

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 240

S. P. 130

In Senate, January 30, 1951.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Boucher of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

**AN ACT Relating to Limitations for Injuries by Defect in Highways and
Notice Thereof.**

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 84, § 88, amended. Section 88 of chapter 84 of the revised statutes is hereby amended to read as follows:

Sec. 88. Persons injured by defect in highways may recover damages; limitation; when previous notice must have been given; county commissioners, town or city officers must be notified in writing within 14 days; damages for loss of life; view may be ordered at trial. Whoever receives any bodily injury or suffers damage in his property, through any defect or want of repair or sufficient railing in any highway, town way, city way, causeway or bridge, may recover for the same in a special action on the case, to be commenced within 1 year from the date of receiving such injury or suffering damage, of the county, ~~or~~ town or city obliged by law to repair the same, if the commissioners of such county, or the municipal officers or road commissioners of such town or city, or any person authorized by any commissioner of such county or any municipal officer or road commissioner of such town or city, to act as a substitute for either of them, had 24 hours' actual notice of the defect or want of repair; but not exceeding \$2,000 in

case of a town, **nor \$5,000 in case of a city**; and if the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town **or city** unless he has previously notified one of the municipal officers of the defective condition of such way; and any person who sustains injury or damage, as aforesaid, or some person in his behalf shall, within 14 days thereafter, notify one of the county commissioners of such county, or of the municipal officers of such town **or city** by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county, ~~or town or city~~ liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged, when it would materially aid in a clear understanding of the case. **Where the defect or want of repair which caused the injury, loss of life or damage to property, in the case of a city, shall be proven to have existed for a period of at least 90 days prior to the accident in which said injury, loss of life or damage was suffered, it shall be conclusively presumed that the municipal officers of said city had 24 hours' actual notice of said defect or want of repair.'**