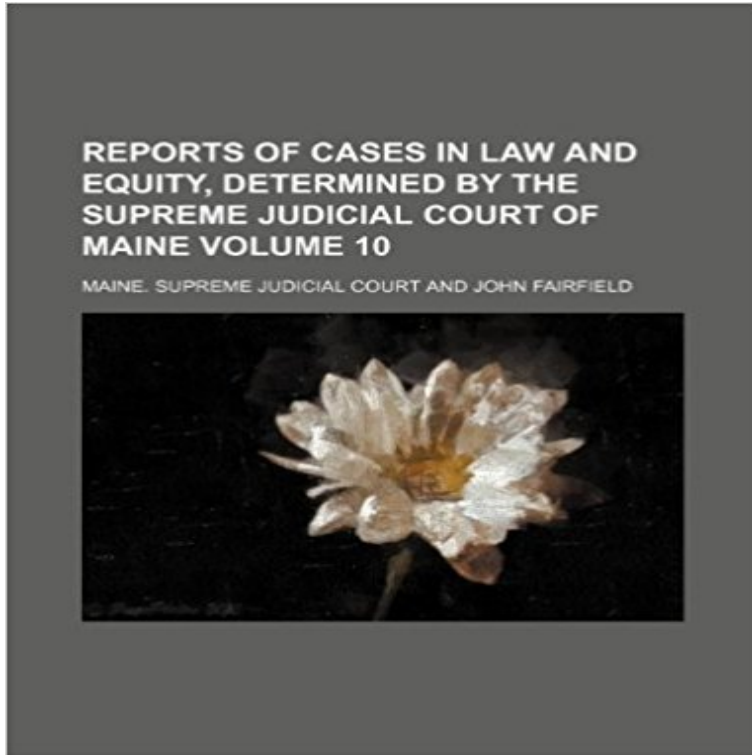


Reports of cases in law and equity, determined by the Supreme Judicial Court of Maine Volume 10



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1835 Excerpt: ...it on the following reasons. 1. Because the verdict Vol. I. 33 Pejepsot Proprietors r. Nichols. does not find the issue joined by the parties, and which was submitted to the jury. 2. Because the facts that they have found, are immaterial. 3. Because the jury have not found that the tenant either did or did not disseize the said demandants, which was the only issue submitted to them. 4. Because the finding of the jury is contrary to the evidence in the case, and against the weight of evidence. Allen, for the demandants. 1. The verdict does not find the only issue joined, which Was whether the defendant had disseised the demandants. The verdict finds that the tenant held quiet possession of the premises 20 years after 1783. This might be--but it does not find that this possession was adverse to the demandants--and if not, it was no disseizin, and no bar to this action. Maine stat. ch. 344, sec. 2 says, the jury shall on the evidence consider not only the question of title, but whether the defendant held possession, and return their verdict accordingly. This is in order that in a future action, the demandant might not be defeated by any objection to the title. If the jury find the plaintiffs title to be good, then they are to consider whether the tenant was in possession. Still the verdict ought to find the issue. In that case the plaintiff would have a good cause of action but for the fact of the defendants not being in possession; and if the plaintiff should attempt to take possession and should be resisted by the tenant, he could give in evidence the former verdict finding and establishing the title in him. If on the other hand the evidence ...

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