

# **MAINE STATE LEGISLATURE**

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FOURTH REVISION.

THE

# REVISED STATUTES

OF THE

## STATE OF MAINE,

PASSED \_\_\_\_\_, 1883;

TO WHICH ARE PREFIXED

## THE CONSTITUTIONS

OF THE

## UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX AND REFERENCE INDEX.

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PORTLAND:

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CHAP. 46.

## TITLE FOUR.

Corporations of various kinds, and Proprietors of Real Estate.

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## CORPORATIONS.

SEC. 1. Corporations for the carrying on of any lawful business within this state, including corporations whose purpose is the carriage of passengers or freight, or both, upon the high seas, or

Certain corporations,  
how organ-  
ized.

**C**HAP. 46. from port or ports in this state to a foreign port or ports, or to a port or ports in other states, and all corporations whose purpose is the carriage of freight or passengers, or both, upon any waters whatever where such corporations may legally navigate; and excepting companies for banking, insurance, the construction and operation of railroads or aiding in the construction thereof, and the business of savings banks, trust companies or corporations intended to derive profit from the loan or use of money, and safe deposit companies, including the renting of safes in burglar [-proof] and fire-proof vaults, also excepting telegraph companies; may be organized in the same manner provided by law for incorporation of manufacturing, mining and quarrying companies.

**A**mount of capital stock, how fixed. SEC. 2. All companies organized under the provisions of this chapter or [of] section twenty-two, chapter forty-eight, shall fix the amount of the capital stock, which shall not be less than one thousand dollars, nor more than five hundred thousand dollars, and the acts of all companies heretofore formed under the provisions of law relating to the organization of business corporations, in fixing the amount of capital stock in a sum not over five hundred thousand dollars, are hereby declared valid, if otherwise organized according to law.

**G**eneral powers of corporations. SEC. 3. Corporations may sue and be sued, plead and be impleaded, in their corporate name; have a common seal alterable at pleasure; elect all necessary officers; prescribe their duties and fix their compensation; make by-laws consistent with the laws of the state and their charters; and hold and convey lands and other property.

**F**irst meeting, how called. Organization valid, if made under this chapter or chap. 48. SEC. 4. Their first meeting, unless otherwise provided, is to be called by a notice signed by a person named in the act of incorporation, setting forth the time, place, and purpose, of the meeting, a copy of which is to be delivered to each member, or published in a newspaper in the county, if any, otherwise in the state paper, seven days before the meeting; but the organization of all existing corporations made in accordance with the provisions of this chapter, or chapter forty-eight, shall be equally valid.

**A**ny meeting may be called by a justice, if no other legal mode. SEC. 5. When any meeting cannot be otherwise called lawfully, three members of the corporation may make a written application to a justice of the peace where it is established, if local, or if not, where it is desirable to hold the meeting, who may issue his warrant to either of such members, directing him to call a meeting by giving the notice required in the preceding section. When the law requires a publication of notice in some newspaper, or posting of it in some public place, the justice is to designate in his warrant the newspaper or place.

**W**hen all are SEC. 6. When all the members of a corporation are present at

a meeting, and sign a written consent on the record thereof, such meeting is legal.

CHAP. 46.

present and  
sign written  
consent,  
meeting is  
legal.  
R.S.,c.46, § 4.By-laws,  
what they  
may deter-  
mine. How  
name may be  
changed and  
effect  
thereof.  
R.S.,c.46, § 5.

31 Me., 477.

SEC. 7. Corporations may determine by their by-laws, the manner of calling and conducting meetings; the number of members that constitute a quorum; the number of votes to be given by share-holders; the tenure of office of the several officers; the mode of voting by proxy; of selling shares for neglect to pay assessments; and may enforce such by-laws by penalties not exceeding twenty dollars. A corporation, at a legal meeting of its stock-holders, may vote to change its name and adopt a new one; and when the proceedings of such meeting, certified by the clerk thereof, are returned to the office of the secretary of state to be recorded by him, the name shall be deemed changed; and the corporation, under its new name, shall have the same rights, powers, and privileges, and be subject to the same duties, obligations and liabilities as before, and may sue and be sued by its new name; but no action brought against it by its former name, shall be defeated on that account, but on motion of either party, the new name may be substituted therefor in the action.

SEC. 8. When a meeting is called by a justice of the peace, he, or the person to whom his warrant was directed, may call the meeting to order and preside therein, until a clerk is chosen and qualified, if there is no officer present whose duty it is to preside. The person presiding is not responsible for an error in judgment in receiving or rejecting the vote of a person claiming to be a member.

Who may  
preside at a  
meeting  
called by a  
justice; not  
responsible  
for error.  
R.S.,c.46, § 6.

SEC. 9. When a corporation fails to hold its annual meeting on the day appointed, the officers of the preceding year continue in the exercise of their duties, and their acts are legal, until other officers are duly chosen and qualified in their stead. When, upon due notice given, officers are regularly elected on any other day than that of the annual meeting, they are to hold their offices and perform their duties as if chosen on that day, unless a majority of the corporate members file with the clerk, within six months after such election, written objections thereto, and their acts are to be considered legal, until others are chosen and qualified in their stead.

On failure to  
have an an-  
nual meet-  
ing, officers  
hold over.  
Officers  
elected on  
another day,  
acts legal.  
R.S.,c.46, § 7.  
56 Me., 323.  
Proviso.

SEC. 10. When such a notice is filed, the clerk is to call a meeting of the corporation, at such time and place as he appoints, and give the notice required for an annual meeting, stating in it the fact that objections have been filed, and the purpose of the meeting; and officers duly elected at such meeting are to hold their offices, and their acts are to be considered legal, until other officers are chosen and qualified in their stead.

Clerk to  
call meeting,  
when objec-  
tions are  
made to  
election on  
another day.  
R.S.,c.46, § 8.

SEC. 11. Corporations are to keep, at some place within the state, a clerk's office containing their records and books, which at

Clerk's office,  
books, &c.  
where kept.

CHAP. 46.  
To be open  
to inspection  
and to be  
produced in  
court.  
R.S., c.46, § 9.

seasonable hours, are to be open to the inspection of persons interested, who may take copies and minutes therefrom, of such parts as concern their interests, and have them produced in court on trial of an action in which they are interested, when they can be used as evidence.

Clerk to file  
certificate of  
his election  
in registry of  
deeds; at-  
tested copy,  
evidence.  
R.S., c.46, § 10.  
30 Me., 550.

SEC. 12. The clerk of a corporation, within twenty days after acceptance of the office, is to file a certificate of his election in the office of the registry of deeds in the district where the corporation is established, or where it has a place of business, or a general agent; and an attested copy of that certificate is to be sufficient evidence that he is clerk, for services of process upon the corporation, until another certificate has been filed.

Transfer of  
shares, how  
made.  
Certificates,  
by whom  
signed.  
R.S., c.46, § 11.  
See c. 51, §27.  
49 Me., 317.  
68 Me., 68.

SEC. 13. When the capital of a corporation is divided into shares, and certificates thereof issued, they may be transferred by indorsement and delivery, but such transfer of shares is not valid, except between the parties thereto, until the same is so entered on the books of the corporation as to exhibit the names and residences of the parties, the number of the shares, and the date of their transfer. Certificates of shares shall be issued to those entitled to them by transfer or otherwise, signed by the president and attested by the cashier, clerk, or treasurer of the corporation. Neither shall sign blanks and leave them for use by the other, nor sign them without knowledge of the apparent title of the person to whom they are issued. In case of the absence or disability of either of said officers, the signature of a majority of the directors in his stead shall be sufficient.

Proxies and  
powers of  
attorney,  
rights under  
them.  
R.S., c.46, §12.

