

to prosecute his appeal there with effect, abide the order of court thereon, and in the meantime to be of good behavior, went into effect at the same time. Laws, ed. 1805, pp. 398-401, 403.

By the fee bill in force in 1784, the justice's fees for the appeal and recognizance were four shillings, for the copies one shilling a page of 224 words, and for his certificate thereon two shillings; the entry fee in the court of quarter sessions was ten shillings (the same as the entry fee of a civil action in the inferior court), and the jurors' fees were six shillings and sixpence. Prov. Laws, ed. 1771, pp. 83, 85, 86, 167. If the copies comprised ten pages, the appellant, in order to secure a jury trial, was compelled to pay thirty-two shillings and sixpence, or \$5.42. Under our present statutes he is required to pay the justice, for the appeal and three recognizances, sixty-eight cents; for the copies, ten pages, \$1.70, and certificate thereon fifteen cents; and the clerk for the entry fee \$1.20,—in all, \$3.73. Gen. Laws, c. 290, ss. 2, 3, 4; *Fowler v. Tuttle*, 24 N. H. 9, 20. If the changed value of money be considered (55 N. H. 196), the burden now imposed on the right of trial by jury in such cases is not half as large as it was at the time of the framing and adoption of the constitution.

Case discharged.

DOE, C. J., did not sit: the others concurred.

STATE v. CORNISH.

It is no defence to an indictment under the statute for bringing from another state and leaving in a town in this state a pauper having no settlement there, that the defendant believed such settlement to exist.

INDICTMENT, for bringing one Emma R. Gee, a poor and indigent person, having no visible means of support and no settlement in Claremont, from Massachusetts into Claremont, in this state, and leaving her there with intent to make the town of Claremont chargeable with her support.

As bearing upon the question of criminal intent, the defendant offered the public statutes of Massachusetts, c. 79, ss. 2, 9, 14. The evidence was rejected, and the defendant excepted. She also offered to show that prior to bringing Mrs. Gee into the state she investigated the matter of her settlement, and became satisfied that it was in Claremont. The evidence was excluded, and the defendant excepted. Verdict for the state, which the defendant moves to set aside for error in the above rulings.

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BINGHAM, J. The indictment is for a violation of Gen. Laws, c. 83, s. 6, which provides, in substance, if any person shall bring from another state and leave in any town in this state a poor and indigent person, having no settlement therein, and having no visible means of support, knowing such person to be poor and indigent, with the intent to charge such town with the support of such poor person, he shall be punished by fine or imprisonment.

Mrs. Gee had not a settlement in Claremont when the defendant carried her there; but the defendant offered evidence that she investigated the question of Mrs. Gee's settlement before bringing her into the state, and became satisfied that it was in Claremont, which was excluded. This evidence tended to prove that the defendant committed the acts charged, innocently, believing she had the right to take Mrs. Gee to Claremont. Did it constitute a defence if the right did not exist?

In the earlier history of the common law only such acts were deemed criminal as had in them the vicious element of an unlawful intent, indicating a deviation from moral rectitude; but this quality has ceased to be essential, and now acts unobjectionable, in a moral view, except so far as being prohibited by law makes them so, constitute a considerable portion of the criminal code. In such statutes the act is expressly prohibited, without reference to the intent or purpose of the party committing it, and is usually of the class in which the person committing it is under no obligation to act unless he knows he can do so lawfully. Under these statutes it is not a defence that the person acted honestly and in good faith, under a mistake of fact. He is bound to know the fact as well as the law, and he acts at his peril. These statutes do not make a guilty knowledge one of the ingredients of the offence. *Commonwealth v. Wentworth*, 118 Mass. 441; *Commonwealth v. Boynton*, 2 Allen 160; *Commonwealth v. Emmons*, 98 Mass. 6; *Commonwealth v. Raymond*, 97 Mass. 567, 568; May Crim. Law 3; *Commonwealth v. Mash*, 7 Met. 472; *Commonwealth v. Farren*, 9 Allen 489; *Commonwealth v. Nichols*, 10 Allen 199; *Commonwealth v. Waite*, 11 Allen 264; *Commonwealth v. Elwell*, 2 Met. 190; *Commonwealth v. Thompson*, 11 Allen 23; *Hourigan v. Nowell*, 110 Mass. 470; *Barronet's Case*, 1 E. and B. 1; *Reg. v. Prince*, 2 C. C. R. 154—*S. C.*, 21 Am. R. 268, note; *Barnes v. State*, 19 Conn. 398; *State v. Goodenow*, 65 Me. 30; *State v. White*, 64 N. H. 48.

The statute on which the indictment is found comes within this class. There was nothing morally wrong in bringing Mrs. Gee to Claremont, but the statute made it criminal without making a guilty knowledge one of the ingredients of the offence created; and when the defendant brought her there she assumed the perils of not knowing the facts as well as the law.

Goshen v. Hillsborough, 45 N. H. 139, was decided on the authority of *Deerfield v. Delano*, 1 Pick. 469, and *Greenfield v. Cushman*,

16 Mass. 393, which are now essentially overruled in Massachusetts.

Exceptions overruled.

SMITH, J., did not sit: the others concurred.

GRAFTON.

DAVIS, *Adm'r.*, *v.* RUMNEY.

The act of 1887 (*c.* 71), relating to liability "when the death of a person is caused by a wrongful act or neglect of another," is applicable to a defect of a highway caused by the neglect of a town, by reason of which a traveller is killed.

CASE, upon Gen. Laws, *c.* 75, *s.* 1, and Laws 1887, *c.* 71, for neglect, causing a defect in a highway, by reason of which the plaintiff's intestate, a traveller, was thrown from his carriage and killed, in April, 1889. The defendants demurred, contending that the act of 1887 was not applicable to towns.

Burleigh & Adams and *D. Barnard*, for the plaintiff, cited *Clark v. Manchester*, 62 N. H. 577, and *Jewett v. Keene*, 62 N. H. 701.

E. Aldrich and *I. W. Drew*, for the defendants.

DOE, C. J. Demurrer overruled.

CARPENTER, J., did not sit: the others concurred.

DOTEN *v.* DOTEN, *Ex'r.*

A legacy made payable at a day fixed in the will, bears interest only from the time it becomes due.

BILL IN EQUITY, to recover interest on a legacy. The bill alleges that the plaintiff, Mabel P. Doten, is the daughter of Ambrose Doten and the granddaughter of James Doten, and was born in 1870; that her father died June 7, 1873; that James executed his will December 8, 1874, making the defendant executor, and

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