

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

112

PASSED BY THE

FORTIETH LEGISLATURE

OF THE

STATE OF MAINE.

1861.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1861.

CHAP. 33.

relative to his having complied with all the requirements of the seventh section of said chapter one hundred thirty-six.

Neglect, &c., of trial justice to pay over fines, &c. Penalty. —how recovered and appropriated.

SECT. 3. If any trial justice who has received any such fine or forfeiture named in said seventh section, shall refuse or neglect to comply with the second section of this act, he shall forfeit and pay the sum of fifty-dollars to the use of the county where he resides, to be recovered in an action of debt in the name of the county treasurer of such county.

[Approved March 15, 1861.]

Chapter 33.

An act relating to the width of sleds used on certain roads.

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

Width of sleds on certain roads, regulated.

No person shall use a sled drawn by two or more horses or oxen on any public road in the county of Aroostook or on the road from Houlton to Princeton in the county of Washington, or on the road from Bangor to Mattawankeag in the county of Penobscot, less than four feet and four inches from outside to outside of runners in width, and any person violating the provisions of this act shall forfeit the sum of five dollars for each offence, for the use of the town or plantation in which the offence is committed.

Violation of this act. —forfeiture, how appropriated.

[Approved March 15, 1861.]

Chapter 34.

An act in relation to fire and marine insurance companies and actions on contracts of insurance.

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

Foreign insurance companies shall not by any condition, &c., in its charter, by-laws or contract, deprive the courts of this state of jurisdiction of actions against the company.

SECT. 1. No foreign insurance company making insurance on property within this state, or belonging to a citizen of this state, shall by any condition, stipulation or restriction in its charter, by-laws or contract of insurance, deprive the courts of this state of jurisdiction of actions against the company or limit the time of commencing such actions to a period less than two years from the time the right of action shall accrue.

Agent authorized by co. to receive applications, &c.,

SECT. 2. An agent authorized by an insurance company to receive applications for insurance or payments of premium, or whose name shall be borne on the policy, shall be deemed the agent

of said company in all matters of insurance; any notice required to be given to said company or any of its officers, by the insured, may be given to such agent; any application for insurance or valuation or description of the property, or of the interest of the insured therein, if drawn by said agent shall be conclusive upon the company but not upon the insured, although signed by him; all acts, proceedings and doings of such agent with the insured, shall be as binding upon the company as if done and performed by the person specially empowered or designated therefor by the contract.

SECT. 3. All statements of description or valuation, in any contract of insurance or application therefor, shall be deemed representations and not warranties; an omission to notify the company of other insurance, either prior or subsequent to the policy or to procure the assent of the company thereto, or the concealment of any other matter, not material to the risk, shall not effect the policy unless done designedly and for a fraudulent purpose. Any misrepresentation of the title or interest of the insured, unless the same is fraudulent, shall not prevent his recovering on the policy the amount of his insurable interest; a misrepresentation of title to a parcel of the property insured shall not effect the contract as to other parcels either real or personal covered by the policy.

SECT. 4. No insurance company shall avoid payment of a loss by reason of incorrect statements of value or title, or erroneous description by the insured in the contract of insurance, if the jury shall find that the difference between the property as described and as really existing did not contribute to the loss or materially increase the risk; any change in the property insured, its use or occupation, or breach of any of the conditions or terms of the contract by the insured shall not effect the contract unless the risk was thereby materially increased.

SECT. 5. In case of loss, under a policy against fire, the insured shall notify the company or its agent, of the fire, and within a reasonable time afterwards shall deliver to the company or its agent, as particular an account of the loss and damage as the nature of the case will admit, stating therein his interest in the property, what other insurance, if any, existed thereon, in what manner the building insured, or containing the property insured, was occupied at the time of the fire, and by whom and when and how the fire occurred, so far as he knows or believes; such statement shall be sworn to before some disinterested magistrate, who shall certify that he has examined the circumstances attending the loss, and has reason to and does believe such statement is true; the insured shall, if so requested, within ten days after notice of such loss, exhibit to the agent or company his books of account, bills of parcels and any other vouchers in his possession, and shall

CHAP. 34.

Notice to company may be given to agent.
Application for insurance, &c.

All acts, &c., of agent, binding on co.

Statements of description, &c.

—omission to notify, &c., not to effect policy.

—misrepresentation of title or interest, &c.

Insurance company not to avoid payment of loss by reason of incorrect statements, &c.

Insured in case of loss, shall notify company or agent.

—shall deliver account of loss to company or agent.

—make statement of interest, &c.

—shall be sworn to.

—certificate of magistrate.

Insured if requested, shall exhibit books of accounts, &c.

CHAP. 35.

—and submit to examination under oath.

All provisions in policy, &c., in conflict with the provisions of this act to be null and void.

Act when to take effect.

also, if requested at the same time, submit to an examination under oath, in the place of his residence; no other preliminary proof of any kind shall be required before commencing any action against such company. All provisions contained in any policy or contract of insurance, in conflict with any of the provisions of this act, are hereby declared null and void, and all contracts of insurance hereafter made, renewed or extended in this state or on property within this state, shall be subject to the provisions of this act.

SECT. 6. This act shall take effect and be in force from and after the first day of May next and shall not affect cases now pending.

[Approved March 15, 1861.]

Chapter 35.

An act additional to chapter seventy-six of the revised statutes relating to titles to real estate by levy on execution.

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

Creditor may, when right in equity, &c., is sold, pay or tender to person entitled thereto, the amount the debtor should pay to redeem.

Proceeds of sale to redeeming creditor unless debtor has paid amount, &c.

Whenever a creditor has taken on his execution any equity of redemption, or the right of the debtor to redeem from a sale or levy by appraisement, such creditor may within the time which the debtor has to redeem, provided such time does not exceed sixty days from the seizure of the right, pay or tender to the person entitled thereto, the amount which the debtor should pay to redeem the same; the officer selling on the execution such equity or right to redeem shall first appropriate and pay to the redeeming creditor from the proceeds of the sale, the amount with interest by him paid, unless the debtor has paid such amount, and the residue, if any there be, shall be appropriated as in other cases of sales of equities of redemption upon execution.

[Approved March 15, 1861.]

Chapter 36.

An act in addition to chapter sixty-four of the revised statutes.

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

Oath of executor or administrator, by whom taken before.

SECT. 1. An inventory returnable by an executor or administrator who resides in a town or place, other than that where the probate court is held, may be sworn to before the judge or a justice of the peace.