SEC. 14. The shareholders may be represented by proxies not granted more than thirty days before the meeting to be set forth therein; and they are not valid after a final adjournment of the meeting. They may be represented by a general power of attorney, to be produced to the meeting, until it is revoked. Shares hypothecated to the corporation are not to be represented. No person can give, by right of representation, a greater number of votes than is allowed to any one by the charter or by-laws.

Representa-  
tion of mort-  
gaged stock.  
1872, c. 69.

SEC. 15. When the owner of stock in a corporation has transferred, mortgaged or in any way pledged the same to another for security merely, and it so appears in such transfer, mortgage or pledge and on the books of the corporation, such owner shall have the right to vote such stock in all meetings of the stockholders until his right of redemption ceases.

Preventing  
use of  
records and  
books,  
penalty.  
R.S., c.46, §18.

SEC. 16. Any officer or member of a corporation, who prevents a person from having access to and use of the records and books as provided in section eleven, is liable to all damages occasioned thereby, to be recovered by an action on the case.

Property and

SEC. 17. The property of any corporation, and the franchise

of one having a right to receive a toll established by the state, with its privileges and immunities, are liable to attachment on mesne process and levy on execution for debts of the corporation in the manner prescribed by law.

**SEC. 18.** Corporations are bound by parol contracts made by an agent authorized by vote or by its by-laws. Contracts may be implied from corporate acts, or from the acts of a general agent.

**SEC. 19.** Corporations existing by the laws of another state or of a foreign jurisdiction, may sue or be sued by their corporate name in this state; and if they have property in this state it may be attached and appraised and set off on execution, as the property of non-resident individuals. The acts of their agents are to have the same effect as the acts of agents of foreign private persons, unless prohibited by law. (a)

**SEC. 20.** Acts of incorporation, passed since March seventeen, eighteen hundred and thirty-one, are liable to be amended, altered, or repealed by the legislature, as if express provision therefor were made in them, unless they contain an express limitation. This is not to deprive the judicial courts of any power which they have at common law over a corporation or its officers.

**SEC. 21.** Corporations, whose charters expire or are otherwise terminated, are to have a corporate existence for three years thereafter; to prosecute and defend suits; to settle and close their concerns; to dispose of their property; and to divide their capitals.

**SEC. 22.** When the charter of a corporation expires or is terminated, a creditor or stockholder may apply to the supreme judicial court, which may appoint one or more trustees to take charge of its estate and effects, with power to collect its debts, [and] prosecute and defend suits at law; and to sell and convey its real estate; and if sold at auction, the same notice shall be given as in the sale of lands of corporations on execution. The court has jurisdiction in equity of all proceedings therein, and may make such orders and decrees, and issue such injunctions as are necessary.

**SEC. 23.** The debts of the corporation are to be paid in full by such trustees, when the funds are sufficient; when not, ratably to those creditors, who prove their debts, as the law provides, or as the court directs. Any balance remaining is to be distributed among the stockholders or their legal representatives in proportion to their interests.

**SEC. 24.** Except where otherwise provided by statute, whenever at any meeting of the stockholders of any corporation, legally called therefor, such stockholders may vote, or have voted, to dissolve such corporation, a bill in equity against said corporation for

**CHAP. 46.**  
franchise  
may be tak-  
en for debts.  
R.S., c.46, §14.

Contracts.  
R.S., c.46, §15.  
7 Me., 121.  
24 Me., 38,  
502.  
29 Me., 126.  
46 Me., 501.  
Foreign cor-  
porations  
may sue and  
be sued here  
and property  
attached and  
set off.  
1880, c. 203.

Effect of  
agents' acts.  
Acts of in-  
corporation  
liable to al-  
teration  
or repeal.  
R.S., c.46, §17.

16 Me., 231.  
60 Me., 174.  
63 Me., 271.  
66 Me., 508-9.

Corpor-  
ations may  
continue  
three years  
after char-  
ter expires.  
R.S., c.46, §18.

55 Me., 293.

Court may  
appoint trus-  
tees, their  
powers.  
R.S., c.46, §19.

R.S., c.47, §74.  
60 Me., 173,  
182-3.

Trustees to  
pay debts;  
divide bal-  
ance.  
R.S., c.46, §20.  
60 Me., 173,  
182.

Bill in equity  
against cor-  
porations,  
for dissolu-

(a) See c. 49, §§ 18, 88, 89; see c. 81, § 20; 17 Me., 36; 29 Me., 467; 54 Me., 170; 55 Me., 294.

**CHAP. 46.** dissolution thereof, may be filed by any officer, stockholder or creditor thereof in the supreme judicial court, in the county in which said corporation has an established place of business, or in the county in which it held its last stockholders' meeting, upon which bill, notice shall be given as may be ordered by any justice of said court, in term time or vacation, upon proof of which notice, such proceedings may be had according to the usual course of suits in equity, that said corporation shall be dissolved and terminated.

Jurisdiction  
of court.  
1877,c.154,§2.

**SEC. 25.** Said court shall have jurisdiction in said cause to appoint receivers, issue injunctions, and pass interlocutory decrees and orders, according to the usual course of proceedings in equity ; and shall, moreover, upon dissolving said corporation, or upon terminating its charter, appoint one or more trustees, who shall have all the powers conferred upon similar trustees by sections twenty-one, twenty-two, twenty-three and forty-four of this chapter, or by any other statute or law of the state, also, all such special powers as may be properly given them by said court. But, notwithstanding the appointment of such trustees, said court may superintend the collection and distribution of the assets of said corporation, and may retain said bill for that purpose.

—shall ap-  
point trus-  
tees.

—powers  
and duties of.

Court may  
superintend  
collection  
and distribu-  
tion of assets.

No person  
relieved  
from  
liability.  
1877,c.154,§3.

Cashiers and  
clerks to as-  
certain resi-  
dence of  
stock-  
holders.  
1879,c.149.

No dividend  
to be paid to  
stockholders  
whose resi-  
dence is not  
on books.  
1879,c.149.

Sworn state-  
ment to be  
returned by  
April 8, of  
stockholders  
and stock  
held April 1.

—to be basis  
of taxation.

Same to re-  
turn list of  
stockholders  
to secretary  
of state by  
Dec. 8.  
1872,c.16.  
65 Me., 379.

**SEC. 26.** Nothing contained in the two preceding sections shall be construed to relieve any officer, shareholder or other person from any liability.

**SEC. 27.** Cashiers of banks, and clerks or treasurers of other corporations shall ascertain the residences of all stockholders in either; and no dividend shall be paid to any stockholder in either, whose residence, for the time being, is not entered on the books thereof ; and the cashiers of banks, and clerks or treasurers of all corporations holding property liable to be taxed, within seven days after the first day of April annually, are to return under oath, to the assessors of a town, in which any of its stockholders reside, the names of such stockholders, the amount of stock owned by them on the first day of April, and the amount of stock paid into such corporations, and such return shall contain in the body thereof, or by note annexed thereto an abstract of section thirty-four of chapter six ; such returns are to be the basis of taxation on such property.

**SEC. 28.** Such cashiers and clerks or treasurers, within seven days after the first day of December annually, are to make return to the secretary of state of the names of all the stockholders, their residence, the amount of stock owned by each and the whole amount of stock paid in. The secretary is to lay the same before the legislature within the first thirty days of its session. \*

\* [QUERY. Ought not the names of corporations making and of those failing to make such returns, to be reported to the legislature and the lists of stockholders to be retained on the files of the secretary of state, and ought not that officer to be required seasonably to furnish parties with suitable blanks and an abstract of the law?]

SEC. 29. A deposit of the return required in the two preceding sections in a post office, postage paid, properly directed, is to be a compliance. For the neglect or refusal of its officer to make such return, the corporation forfeits five hundred dollars, to be recovered in an action of debt, one half to the use of the prosecutor and the other to the state.

