

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE.

1859.

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

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1859.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1859.

CHAP. 102.

prietor of adjacent lands will be likely to sustain, and report and return the same with all their proceedings to the county commissioners; but before said committee shall proceed to said examination they shall give ten days notice, setting forth the hour and place of their meeting, by posting up notifications in two public places, in the town or towns in which said lands lie.

— to consider report of committee at next meeting.

SECT. 4. At the next meeting of the county commissioners after the return of the committee is received, said commissioners shall proceed to consider the subject, and if they shall be of opinion, taking into view the public as well as the private interests, that said improvements will be advantageous and desirable, they shall accept said report.

Final report to be recorded and damages tendered.

SECT. 5. The party praying for said improvements shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudged.

Repairs, how to be made.

SECT. 6. Whenever it may become necessary to repair such works, any one of the parties benefitted may enter and cause said repair to be made, and all works constructed under this act shall be entitled to the benefit of all laws for the protection of railroads in the state.

Drains, how protected.

SECT. 7. The parties interested in making such work may enter and take such property or material as may be necessary to make them, provided they pay to the proprietor of such land so taken or used, such price as may be agreed upon, or as said committee may report; and provided said parties do not agree, and if said parties owning said land or property taken, shall not receive the damage, awarded by said committee, then the party taking said land or material, shall pay such sum as may be determined by a jury, and the same proceedings shall be had for the purpose of ascertaining such damages as are now provided in estimating damages by a jury in case of laying out public highways.

Damages, how to be settled.

[Approved April 2, 1859.]

Chapter 102.

An act in relation to the competency of witnesses.

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

When husband and wife may be witnesses.

SECT. 1. In the trial of civil actions the husband and wife of either party shall be deemed competent witnesses, when the wife is

called to testify by or with the consent of her husband, and the husband by or with the consent of his wife. CHAP. 103.

SECT. 2. This act shall take effect when approved by the governor.

[Approved April 2, 1859.]

Chapter 103.

An act to amend the thirty-sixth section of chapter eighteen of the revised statutes, relating to ways.

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

The thirty-sixth section of chapter eighteen of the revised statutes, is amended so as to read as follows :

SECT. 36. If such judgment is wholly against the prayer of the original petition, the commissioners shall proceed no further thereon, and no petition praying for substantially the same matter shall be entertained by them for two years thereafter ; but if the judgment is otherwise they shall carry it into effect as if made by them ; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs to the prevailing party to be paid out of the county treasury. The compensation of the committee is to be the same as commissioners would have for like services, to be allowed by the court. The costs are to be collected as provided in section three.

Ch. 18, sec. 36,
R. S. amended.

Judgment wholly against prayer, no further proceedings, otherwise to be carried into effect; costs; committee's compensation.

[Approved April 4, 1859.]

Chapter 104.

An act relating to witnesses and evidence.

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

No respondent in a criminal prosecution or proceeding at law, for libel, nuisance, simple assault, simple assault and battery, or for the violation of any municipal or police ordinance, offering himself as a witness, shall be excluded from testifying, and all laws inconsistent herewith are repealed.

Respondent in criminal prosecutions may testify in certain cases.

[Approved April 4, 1859.]