

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1860.

Published by the Secretary of State, agreeably to Resolves of June 23, 1820, February 26,
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1860.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1860.

An act additional to an act to secure the safety and convenience of travelers on railroads, passed in the year of our Lord one thousand eight hundred and fifty-eight.

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

Railroad commissioners, their appointment.—qualifications and compensation.

SECT. 1. It shall be the duty of the governor, with the advice of the council, in the appointment hereafter to be made, to appoint three railroad commissioners, two of whom shall be experienced men in the construction and management of railroads ; one of whom shall be an engineer. The compensation of the commissioners under this act, and the act to which this act is additional, is fixed at four dollars a day while actually employed in the duties of their office.

Duty of railroads to cause annual examination.

SECT. 2. Upon all railroad corporations, except the railroad companies in the county of Washington, now in operation, is imposed the duty of causing their railroad, the track, rolling stock, bridges, viaducts and culverts thereof situate within this state, to be carefully examined annually between the months of May and September, by one of the commissioners appointed by virtue of the act to which this is additional. And it is the duty of the commissioners annually in the month of May to give two weeks notice of the time and place one of them will attend for the purpose of making such examination, by publishment in the state paper ; and the extent of the examination is according to the discretion of the commissioners making it ; and the compensation for his services is to be paid by the railroad corporations for which the service is performed respectively ; and after such annual examination the commissioner shall make a certificate certifying such examination has been made, and also briefly describing the condition of the road and rolling stock, and deliver the same to the clerk of the corporation, first receiving compensation for his services ; and the corporation shall file such certificate in the office of the secretary of state before the first day of October in each year, and if any railroad corporation shall neglect to cause said examination to be made, or to pay said commissioner, or to file such certificate, such corporation shall forfeit and pay one thousand dollars, to be recovered in an action on the case, one-half to the use of the state, and one-half to the person suing for the same ; and the president and directors of any railroad corporation guilty of such neglect shall not allow any passenger train to run over the railroad ; and if any such passenger train is so run the president and directors of such corporation shall be liable personally for all damages occasioned by any defect in said road or its rolling furniture for which they are by law now liable ; but such liability does not relieve and discharge the railroad corporation.

—commissioners to publish notice.

—railroads to pay for services.

Certificate to be filed with secretary of state.

Penalty for neglect.

Personal liability of president and directors.

SECT. 3. If the commissioner finds any defect or defects therein, which in his opinion would render the passage of such trains hazardous, either of the aforesaid commissioners shall forthwith notify the superintendent, president or any director of, or any lessee, trustee or person other than the corporation running trains on such road of such defect or defects, and require the party notified to show cause forthwith why the same should not be repaired. If the party notified neglects to appear at the time and place required, or appearing, does not show cause to the satisfaction of the board of commissioners why the defect or defects should not be repaired, said board shall issue such order in writing as they may deem necessary for the safety of the public, and shall forthwith serve a copy thereof upon the person notified, or present at the hearing, acting in behalf of the corporation, lessee, trustee or person running trains on said road.

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Commissioners to notify of defects.

Proceedings in case of neglect of parties notified.

SECT. 4. Awards or orders made by said board under the second section of this act shall bind and include railroad corporations and all persons running passenger trains on any railroad until set aside by the supreme judicial court under section third of the act to which this act is additional.

Awards and orders, how binding.

SECT. 5. If any railroad corporation, lessee, trustee or other person running passenger trains on any railroad shall neglect to comply with any order of said commissioners made according to the second section of this act, and shall, after being served with a copy of such order, transport a passenger in any car, on or over any bridge, culvert or place determined by said commissioners to be defective and hazardous contrary to the order aforesaid, either of said commissioners shall file an information in the name of the state, with any judge of the supreme judicial court in session or vacation, praying for an injunction upon the corporation, lessee, trustee or person notified as aforesaid, until said order is complied with, or the court upon a hearing, dissolve said injunction or sets aside such order, and the judge aforesaid shall grant said injunction and enforce the same, and thereupon said commissioners shall notify the attorney general thereof who shall afterwards conduct all proceedings thereon in said court.

Injunction may be granted on application of a commissioner.

—how to be enforced.