CHAP. 46.  
Deposit of  
return in  
post office,  
sufficient.  
1881,c.79,§1.  
Penalty for  
neglect.

SEC. 30. Whenever any corporation or its officers shall neglect to make to the secretary of state any return required by law, the secretary of state shall forthwith notify the attorney general thereof, and the attorney general shall thereupon proceed at once, by an action of debt in the name of the state, to enforce and recover for the state the penalties provided by law. Such action may be brought in any county *in the state*. In addition to the penalties provided by law in such cases, the following costs shall be recovered in behalf of the state against said corporation, to wit: for the attorney general for the writ, an attorney fee, and travel and attendance at court not exceeding two terms, and for the state such other costs as are legally taxable in actions at law.

Secretary of  
state to noti-  
fy attorney  
general of  
neglect of  
corporations  
to make  
returns.  
1881,c.79,§2.  
Attorney  
general to  
bring action.

SEC. 31. If at any time within thirty days from the commencement of the action under section twenty-nine, such corporation shall make to the secretary of state the returns required by law, the secretary of state shall forthwith notify the attorney general, and he shall discontinue such suit upon the payment to him of the costs already accrued.

If returns  
are made  
within 30  
days suit  
shall be dis-  
continued.  
1881,c.79,§3.

SEC. 32. If any officer of a corporation, charged by law with the duty of making and causing to be published any statement in regard to such corporation, shall neglect so to do, such officer, in addition to penalties already provided, shall forfeit the sum of five hundred dollars, to be recovered by action of debt, or action on the case, to the use of the person suing therefor.

Forfeiture  
by corpora-  
tion officer  
for neglect  
to publish  
statement.  
1881,c.79,§4.

SEC. 33. The stockholders of all corporations created by the legislature after the sixteenth day of February, eighteen hundred and thirty-six, excepting banking corporations, unless it is otherwise specified in their charter, or by any general law of the state, shall be liable for the debts of the corporation contracted during their ownership of such stock, prior to the first day of June, eighteen hundred and fifty-seven, in case of deficiency of attachable corporate property, to the amount of their stock and no more; and such liability shall continue, notwithstanding any subsequent transfer of such stock, one year after such transfer is recorded on the corporation books; but no stockholder whose stock has been fully paid in, and no part of the principal has been withdrawn, shall be so liable for debts contracted after said first day of June; but in the latter case, when an officer certifies on an execution against a corporation, that he cannot find corporate property to satisfy it,

Stock-  
holders'  
liability for  
debts of the  
corporation.  
To what ex-  
tent and  
how liable.  
R.S.,c.46,§24.  
58 Me., 21,22.  
60 Me., 596-7.

CHAP. 46. each stockholder's stock and interest in stock may be seized and sold thereon as on execution against him ; and he may recover of the corporation the value of the stock or interest so taken as provided in section forty.

Creditor may demand of stockholder to show property.  
R.S., c.46,§25.  
43 Me., 402.  
45 Me., 508.  
47 Me., 538.  
53 Me., 478.  
60 Me., 597-8,  
600.

Action to be commenced within six months after judgment.  
R.S., c.46,§26.  
60 Me., 597,  
600.

Stockholder may set off claims.  
R.S., c.46,§27.

Treasurer to keep record of stockholders' claims against corporation.  
R.S., c.46,§28.

Clerk to furnish names to officer.  
R.S., c.46,§29.

Stockholders' liability in corporations created since March 17, 1831.  
R.S., c.46,§30.

SEC. 34. At any time within six months after the return of an execution against a corporation, recovered on a debt for which any stockholder is liable under the preceding section, unsatisfied in whole or in part for want of attachable property of the corporation, the plaintiff in such execution may make demand of any stockholder of such corporation to disclose, and show attachable property of such corporation sufficient to satisfy the execution.

SEC. 35. After the demand as aforesaid, the execution creditor may have an action *of [on]* the case against such stockholder, to recover of him individually the amount of his execution and costs, or the deficiency thereof, not exceeding the amount for which said stockholder is liable by section thirty-three. Such action must be commenced within six months after the date of the rendition of judgment against the corporation.

SEC. 36. In such action, said stockholder may prove, in reduction of his liability, the amount of corporation debts which he has previously paid, and which has not been repaid to him by the corporation ; also any debt due him from the corporation, for which he, at the time, might maintain an action at law against it ; and may show any other legal cause why judgment should not be rendered against him.

SEC. 37. The treasurer of every such corporation shall keep a full record of all claims in favor of its stockholders against the corporation, and exhibit the same with a particular statement of the financial condition of the corporation to any creditor thereof, when requested by him, and on failure to exhibit such statement the stockholders shall not be entitled, in actions against them, to show previous payments on account of the corporation in reduction of their liability, but if they suffer damages by reason of being thus deprived of their defence, they may have a remedy upon the bond of the treasurer.

SEC. 38. The clerk of every such corporation, on demand of any officer legally holding any execution against it, shall furnish the officer with the names, place of residence, so far as known to him, and the amount for which every person is liable as aforesaid.

SEC. 39. The stockholders of corporations, excepting those created for literary, benevolent, and banking purposes, incorporated since March seventeen, eighteen hundred and thirty-one, are subject, as it regards debts of the corporation, to the liabilities imposed on stockholders by the thirty-third section of this chapter, except for stock owned before April twenty-four, eighteen hun-

dred and thirty-nine, and for stock held as executor, administrator, guardian or trustee. CHAP. 46.

SEC. 40. When members of a corporation are liable for its debts, or on account of any acts of its officers or members, or to contribute for money paid on account of such debts or acts, the amount due may be recovered by an action at law, or a bill in equity; and the court may make such orders and decrees as are necessary.

SEC. 41. When an officer, having an execution against a corporation not created for purposes of education or religion, certifies thereon that he is unable to find personal property of the corporation, the creditor may cause so much of its real estate to be seized and sold at public auction, in the town where it lies, in the manner that the real estate of banks is sold, and subject to the same right of redemption, as is necessary to satisfy such execution and incidental charges.

SEC. 42. The capital stock subscribed for any corporation is declared to be and stands for the security of all creditors thereof; and no payment upon any subscription or agreement to or for the capital stock of any corporation, shall be deemed a payment within the purview of this chapter, unless bona fide made in cash, or in some other matter or thing at a bona fide and fair valuation thereof.

SEC. 43. Hereafter no dividend declared by any corporation from the capital stock or in violation of any statute, no withdrawal of any portion of the capital stock thereof, directly or indirectly, no cancellation or surrender of any stock, and no transfer of any stock in any form to the corporation which issued the same, shall be valid as against any person who may hereafter have a lawful and bona fide judgment against said corporation, based upon any future claim in tort or contract or for any penalty, or as against any receivers, trustees or other persons appointed to close up the affairs of any corporation which is or may be insolvent.

SEC. 44. Any person having such judgment, or any such trustees, receivers or other persons appointed to close up the affairs of any corporation which is or may be insolvent, may, within two years after their right of action herein given accrues, commence an action on the case or bill in equity, without demand or other previous formalities, against any person or persons; if a bill in equity, jointly or severally, otherwise severally; who have subscribed for or agreed to take stock in the said corporation and have not paid for the same; or who have received dividends declared from the capital stock, or in violation of any statute; or who have withdrawn any portion of the capital stock, or cancelled and surrendered any of their stock, and received any valuable consideration therefor from the corporation, except its own stock or obliga-

Stock-holders, paying for corporation, may recover. R.S., c.46, §31. 36 Me., 84.

Officer having an execution may sell real estate in certain cases. R.S., c.46, §32.

