

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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1855.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1855.

defense, for such magistrate to shew, that such warrant, precept or order is in due form of law, that it is issued in accordance with the provisions or authority of some statute or law of this state, in the proper exercise of his duty as a magistrate; and on the part of such officer to shew that it was issued by some magistrate in manner aforesaid, and was by him served or executed in a lawful manner; unless it shall also appear, that before such warrant was issued, or before it was served, the provisions of the act under which it was issued, have been declared to be void, by a final judgment of some court having jurisdiction of this subject matter, and that such magistrate or such officer, before such warrant, precept or order was issued, or was served or executed, had notice thereof, or by using due diligence might have had notice thereof.

Exceptions.

SECT. 2. No judgment for damages, or costs, or for damages and costs, shall be rendered against any magistrate for issuing, or any officer or his assistants for executing, any lawful warrants, precept or order in a lawful manner, by reason of any technical error or defect, provided the subject matter thereof is so substantially set forth therein, that the same may be readily understood; and that the same was issued and executed in good faith and without intention of doing any wrongful act.

Magistrates not liable for damages or costs.

Proviso.

SECT. 3. This act shall take effect and be in force from and after its approval by the governor, and the same may be pleaded in bar or in arrest of judgment in any action pending at the date of its approval.

This act may be pleaded in bar.

[Approved March 16, 1855.]

Chapter 161.

An act concerning the liability of railroad corporations and other passenger carriers for loss of life in certain cases.

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

SECT. 1. If by reason of the gross negligence, carelessness or unfitness of the servants or agents of any railroad corporation in the state, or over any drawbridge which crosses any stream or harbor in this state, while engaged in the business of such corporations, or by reason of the negligence or carelessness of such corporation, or of the proprietor or proprietors of any steamboat, stage-coach or of common carriers of passengers, or by the unfitness or gross negligence or carelessness of their servants or agents, in this state, while

Railroad corporations, &c., liable for misconduct of agents, &c.

CHAP. 161.

Penalty for loss of life of passengers.

—how recovered.

—for loss of life of persons not passengers.

Exceptions.

Prosecutions, when to be commenced.

Penalty for walking, &c., on railroad track.

Certain cases excepted.

Duty of railroad corporations to post up copy of 5th section of this act.

engaged in the business thereof, the life of any person being a passenger shall be lost, such person being in the exercise of due care and diligence, such railroad corporation, such proprietor or proprietors and common carrier shall be liable to a fine, not exceeding five thousand dollars, and not less than five hundred dollars, to be recovered by indictment, to the use of the executors or administrators of the deceased person, for the benefit of his widow and children, one moiety thereof to belong to his widow, and one moiety to his children; but if there shall be no children, the whole to his widow; and if no widow nor child, the whole to his heirs at law.

SECT. 2. If by reason of the gross negligence, carelessness or unfitness of the servants or agents of any railroad corporation, in this state, while engaged in the business of such corporation, or by reason of the negligence or carelessness of such corporation, the life of any person not being a passenger or employee of such corporation, shall be lost, such person being in the exercise of due care and diligence, such corporation shall be liable to a fine not exceeding five thousand dollars, and not less than five hundred dollars, to be recovered in the manner, and to the use provided by the preceding section of this act.

SECT. 3. No railroad corporation shall be liable to the fine mentioned in the preceding section for the loss of life by any person while walking or being upon any railroad contrary to law, or to the reasonable rules and regulations of such corporations.

SECT. 4. All indictments for loss of life, provided by this act, shall be prosecuted within one year from the death of the person whose life is so lost.

SECT. 5. Any person who shall, without right, knowingly stand or walk on any railroad track, or pass over any railroad bridge, within this state, on foot, or with a horse and carriage, or in any other manner except by a railroad conveyance, shall be liable to a penalty of not less than five dollars, nor more than twenty dollars, to be recovered to the use of the state, on complaint before any justice of the peace, or municipal or police court, in the county, where the offense is committed, but this act shall not affect such railroad bridges, as have been especially constructed to accommodate ordinary travel, if used under such limitations and restrictions as the county commissioners of the county or counties in which they are located, may impose.

SECT. 6. Each and every railroad corporation, chartered by this state, shall, within two months after the passage of this act, post up and keep posted up in a conspicuous place, in every passenger depot, constructed and used by them, a printed copy of the preceding sec-

tion of this act, and every such corporation, that shall neglect so to do, shall be liable to a fine not exceeding one hundred dollars, for every such offense, to be recovered by indictment, in any court of competent jurisdiction. CHAP. 162.

SECT. 7. If any railroad corporation shall run their engine, cars, or train, across any public highway in or near any compact part of any town or city in this state, at a greater speed than six miles per hour, or if any such corporation or their servants or agents shall unreasonably and negligently obstruct any highway, town-way or public street in this state by their engines, tenders or cars, such corporation shall be liable to a fine, not exceeding one hundred dollars for every such offense, to be recovered by indictment in any court of competent jurisdiction.

Railroad crossings, speed of engines, &c., prescribed.

[Approved March 16, 1855.]

Chapter 162.

An act to amend the thirty-fifth section of the twenty-fifth chapter of the revised statutes.

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

Section thirty-five of the twenty-fifth chapter of the revised statutes shall be amended by the addition at the end thereof, of the words "but the commissioners shall have the same power to alter or discontinue such ways as they now have to alter or discontinue county roads, and this power shall continue during the period of five years, named in the first clause of this section." So that the section as amended shall read as follows, namely :

SECT. 35. When any town-way shall have been laid out or altered by the commissioners, it shall not within five years thereafter be discontinued or altered by the town. When any such way shall have been discontinued by the commissioners, the town shall not within two years thereafter lay out the same again; but the commissioners shall have the same power to alter or discontinue such ways as they now have to alter or discontinue county roads, and this power shall continue during the period of five years named in the first clause of this section.

Town ways, laying out or discontinuance of, regulated.

County commissioners shall have power.

[Approved March 16, 1855.]