SECT. 6. At the first term of the supreme judicial court in the county where said injunction has been granted, on motion of the attorney general or the party enjoined, the parties shall be heard, and the court may remove the injunction if they deem it consistent with the public safety, upon payment by the defendant, to the state, of such sum as costs as they consider just and equitable.

—hearing in case of.

Costs.

SECT. 7. The railroad commissioners shall annually in the month of December, report to the governor their official doings, together with such facts in relation to railroads within the state, as he may

Commissioners to make report annually.

CHAP. 175.

—may demand information.

—may determine rates of transportation over connecting roads, on application.

—may require security for balances.

—award may be suspended.

Order of notice on application.

Persons claiming interest, to be heard.

Witnesses.

Depositions.

Award returned to court.

require, or they may consider of public interest; and to this end railroad corporations, trustees or lessees are required to give said commissioners such information as they may from time to time demand.

SECT. 8. When the railroad commissioners are applied to by a railroad corporation, or its lessees or trustees authorized by law to connect with or cross another road to determine and award in relation to the rates at which passengers and merchandize coming from one road shall be transported over the other, or the division of receipts resulting from transportation over roads so connected or crossing as prescribed in the third section of the act to which this is additional, said commissioners if so requested in the application, are hereby authorized and required to determine and award the rates for transporting passengers, merchandize or cars delivered by a crossing or connecting to a receiving road over such receiving road and over any other road on which such receiving road shall have become a common carrier by contract or otherwise, and also the rates for transporting passengers, merchandize or cars coming upon, over, or delivered to said receiving road at any station where it usually receives passengers or merchandize, as well upon its own as on any other road over which it is a carrier as aforesaid, and going to and upon the road making the application. And they are also authorized to require either party in the application to give security to the other for the payment of balances for such transportation on such conditions as they deem equitable; and they may also determine that their award may be suspended after the acceptance thereof, for any non-performance of the conditions thereof at the election of the party injured by such non-performance.

SECT. 9. Either of the commissioners to whom an application is delivered under this act or the act to which it is additional, shall endorse thereon an order of notice to any or all interested and fixing the time and place of hearing, and the applicant shall cause said order of notice to be complied with before a hearing is had thereon. And any corporation or person, whether named in the application or not, appearing and claiming to be interested, shall be made a party to the proceedings, and shall be heard thereon, and said commissioners are hereby invested with the authority of the courts of law to summon witnesses, compel their attendance before them, and compel them to testify; and depositions may be taken to be used at such hearing in the same manner they are required to be taken to be used in the trial of suits at law.

SECT. 10. The award and determination of said commissioners hereafter made, in relation to rates, passengers or merchandize, or railroad connections, or crossings may be returned to the supreme

judicial court in the county in which the hearing before the commissioners was held. CHAP. 176.

SECT. 11. When exceptions are taken to any ruling, order, opinion, decree or judgment of the judge before whom said hearing is had, other than an order to recommit the award to said commissioners, the exceptions shall be drawn up, signed and filed within the time allowed by the rules of court from the hearing; and if allowed by the judge, a certified copy thereof and all papers used at said hearing shall be forthwith forwarded by the clerk of said court to the chief justice of said court, and the parties shall be heard thereon by said court, sitting as a court of law in the district where the hearing took place. And if said court of law does not sit within thirty days after the chief justice receives said exceptions he shall at the request of either party, detail a majority of the justices of said court to hear the parties at such time and place as he may order, and transmit his order to the clerk of the court where said matter is pending, who shall enter the same upon the docket under said cause, and such entry shall be notice to the parties, at the time and place fixed, the parties shall be heard by the court, and said court thus constituted shall have all the powers and authority now vested in them at its regular session, sitting as a court of law.

Exceptions taken, proceedings in case of.

SECT. 12. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect and be in force from and after its approval by the governor.

Acts inconsistent repealed.

[Approved March 19, 1860.]

Chapter 176.

An act relating to costs in criminal cases.

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

SECT. 1. Any court or justice of the peace authorized by law to impose a fine for any offence, may in all cases, in addition to the penalty now provided by law, impose upon the respondent the costs of prosecution.

Justice may impose costs in addition to fine.

SECT. 2. This act shall not apply to the punishment of offences heretofore committed. Proviso.

SECT. 3. This act shall take effect when approved.

[Approved March 19, 1860.]