Capital stock subscribed to be for security of creditors of corporation; payment of subscription must be bona fide. 1871, c.205, §1.

The withdrawal, directly or indirectly, of any of the capital stock void as against a judgment creditor of said corporation, or as against any receivers or trustees. 1871, c.205, §2.

Proceedings by bill in equity. 1871, c.205, §3. 1873, c. 121.

CHAP. 46. tion for its own stock ; or who have transferred any of their stock to the corporation as collateral security or otherwise, and received any valuable consideration therefor as aforesaid ; and in such action may recover the amount of the capital stock so remaining unpaid or withdrawn, not exceeding the amounts of said judgments or the deficiency of the assets of such insolvent corporation. But no stockholder shall be liable for the debts of the corporation not contracted during his ownership of such unpaid stock nor for any mortgage debt of said corporation, and no action for the recovery of the amounts hereinbefore mentioned shall be maintained against a stockholder unless proceedings to obtain judgment against the corporation shall be commenced during the ownership of such stock or within one year after its transfer by such stockholder is recorded on the corporation books.

Actions  
against  
stockholders  
limited.

What may  
be proved  
by any of  
the defend-  
ants.  
1871, c. 205, §4.

SEC. 45. Any of the defendants in any such suit may prove that he has already in good faith paid by himself or through any other person who has assumed his stock or subscription, to any person holding a bona fide judgment, or to any such trustee or receiver or other such person duly authorized, or to the corporation itself, the whole or any part of any amount or amounts for which he would be liable under this chapter ; or that he has already been in good faith and without collusion sued for, and is still in peril of being compelled to pay, such amount or amounts in whole or part, to some other person, in which latter case the suit may be continued to await, on payment of defendant's costs from term to term ; or he may prove that the amounts illegally received by him from said corporation were received more than two years before the claim or claims arose on which such judgment was obtained, or if the suit is by trustees, receivers or other such person, more than two years before the commencement of the legal proceeding by virtue of which such corporation passed into the hands of trustees or receivers ; or he may prove the invalidity of such judgment in any particular which could avail the corporation on a writ of error, or that said judgment was not bona fide ; or he may prove that he has bona fide claim or claims in contract or tort, several, or joint with other persons, against said corporation, absolute or contingent, or which could be availed of by set-off in court or on execution, for the whole or any part of the amount or amounts for which he would be liable under this chapter ; or in case his stock was transferred to such corporation as collateral security or as payment, he may either prove that the same was so transferred in good faith as security or payment for, or of, an anterior liability incurred without any concurrent agreement for the transfer of such stock, and for which the corporation was unable to obtain other sufficient security or payment, or in such case he may prove that whatever sum

was received thereon, has been in whole or part repaid to such corporation. The proof of any of such matters shall constitute a defence as to such defendant in whole or in part as the case may be.

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SEC. 46. No stockholder in any corporation *in this state*, except in banks, shall after the twenty-fourth day of February, 1871, be liable for the debts of or claims against said corporation beyond any *amount or* amounts withdrawn or not paid in as aforesaid; but neither this section nor the four preceding shall affect past or future liabilities of any officer of any corporation; nor any liability of any person or corporation or remedy therefor existing on said twenty-fourth day of February.

Stockholders, except bank, not liable beyond amount of stock.  
1871,c.205,\$5.  
64 Me., 382-3.

—existing liabilities not affected.  
1871,c.205,\$6.

SEC. 47. Corporations, not created for literary, benevolent, or banking purposes, are not allowed to divide any of their corporate property so as to reduce their stock below its par value, until all debts are paid, and then [only] for the purpose of closing *its* [their] concerns.

Corporations not to divide capital till debts are paid.  
R.S.,c.46,\$33.  
59 Me., 477.

SEC. 48. When such a corporation has unlawfully made a division of any of its property, or has property which cannot be attached, or is not by law attachable, any judgment creditor may file a bill in equity in the supreme judicial court, setting forth the facts, and the names of such persons as are alleged to have possession of any such property, or choses in action, either before or after division; names of defendants may be struck out or added by leave of court; costs awarded at discretion, and service made on the defendants named, as in other equity suits. They *are* [shall] in answer thereto, to disclose on oath all facts within their knowledge relating to such property in their hands, or received by a division among stockholders. When any one of them has the custody of the records of the corporation, he is to produce them and make extracts therefrom and annex [them] to his answer, as the court directs.

Judgment creditor may file bill in equity in certain cases.  
R.S.,c.46,\$34.

SEC. 49. The court is to determine, with or without a jury, whether the allegations in the bill are sustained, and it may decree, that any such property shall be paid to such creditor in satisfaction of his judgment, and cause such decree to be enforced as in other chancery cases. Any question arising may, at the election of either party, be submitted to the decision of a jury under the direction of the court.

Proceedings, trial and decree in the suit.  
R.S.,c.46,\$35.

SEC. 50. When a corporation is dissolved, its real and personal estate is vested in the *individuals* [persons] who were at the time shareholders, as tenants in common according to their interests. (a)

Estate on dissolution vests in shareholders.  
R.S.,c.46,\$36.

SEC. 51. The property of the inhabitants of counties, towns, and other quasi corporations, may be taken to pay any debt due from the body politic, of which they are members. All sums so paid with interest and costs may be recovered of such body politic.

Property of inhabitants of counties, towns, &c., taken for debts.  
—remedy.  
R.S.,c.46,\$37.  
1 Me., 364.

(a) 36 Me., 190; 66 Me., 400.

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## CHAPTER 47.

## BANKS AND SAVINGS INSTITUTIONS.

## BANKS OF DISCOUNT.

- SEC. 1. Banks, except savings banks, their powers, duties and liabilities.  
To notify secretary of state of acceptance of charter. To be kept in town where originally established. Corporation name.
2. Number and qualification of directors.
3. Annual meeting for choice of directors, when to be held and how notified.
4. Directors may call special meetings; notice how given. Vacancies how filled.
5. Directors shall choose one of their number president and fix his compensation. Majority may transact business. May authorize president or a director to act.
6. Votes of stockholders, how regulated. Stock owned by or pledged to the bank not entitled to representation.
7. Appointment of cashier and other officers, and their salaries.
8. Cashier shall not be a director, nor he nor clerks vote in choice thereof, nor represent shares.
9. Cashier and clerks to be sworn and give bond. Cashier's bond, amount, not to be signed by a director, to be renewed annually. Manner of bond which may be accepted. Suit on same, how brought. Proceedings on judgment and execution. Costs, how paid. Rights of sureties.
10. Cashier to call special meetings of stockholders on request of one fifth; if he refuses, a justice may call. Notice of such meetings.
11. Directors to examine condition of bank and cashier's bond in October annually. Bond to be recorded.
12. Capital stock, how paid in. Bank not to go into operation until half capital paid, and examination by commissioners.
13. Amount of stock held by one person, limited. Shares not transferable until whole capital has been paid in.
14. Loans and discounts; not to be made on pledge of stock; what security shall be required. Restrictions on loans to stockholders. Debts and liabilities of directors limited.
15. Banks not to engage in trade or commerce.
16. Dividends of profits to be made half yearly.
17. Power of banks to hold real estate; restrictions.
18. Shares, real estate, and mortgages and debts thereby secured may be attached and taken on execution.
19. Limitation of amount of debts and credits.
20. Loans and issues not to be made except at banking house; nor to any public officer on official check. Penalty.
21. Circulation allowed and limited. Bills actually redeemed in Boston not to be deemed in circulation. Forfeiture for excess of circulation. Weekly balances to be made by cashier, showing specie and circulation.
22. Amount of specie to be kept in vault.
23. Provisions when bills are destroyed; penalty for violation by a director.
24. Form and signature of bills. Bank shall receive its own bills in payment.

