

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Seventh Legislature.

HOUSE.

No. 348.

STATE OF MAINE.

**IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.**

AN ACT to amend section 80, of chapter 18, of the Revised Statutes as to notice of defect in Highways and Injuries received.

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

Section 80 of chapter 18 of the Revised Statutes is
2 hereby amended by striking out in the eighth and ninth
3 lines thereof the words "had twenty-four hours' actual
4 notice of the defect or want of repair" and inserting instead
5 thereof the words 'had reasonable notice of the defect or
6 want of repair;' also by striking out after the word
7 "injury" in the eleventh line the words "he cannot recover
8 of a town unless he has previously notified one of the
9 municipal officers of the defective condition of such way,"

10 and inserting the following words, 'and did not notify the
11 municipal officers of the defective condition of such way,
12 such omission may be taken into consideration in deter-
13 mining the question of negligence on his part;' also by
14 inserting after the word "aforesaid" in lines thirteen and
15 fourteen the words 'or some person in his behalf;' also by
16 striking out in the fourteenth line the word "fourteen"
17 and inserting in place thereof the word 'thirty;' also by
18 adding at the end of said section the words 'but no notice
19 given under the provisions of this section shall be deemed
20 invalid or insufficient solely by reason or any inaccuracy
21 in stating the time, place or cause of the injury if it be
22 shown that there was no intention to mislead, and that the
23 party entitled to notice was not, in fact, misled thereby,'
24 so that said section as amended shall read as follows :

'Section 80. Whoever receives any bodily injury, or
26 suffers damage in his property, through any defect or
27 want of repair or sufficient railing, in any highway, town-
28 way, causeway or bridge, may recover for the same in a
29 special action on the case, to be commenced within one
30 year from the date of receiving such injury, or suffering
31 damage, of the county or town obliged by law to repair
32 the same, if the commissioners of such county, or the
33 municipal officers, highway surveyors or road commission-
34 ers of such town, had reasonable notice of the defect or
35 want of repair, but not exceeding two thousand dollars in
36 case of a town; and if the sufferer had notice of the con-
37 dition of such way previous to the time of the injury,
38 and did not notify the municipal officers of the defective
39 condition of such way, such omission may be taken into
40 consideration in determining the question of negligence

41 on his part ; and any person who sustains injury or damage,
42 as aforesaid, or some person in his behalf, shall within thirty
43 days thereafter, notify one of the county commissioners
44 of such county, or of the municipal officers of such town,
45 by letter or otherwise, in writing, setting forth his claim
46 for damages and specifying the nature of his injuries and
47 the nature and location of the defect which caused such
48 injury. If the life of any person is lost through such
49 deficiency, his executors or administrators may recover of
50 such county or town, liable to keep the same in repair, in
51 an action on the case, brought for the benefit of the estate
52 of the deceased, such sum as the jury may deem reason-
53 able as damages, if the parties liable had said notice of
54 the deficiency which caused the loss of life ; at the trial of
55 any such action the court may, on motion of either party,
56 order a view of the premises where the defect or want of
57 repair is alleged, when it would materially aid in a clear
58 understanding of the case ; but no notice given under the
59 provisions of this section shall be deemed invalid or insuf-
60 ficient solely by reason of any inaccuracy in stating the
61 time, place or cause of the injury, if it be shown that there
62 was no intention to mislead, and that the party entitled to
63 notice was not, in fact, misled thereby.'

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 13, 1895. }

Reported by Mr. BARRETT of Canaan, from Committee on Legal
Affairs, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*