

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

FORTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE.

1864.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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PUBLIC LAWS

OF THE

STATE OF MAINE.

1864.

offering it, that the deponent is dead, or has permanently removed from said town, the deposition shall be admitted in the same manner as other depositions authorized by said chapter. But this provision shall not prevent either party from producing the witness in court, in which case the deposition shall not be used.

CHAP. 237.

—not to prevent either party from producing witnesses in court.

Approved March 14, 1864.

Chapter 237.

An act declaring the power and authority of trial justices.

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

SECT. 1. Trial justices are declared to be ex-officio justices of the peace and of the quorum, and all their official acts, attested by them in either capacity, except those pertaining to the exclusive jurisdiction of trial justices, are of equal effect.

Ex-officio, justices peace and quorum.

SECT. 2. This act shall take effect on its approval by the governor.

Approved March 14, 1864.

Chapter 238.

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

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

SECT. 1. The railroad commissioners or a majority of them, may at any time during the year examine the railroads in this state, and their engines and cars now subject to examination by them, whenever complaint shall be made to them by two or more citizens of this state, under oath, that said road or any part thereof, is unsafe for the transportation of passengers thereon.

Commissioners to examine railroads, &c.

—when complaint is made under oath.

SECT. 2. If on such examination they shall find the track, culverts or bridges of any railroad, or the cars used to transport persons, so out of repair as in their opinion to be unsafe for travellers on said road, said commissioners shall immediately notify the directors or persons having the care and management of said railroad, of its condition and what is required to make it in a safe condition, and they shall state also in said notice a reasonable time within which such repairs shall be made. The commissioners may require the directors or persons managing said railroad, to so re-

If track, &c., is found out of repair.

—shall notify directors, &c.

—may require the managers of road to reduce speed.

CHAP. 238.

duce the speed of all trains upon said railroad as to secure the safety of travellers upon the same until said repairs are made.

If directors, &c., neglect or refuse to comply with requisition, &c.
—commissioners shall petition to S. J. C.

SECT. 3. If after the notice to them aforesaid, the directors or other persons managing any railroad shall neglect or refuse to comply with the requirements of said commissioners in making repairs of the railroad, it shall be the duty of the commissioners to present a petition to the supreme judicial court in any county into which said railroad shall extend, setting forth their examination and the condition of said railroad, and the notice and requirements made by them to the directors or managers of said road, and their neglect or refusal to comply with the same, and they shall also notify the attorney general of the state, or the district attorney for the county in which said petition is filed, of the filing of such petition, one of whom shall thereupon appear and take charge of the future proceedings in court upon the same. The court shall order the directors or managers of said railroad or any one of them, to be notified of the filing of said petition, and appoint a time for hearing the parties upon the same. After hearing the parties, the court may order and decree such things to be performed by the directors or managers of said railroad as shall appear to be necessary in order to secure the safety of travellers upon said railroad, and unless the directors or managers of said railroad shall execute and file in court, a bond or recognizance, with sufficient sureties for such sum as it shall appear is sufficient to make the necessary repairs of said road, payable to the state, on condition that they will within such time as the court shall order, make the necessary repairs or otherwise satisfy the court that said repairs will be made within the prescribed time, the court shall grant an injunction upon said corporation, trustee, lessee, or other person managing or running said railroad, prohibiting them, their servants or agents from running passenger trains over such portion of said road as may be determined by said court to be defective and unsafe, until the orders and decrees of said court have been complied with or duly revoked by said court.

—shall notify attorney general or district attorney.

Court to order directors, &c., to be notified.

—may order and decree, &c.

—directors, &c., to file bond or recognizance.

—payable to state.

—shall grant an injunction.

Railroad corporations formed by foreclosure of mortgage, subject to laws of legislature.

SECT. 4. Every railroad corporation that shall be formed by the foreclosure of a mortgage of any railroad heretofore or hereafter made, shall be subject to such laws as the legislature have enacted or shall hereafter enact concerning railroads, anything in the original charter to the contrary notwithstanding.

Trustees of bondholders subject to laws of legislature.

SECT. 5. Whenever any trustees of any bondholders mentioned in any mortgage of a railroad, or who shall be elected or appointed in place of such as are named, shall take possession of any railroad for the purpose of running or operating the same, or shall contract with other parties for so doing, said trustees or other parties while so in possession of said railroad, shall be subject to such laws as

the legislature have enacted or shall enact concerning the management of railroads.

SECT. 6. The supreme judicial court shall hear and determine all questions relating to the condition and management of railroads in this state having reference to the safety and security of persons transported thereon, as a court of equity; *provided* that in all cases of alleged breach of contract expressed or implied, or of alleged violation of rights or neglect of duties imposed by charter, either party shall be entitled to a jury to determine the facts and assess the damages, and in such cases no process in equity shall be maintained.

S. J. C. to act as court of equity in determining questions relating to condition of railroads. Proviso.

SECT. 7. The examination of railroads now required by law to be made by railroad commissioners, shall be made between the first of April and the last of October in each year, at such times as the commissioners shall appoint.

Examination of railroads, when to be made.

SECT. 8. This act shall take effect on and after its approval by the governor.

Approved March 16, 1864.

Chapter 239.

An act to restrain illegal appropriation of public money.

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

SECT. 1. When any county, city, town or school district votes to pledge its credit, or to raise by taxation, or to pay from its treasury, any money, for any purpose other than those for which it has the legal right and power, or any agent or officer thereof attempts to pay out the money of such county, city, town or school district without authority, the supreme judicial court may, upon the suit or petition of not less than ten taxable inhabitants thereof, briefly setting forth the cause of complaint, hear and determine the same in equity. Any justice of said court may in term time or vacation, issue injunctions and make such orders and decrees as may be necessary or proper to restrain or prevent any violation or abuse of such legal right or power until the final determination of the cause by said court.

Illegal appropriation of money, S. J. C. may determine same in equity.

One justice may issue injunctions, &c.

SECT. 2. When any officer or agent of any city or town shall pay from the public money intrusted to him, any order given for commutation or any claim of any person for money paid as commutation, the city or town may recover the amount in an action of debt, from such officer or agent, or from the person to whom he shall pay such money, and if the judgment against one shall not be paid, a subsequent suit may be maintained against the other.

Money paid by officer or agent for commutation, &c.

—how recovered.