- SEC. 25. Restriction as to bills under five dollars. Fractional bills prohibited.
26. Interest may be paid on deposits. Notes payable at a future day or bearing interest not to be issued.
27. Bills to be redeemable in specie at the bank; liability, if issued otherwise.
28. Exception as to drafts or checks.
29. Twenty-four per cent yearly damages for not redeeming bills within fifteen days after demand.
30. Damages to cease after tender of amount.
31. Interest limited to six per cent. Exchange may be charged.
32. Plates for bills. Bills not void by alterations.
33. Weights to be sealed by state treasurer once in five years.
34. Gold, how to be weighed.
35. Counterfeit and altered bills may be marked by cashier or other officer. Damages in case of mistake in such marking. Cashier to keep record of bills marked.

#### RIGHTS OF THE STATE IN BANKS.

- SEC. 36. Right of the state to take stock in any bank.
37. Semi-annual state tax; payment thereof how enforced. U. S. tax deducted.
38. Right of the state to require loans from the banks.
39. Requisition for such loans, how to be made.

#### INDIVIDUAL LIABILITY OF DIRECTORS AND STOCKHOLDERS.

- SEC. 40. Liability of directors if bank becomes indebted beyond amount allowed.
41. Innocent directors exonerated.
42. Loss from mismanagement of directors, how made up. Liability of directors and stockholders in such case.
43. Private property of stockholders, liable in certain cases.
44. Directors to disclose names and interests of stockholders. Liability for neglect or refusal to do so.
45. Liability of stockholders at the expiration of charter.
46. Mode of enforcing payment from directors or stockholders.
47. Mode of obtaining contribution by a stockholder who has been compelled to pay.

#### BANK EXAMINER.

- SEC. 48. Governor and council to appoint bank examiner for three years. Salary.
49. His duties.
50. Shall examine banks and savings institutions. May summon directors and others to testify. Penalty for refusing or obstructing.
51. Proceedings of examiner in cases of over issue, and when he deems a bank or savings institution unsafe. Banks closing their concerns, subject to provisions of this chapter.
52. New banks going into operation, examiner to examine and count money actually in vault.
53. Examiner shall enforce penalty of section twenty.
54. Cashiers to make and transmit returns whenever required by examiner. Form.

#### RECEIVERS.

- SEC. 55. Application to a judge of supreme court when a bank refuses or neglects for fifteen days after demand to pay its bills or deposits. Duty of judge in such case.

- CHAP. 47. SEC. 56. Judge may appoint receivers, and require them to give bond, and may discharge surety and require another.  
 57. Authority of receivers may be revoked.  
 58. Appeal may be made from any order of a judge to the whole court.  
 59. Duties of receivers.  
 60. Liability of officers for refusing to surrender property to the receivers.  
 61. Receivers may sell real estate and mortgages, after notice as provided.  
 62. May collect, sell, or compound any of the debts due to the bank.  
 63. Receivers, after paying the debts, to deliver up the residue of property to the bank.  
 64. Receivers may retain sum for their services; on disagreement, amount may be fixed by supreme court, on appeal.  
 65. Claims and bills to be presented to receivers for allowance, and when.  
 66. A year allowed to convert assets and to report, unless court extends time. Objections to report, how made and disposed of. Interest on claims, if assets suffice.  
 67. Assets to be applied under order of court.  
 68. When assets are insufficient, court may assess on stockholders; each may deposit such sum with receivers; and may authorize receivers to compound.  
 69. When assets not sufficient, bill in equity to be filed. Proceedings.  
 70. What costs stockholders are liable for. Court may require security. Execution against each stockholder for his part.  
 71. Enforcement of execution against stockholder of a bank in hands of receivers.  
 72. Execution or land taken on execution may be sold, after notice.  
 73. Appointment of receivers creates a lien on all real estate of stockholders who are liable, which may be taken under process of court, and sold or set off.  
 74. Actions not maintainable against banks after appointment of receivers. Remedy of creditors. Costs on previous suits, how disposed of.  
 75. Liability of stockholders and directors not diminished by operation of the preceding eleven sections. In assessing stockholders, court to have reference to liability of directors.  
 76. Distribution may be decreed by court, reserving sufficient to meet contested claims.

SURRENDER OF CHARTERS, CLOSING BUSINESS AND REDEEMING BILLS.

- SEC. 77. Bank may surrender its charter and how. Six years to close affairs and redeem bills. Not applicable to banks in hands of receivers.  
 78. On surrendering charter, plates, dies, and unsigned bills of bank to be delivered to secretary of state to be destroyed. Penalty.  
 79. Banks surrendering charters, to make dividends as often as ten per cent. is realized. Penalty.  
 80. Chose in action sold by bank, may be sued in name of purchaser, after charter is surrendered, and pending actions may be prosecuted in name of bank.  
 81. In March, secretary of state to publish list of banks, whose liability to redeem their bills expires within a year.  
 82. Punishment for frauds and embezzlements.

PRIVATE, ASSOCIATED AND FOREIGN BANKING PROHIBITED.

- SEC. 83. Private, associated and foreign banking prohibited, unless authorized by legislature. Penalty.

## SAVINGS INSTITUTIONS AND TRUST AND LOAN ASSOCIATIONS.

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- SEC. 84. Savings banks and trust and loan associations declared corporations. Their powers, &c.
85. How organized. Three fourths of corporators to reside in county.
86. Certificates of organization to be sent to secretary of state and bank examiner.
87. Notice of intention to organize, how given.
88. Examiner to ascertain convenience of depositors and responsibility of corporators.
89. Examiner may issue certificate of authorization to corporators, and a duplicate to secretary of state.
90. When corporation is authorized to transact business.
91. Powers and obligations of savings banks.
92. Officers. Trustees, number of, and restrictions.
93. Term of office.
94. Trustees, election and duties. Cannot serve two savings banks.
95. Officers elected by trustees. Term. Treasurer is clerk ex-officio. Bonds of treasurer and assistant to be examined annually by examiner. Their pay, and that of trustees, how fixed.
96. Vacancies, how filled.
97. Special meetings, how called. Annual, how notified.
98. Corporation to consist of not less than thirty members. How elected and disqualified.
99. Savings banks may receive or refuse deposits. Restricted to \$2,000.
100. Investments of deposits regulated.
101. Bank may hold real estate not exceeding \$100,000, nor beyond five per cent. of deposits, for bank building.
102. Investments in capital stock of corporations restricted. Mortgages of real estate not to exceed seventy-five per cent. of deposits. Proviso.
103. May deposit on call in banks.
104. Trustees to direct investments, but shall not borrow of bank.
105. Penalty if bank officer receives fee on account of loan. Proviso. Borrower to pay expenses.
106. Semi-annual dividends not to exceed two and a half per cent. Exceptions. Reserved fund to be five per cent. Excess to be divided. Dividends to be declared by trustees, but not to exceed earnings.
107. No interest other than dividends, to be paid on deposits.
108. What notice must be given by depositor wishing to withdraw money.
109. Treasurers and trustees, restrictions upon. How assets of savings bank connected with a national or stock bank shall be kept.
110. Securities to be kept within the state to the approval of examiner.
111. Weekly trial balance to be made by treasurer.
112. Duplicate book of deposit, how obtained, if original is lost.
113. Annual return to be made to examiner by treasurer.
114. Treasurer may assign, discharge and foreclose mortgages and convey real estate.
115. Real estate to be insured by trustees.
116. Use of bank funds by officers, declared embezzlement.
117. Deposits of married women and minors not to be paid to husband or parents. Exception.
118. Treasurer's account to be settled annually with trustees, who shall report to examiner.
119. Examiner shall visit and examine every bank annually. Proceedings and statement to be published by bank.

