea was frivolous, and pleaded for the purpose of delay, then the complainant shall have judgment for treble damages and costs.

Defendant to recognize.

Proviso.

SEC. 4. *Be it further enacted*, That from and after the first day of July'next, all leases at will and tenancies at sufferance, of any lands or tenements within this Commonwealth, may be terminated by either party, after giving to the other party three months notice; and where the rent for

such lands and tenements is due and payable more frequently than quarterly, the notice shall be sufficient if it be equal to the interval between the times of payments thereof: *Provided nevertheless*, that in all cases of neglect, or refusal, to pay the rent due and in arrear, fourteen days notice to the tenant or occupant shall be sufficient: *And provided further*, that nothing in this act contained, shall prevent landlords from pursuing their rights and remedies, by the common and statute law as now existing in this Commonwealth.

Proviso.

SEC. 5. *Be it further enacted*, That where the lessors or grantors of any estate of freehold or term of years, or their executors, administrators, or assigns, shall be entitled to recover any annual rent, against the lessees or grantees of any such freehold or term of years, their executors, administrators, heirs, grantees, or assigns, by virtue of any reservation, in any deed or lease, or other contract (whether such deed, or lease, or contract, contain a clause of distress or re-entry for nonpayment of such rent or not) may have and maintain an action of indebitatus assumpsit therefor, upon an account annexed, in which shall be summarily set forth the date of the deed, lease or other contract, and the premises out of which, or for which, and also at what time, such rent became due and payable. And such action may in all cases be brought and tried in the same Court, in which any other action of assumpsit might be brought for the like sum. And the defendant in any such action may give in evidence, under the general issue, any payment or other matter of defence, showing that the sum demanded, or any part thereof, is not due; and may also set off against the said rent, any demand which he may have against the plaintiff, in the same manner as in any other action of assumpsit.

May maintain action.

[Approved by the Governor, February 15, 1826.]