- CHAP. 47. SEC. 120. Examiner may summon officers and witnesses. Penalty for refusal to appear and testify.
121. Examiner may apply to S. J. Court for injunction against bank until after hearing. Proceedings. Receivers may be appointed, to report annually.
122. After decree of sequestration, court shall appoint commissioners. Their duties and powers. Court may extend time for hearing claims. How paid.
123. Decree of sequestration dissolves attachments and discontinues suits. Exception.
124. Claims not seasonably presented, barred.
125. Deposit account may on petition and examination, be reduced by court. Proviso. Proceedings pending petition and in case of denial.
126. Examiner to report annually to governor and council. Report to be laid before legislature.
127. Examiner to report violation of law. Penalty.
128. What savings banks are held legally organized.
129. Bank clerks to make annual return of election of officers, to examiner.
130. Penalty for advertising an unauthorized savings bank.
131. Charters modified to conform to this chapter. Unlawful investment declared a misdemeanor.

#### LOAN AND BUILDING ASSOCIATIONS.

- SEC. 132. Loan and building associations, how organized. Their powers.
133. First meeting, how called. Examiner's fee.
134. Capital stock. Monthly payments on shares, lien thereon, and issue of new shares.
135. Loans to shareholders. Regulations. Security, interest and payment.
136. Withdrawal of stockholders. Notice. Proviso. Death of stockholder, proceedings on; money of, how distributed.
137. When directors may invest money.
138. Minors may hold shares by trustees. Two shares exempt from attachment.

#### BANKS OF DISCOUNT.

Banks, their powers, liabilities, &c.  
To notify secretary of state of acceptance of charter. To be kept in town where established. Name.  
R.S., c.47, § 1.

Number and qualifications of directors.  
R.S., c.47, § 2.

- SEC. 1. Every bank, except savings banks, shall exercise the powers and be subject to the duties, liabilities, and provisions, contained in this chapter, in its charter, and in chapter forty-six, unless otherwise specially provided; within ten days after the acceptance of its charter, shall give written notice thereof to the secretary of state; shall be kept in the town where originally established; and [be] known by the corporate name of — "The president, directors, and company of the — bank;" the blank *shall* [to] be filled with the name authorized in its charter.

- SEC. 2. Every bank shall have not less than five, nor more than nine directors, exclusive of any appointed by the governor and council as hereinafter provided, who shall all be stockholders therein, and citizens and residents of the state, and a majority of them residents of the county where the bank is located; and no two members of a co-partnership shall be directors in the same

bank, nor any person a director in two banks at the same time.

SEC. 3. They shall be chosen by ballot at a meeting of the stockholders to be held on one of the first fifteen days of October annually, at a place in the town where the bank is located; and the directors for the time being shall give public notice of the time and place, fourteen days before the meeting, in a newspaper printed in the county, if any, if not, in the state paper.

SEC. 4. The directors shall call special meetings of the stockholders, when they think the interest of the bank requires it, giving notice as before provided; and vacancies in their board may be filled at such meetings, when the purpose is specified in the notice.

SEC. 5. They shall choose one of their number president, and make him such compensation as they think reasonable; and the assent of a majority of them is necessary for the transaction of business; but they may by vote authorize the president or a director to discount paper, or transact any other business.

SEC. 6. Every stockholder shall be entitled to vote in proportion to the number of shares he holds, as follows: for one share, one vote, and for every two additional shares, one more vote, but no one shall have more than twenty votes in his own right and by proxy, and shares of its stock, owned by the bank, pledged to it, or held by any person as its trustee, shall, in no case, be entitled to a vote, or be represented by any person in the transactions thereof.

SEC. 7. They shall appoint a cashier, and may appoint clerks and other officers for conducting the business of the bank, with such salaries as they think proper, and remove them at pleasure.

SEC. 8. No cashier of a bank shall be a director therein; nor shall he or the clerks have any voice in the choice of such directors, or represent any shares therein for themselves or by proxy.

SEC. 9. The cashier and clerks, before entering on the duties of their offices, shall be sworn, and give bonds with two or more sureties to the satisfaction of the directors, for the faithful performance of their duties. The cashier's bond shall be given for a penalty not less than twenty thousand, nor more than fifty thousand dollars; shall not be signed by a director; and shall be renewed annually in October. When the directors have fixed the penalty of such bond, they may authorize it to be executed in the following manner. The principal shall be held for the whole penalty, but each surety may, at the time of execution, write thereon the sum for which he is to be held, and he shall be held for that sum, and the aggregate of the subscriptions by sureties shall not be less than one and a half times the penalty; and such bond may be accepted by the directors if they deem it sufficient. A suit thereon may be brought against all the parties jointly, or against one or

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Annual meeting for choice of directors.  
R.S., c.47, § 3.

Directors may call special meetings, vacancies, how filled.

R.S., c.47, § 4. President. Majority of directors may transact business.

R.S., c.47, § 5. 52 Me., 565. Votes of stockholders, regulated. Stock owned by or pledged to bank not entitled to a vote.

R.S., c.47, § 6.

Appointment of cashier, clerks, &c. Salaries.

R.S., c.47, § 7. Cashier shall not be a director, &c.

R.S., c.47, § 8. Cashier and clerks to be sworn and give bond.

Cashier's bond, amount, not to be signed by a director, to be renewed annually.

Manner of bond which may be accepted.

R.S., c.47, § 9. 36 Me., 192.

Suit on same, how brought.

CHAP. 47. more of the sureties jointly or severally. If the plaintiff prevails in a suit against all the parties jointly, judgment shall be entered against the principal for the whole damages sustained, and against each surety for the same sum, not exceeding his subscription ; and an execution may be issued against each of said parties for the sums aforesaid with costs. The costs shall be paid from the first money received on any execution, and only one bill of cost shall be collected, except the fee for the execution and the officer's fees thereon.

Proceedings on judgment and execution.  
Costs, how paid.

Sureties, rights of. Sureties in such bonds shall have the same right of action for indemnity against their principal and contribution against their co-sureties as in case of other bonds, according to the principles of common law.

Cashier to call special meetings, on request; if he refuses, justice may call.  
R.S., c.47, §10.

Directors to examine condition of bank and cashier's bond in Oct.  
R.S., c.47, §11.

Capital stock, how paid in.  
When bank may go into operation.  
R.S., c.47, §12.  
24 Me., 205.

Amount of stock held by one person limited.  
Shares not transferable until capital is paid in.  
R.S., c.47, §13.  
64 Me., 113.

Loans and discounts; not to be made on pledge of stock; what security shall be required.  
Restrictions on loans to stockholders.  
Liabilities of

**SEC. 10.** The cashier of every bank, on the written application of the proprietors of one fifth part of the capital stock thereof, shall call special meetings of the stockholders, by giving notice thereof as for the annual meeting ; and if he refuses, any justice of the peace in the county, on such application may call such meetings, giving like notice.

**SEC. 11.** It shall be the duty of the directors of each bank, in the month of October annually, to make an examination in regard to its condition and the responsibility of the sureties on the bond of the cashier. Said bond shall be recorded in the directors' records.

**SEC. 12.** The capital stock of every new bank shall be paid in, one half in six, and the other in twelve months from the date of its charter, in gold and silver money of the legal currency of the United States ; and no bank shall go into operation until one half of such stock has been paid in, in such money deposited in its vaults and examined by the bank examiner as provided in section fifty-two.

**SEC. 13.** No stockholder shall hold or own more than one fifth of the capital of any bank ; and no shares thereof shall be sold or transferred except by execution or distress, or by executors, administrators, or guardians, until the whole amount of capital is paid in.

**SEC. 14.** Every bank, subject to the restrictions mentioned in this chapter, may loan and negotiate their moneys and effects by discounting on banking principles on such security as their regulations permit ; but no loan shall be made by a bank upon pledge of its own stock ; nor shall it discount notes, bills of exchange, drafts, or other security for the payment of money, without at least two responsible names as principals, sureties, or indorsers thereon, —and for this purpose, a firm composed of two or more persons is to be considered as one person,—or adequate personal pledges, or collateral security ; and no loan shall be made to any stock-

holder, until the amount of his shares is paid into the bank. The aggregate of all the debts due from the directors as principals, indorsers, or sureties, shall at no time exceed one third part of the amount of the capital of such bank; nor shall the debts due from any one director, as principal, indorser, or surety, exceed eight per cent. of the capital stock.

SEC. 15. No bank shall invest, use or improve, any of its moneys, goods, chattels or effects, in trade or commerce; but may sell all kinds of personal pledges, lodged with it by way of security, to an amount sufficient to reimburse the sum loaned, with interest and expenses.

SEC. 16. The directors shall make half yearly dividends of the profits of the bank.

SEC. 17. Every bank may hold, sell, and dispose of such real estate as is requisite for the convenient transaction of its business; but such real estate shall not, unless by special authority for the purpose, exceed twelve per cent. on the amount of the capital stock, exclusive of what the bank holds on mortgage, receives on execution, or takes as security, or in payment of debts.

SEC. 18. Shares in a bank, its real estate, and its right, title and interest in lands mortgaged for a debt due or assigned to it, and the debt thereby secured, may be attached on mesne process, and taken in execution and sold agreeably to the provisions of chapters seventy-six, eighty-one, and eighty-four.

SEC. 19. The total amount of debts which a bank may owe at any time, shall not exceed twice the amount of its capital stock actually paid in, exclusive of sums due on account of deposits not bearing interest, nor shall its dues at any time exceed double the amount of its capital stock actually paid in, exclusive of the bills of other banks and debts due from them, payable on demand.

SEC. 20. No bank, directly or indirectly, shall make any loan or discount or issue any bill or note, except at its usual banking house; nor loan any money to a public officer on his official check, or take such check with any agreement or understanding to hold it, under penalty of forfeiting its charter for this last offence.

SEC. 21. No bank shall issue and put in circulation as money, bills to the amount of more than fifty per cent. of its capital stock actually paid in, not owned by the bank, unless it has in its vaults at the time of such issue, one dollar in specie for every three dollars in bills so issued above fifty per cent. of its capital stock; nor shall the circulation of any bank within *this [the]* state at any time, exceed the amount of its capital stock paid in, not owned by the bank, and the specie in its vaults; and bills actually redeemed by it at a bank in Boston to be forwarded to it, shall not be deemed to be in circulation; and every bank shall forfeit for the use of the state

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directors limited.  
R.S., c.47, §14.  
39 Me., 490.  
52 Me., 533.

Banks not to engage in trade or commerce.  
R.S., c.47, §15.

Dividends half yearly.  
R.S., c.47, §16.

Powers of banks to hold real estate.  
Restrictions.  
R.S., c.47, §17.

Shares, real estate and mortgages may be attached and taken on execution.  
R.S., c.47, §18.

Limitation of amount of debts and credits.  
R.S., c.47, §19.

Loans and issues not to be made except at banking house; nor to any public officer on official check.

R.S., c.47, §20.  
Circulation allowed and limited.  
Bills actually redeemed in Boston not to be deemed in circulation.  
Forfeiture for excess of circulation.  
Weekly balances to be made.

CHAP. 47. ten per cent. on the amount of bills which at any time it puts in circulation above the amount aforesaid ; and weekly balances shall be made by the cashier, exhibiting the amount of specie on hand and the amount of bills in circulation.

Specie to be kept in vault.  
R.S.,c.47,§22.

SEC. 22. Every bank shall keep in its own vaults at least five per cent. of its capital stock in specie.

Provisions when bills are destroyed; penalty for violation by a director.  
R.S.,c.47,§23.

SEC. 23. When the directors of a bank destroy any of its bills, it shall be in the presence of a disinterested justice of the peace, and they shall record the number and denomination thereof, and swear to the truth thereof before said justice, who shall certify the oath on the record, and the fact that he saw their destruction ; and each director violating this provision shall forfeit five hundred dollars.

Form of signature of bills. Bank shall receive its own bills in payment.  
R.S.,c.47,§24.

SEC. 24. All bills shall be issued in the name of the president, directors, and company of the bank issuing them, and be signed by the president and cashier thereof ; but any bills signed by either the president or cashier thereof, and in circulation through the agency or neglect of any of its officers, shall be binding on the bank. Every bank shall receive its own bills if offered in payment for all its dues.

Restrictions as to bills under five dollars.  
Fractional bills prohibited.  
R.S.,c.47,§25.

SEC. 25. Every bank may issue bills under five dollars to the amount of one quarter part of its capital actually paid in and no more ; and no bank shall issue, pay out, receive in payment, or on deposit, any bill or note less than one dollar, or on which is expressed any fractional part of a dollar, under penalty of one hundred dollars for each offence.

Interest may be paid on deposits.  
Notes bearing interest not to be issued.  
R.S.,c.47,§26.

SEC. 26. Any bank may allow a certain rate of interest for deposits made therein, if [it thinks] *they think* proper ; but shall not issue any note, bill, check or any other negotiable security payable at a future day, or bearing interest.

Bills to be redeemable in specie at the bank; liability if issued otherwise.  
R.S.,c.47,§27.

SEC. 27. No bank shall issue any bill, note, check or draft, redeemable at such bank in any other manner than by payment in specie ; and every bank issuing any bill, note, check, or draft redeemable in any other manner than by payment in specie on demand, or payable at any place other than the place where it is by law established, shall be liable to pay it in specie to the holder thereof on demand at said bank, without a previous demand at the place where it is made payable.

Exceptions as to drafts or checks.  
R.S.,c.47,§28.

SEC. 28. Nothing in the preceding section shall extend to any draft or check for any balance due to said bank, nor to any check or draft drawn by an officer of a bank within *this* [the] state on another bank within or without *this* [the] state ; but all such checks or drafts shall first be presented for payment at the place where they are made payable, before they are demanded at the bank by which they were issued.

SEC. 29. If the officers of a bank [up-] on demand in its usual banking hours, neglect or refuse to redeem in gold or silver money of the legal currency of the United States, any note, bill, check, or draft described in the two preceding sections, and demandable at such bank, or any other bill or note of such bank, it shall be liable, after the expiration of fifteen days from such demand, to pay to the holder thereof, in damages, at the rate of twenty-four per cent. by the year, during such delay or refusal *after said fifteen days*, and interest at the rate of six per cent. during said fifteen days.

SEC. 30. If the bank, at any time after such demand and refusal, *afterwards* causes a legal tender to be made at the place of residence of the person who made such demand, or of any known owner or assignee thereof, or of his agent, of the amount of such bill, note, check or draft, *and* [together with] all interest, damages, and costs, which have accrued at that time, all further interest and damages on account thereof shall thereafter [-upon] cease.

SEC. 31. No bank shall be permitted to take a greater interest or discount on any note, draft, or security, than at the rate of six per cent. a year, unless by agreement in writing, whether such loan is made in specie or otherwise, or an agreement is made to pay such loan in specie or at a place other than such bank; but such interest or discount may be taken according to the established rules of banking; but the bank in discounting drafts, bills of exchange or other negotiable securities payable at another place, may, in addition to interest, charge the existing rate of exchange between the places of discount and payment.

Sec. 32. *No bill or note of the denomination of one hundred dollars or less shall be issued by any bank for circulation, unless it is impressed from the patent stereotype plate of Abraham Perkins or his assigns, or unless said bank is in writing authorized by the examiner to issue bills of such other plates, as they judge to afford greater security against counterfeiter.\* Every bank shall be held to pay to an innocent holder the original amount of any note of said bank, notwithstanding it is altered.*

SEC. 33. The directors of banks once in five years shall have all the weights used in their banks, compared, proved, and sealed by the treasurer of state, or by some person specially authorized by him for that purpose; which shall supersede so far as respects such banks the sealing of their weights by the town sealer.

SEC. 34. No tender of gold by any bank, weighed with weights other than those thus compared, proved and sealed, shall be legal; and the payer or receiver may require the gold to be weighed in each scale, and the mean weight resulting therefrom shall be the true weight.

\* [The foregoing sentence is supposed to have become obsolete.]

**CHAP. 47.**  
Twenty-four  
per cent.  
yearly dam-  
ages for not  
redeeming  
bills.  
R.S., c.47,§29.  
18 Me., 172,  
243.

Damages to  
cease on ten-  
der of  
amount.  
R.S.,c.47,§30.  
See § 55.

Interest  
limited.  
Exchange  
may be  
charged.  
R.S.,c.47,§31.  
31 Me., 416.

Plates for  
bills.  
Bills not void  
by altera-  
tions.  
R.S.,c.47,§32.

Weights to  
be sealed  
by state  
treasurer.  
R.S.,c.47,§33.

Gold how to  
be weighed.  
R.S.,c.47,§34.

**CHAP. 47.**

Counterfeit  
and altered  
bills may be  
so marked  
by cashier.  
Damages if  
erroneously  
marked.  
Marked bills  
to be  
recorded.  
R.S., c. 47, §35.

**SEC. 35.** A bank established under the laws of this state or the United States, shall write or stamp the word "counterfeit," on a [every] counterfeit bill, and the word "altered," on an [every] altered bill, offered in payment, deposit or for redemption, adding thereto the name of the bank and of the officer by whom it is done; but if it makes such writing or stamp on a bill not counterfeit or altered, it shall be liable only for the actual damages sustained by the holder thereof, not exceeding its amount, unless fraudulently done; and the cashier shall have a book, and record therein the denomination of such bill, the name of the bank from which it purports to have issued, its date and number, and the date of such writing or stamping.

**RIGHTS OF THE STATE IN BANKS.**

Right of the  
state to  
take stock  
in any bank.  
R.S., c. 47, §36.

**SEC. 36.** The state shall have a right, when the legislature makes provision by law, to subscribe, on account of the state, to the capital of any bank, a sum or sums not exceeding in the whole one tenth part of the previous capital of such bank in addition thereto, subject to such rules and provisions as by the legislature are established for the management of the same; and to appoint an additional director in such case.

Semi-annual  
state tax.  
Payment  
how en-  
forced.  
U. S. tax  
deducted.  
R.S., c. 47, §37.  
1875, c. 50.  
20 Me., 472.

**SEC. 37.** Every bank having any circulation, within ten days after the first Mondays of April and October in each year, shall pay to the state treasurer for the state, a tax of one half of one per cent. on the amount of its capital stock actually paid in; but the receipt of the proper United States officer for a United States tax paid, for the same period on its deposits, circulation and capital, shall be allowed towards said tax; and if any bank neglects to pay said tax for thirty days after it is due, the treasurer shall issue a warrant of distress to enforce payment thereof out of its estate or effects, which shall be executed the same as warrants of distress against delinquent sheriffs under chapter six.

See c. 6,  
§§ 157, 159,  
160, 161.

Right of the  
state to re-  
quire loans  
from banks.  
R.S., c. 47, §38.

**SEC. 38.** Upon any requisition of the legislature, each bank shall loan to the state a sum not exceeding five per cent. of its capital stock in one loan, or not exceeding ten per cent. thereof in all loans existing at the same time, reimbursable by five annual instalments, or at shorter periods at the election of the state, with the annual payment of interest at a rate not exceeding six per cent.; and the faith of the state is pledged for the repayment thereof.

Requisition,  
how made.  
R.S., c. 47, §39.

**SEC. 39.** When such loan is required of a bank, the treasurer of the state shall give written notice to the president or cashier thereof, of the amount which it is to furnish and [shall] demand a loan thereof conformably to the preceding section, accompanied by a copy of the act or resolve of the legislature requiring it, attested by the secretary of state, and by the written approval of such demand by the governor.

## INDIVIDUAL LIABILITY OF DIRECTORS AND STOCKHOLDERS.

CHAP. 47.

SEC. 40. If any bank becomes indebted beyond the amount allowed by section nineteen, the directors, under whose administration it happens, shall be liable for the excess in their private capacities, any condition, release or agreement to the contrary notwithstanding; and an action of debt or bill in equity thereon may be maintained against them or any of them, or their executors or administrators, by any creditor of the bank; but this provision shall not exempt the bank, or its lands, goods, or chattels from liability for such excess.

Liability of  
directors if  
bank be-  
comes in-  
debted be-  
yond  
amount al-  
lowed.  
R.S., c.47, §40.  
See § 19.

SEC. 41. Any director, [who was] absent when such excess of debts was contracted, or who at the time dissented from the resolution or act whereby it was contracted, may exonerate himself from such liability by forthwith giving notice of the fact, and of his absence or dissent, to the governor and council, and to the stockholders at any general meeting, which he may call for that purpose.

Innocent di-  
rectors ex-  
onerated.  
R.S., c.47, §41.

SEC. 42. Those directors, by whose official mismanagement a loss or deficiency of capital stock of a bank occurs, shall be liable therefor in their individual capacity; and in case of their inability, each stockholder, whether a person or a corporation, shall be liable therefor, to an amount not exceeding the amount of his stock at that time; but such stockholder's liability shall continue only one year after he has in good faith transferred his stock, no process against him on account thereof, or injunction against the bank being then pending.

Loss from  
mismana-  
gement of  
directors,  
how made  
up.  
R.S., c.47, §42.  
23 Me., 344.  
48 Me., 404.  
50 Me., 275.  
56 Me., 388.

SEC. 43. When any bill, note, check, or draft is presented for payment at any bank which issued and is liable to pay it under the provisions of section twenty-nine, and payment thereof is delayed or refused for fifteen days, then the private property of its stockholders, to the amount of their shares, shall be liable to be attached on mesne process, and levied upon by execution in any suit therefor, commenced against said bank for the damages, and for the original demand, interest and costs.

Private  
property of  
stockholders  
liable in  
certain  
cases.  
R.S., c.47, §43.  
23 Me., 309.  
33 Me., 511.  
50 Me., 275.  
See § 29.

SEC. 44. Any director of a bank against which suit is commenced, on demand of the plaintiff therein, or of any officer legally charged with the service of any such writ or execution, shall make and exhibit to the plaintiff or officer a true list of the stockholders thus liable, with the amount of stock for which each is so liable; and should he unreasonably neglect or refuse to do so, his private property shall be liable to the full amount of the judgment recovered in such suit.

Directors to  
disclose  
names and  
interests of  
stock-  
holders.  
R.S., c.47, §44.  
50 Me., 278.

SEC. 45. The holders of stock in any bank at the expiration of its charter, whether a person or corporation, shall be liable in their individual capacities for the redemption and payment of all bills,

Liability of  
stockholders  
at the expir-  
ation of

CHAP. 47. issued by said bank and remaining unpaid, in proportion to the charter.  
R.S., c.47,§45.  
48 Me., 403.  
61 Me., 166.  
62 Me., 209.

Mode of enforcing payment from directors, or stockholders.  
R.S., c.47,§46.  
50 Me., 278.  
56 Me., 388.

Mode of obtaining contribution by a stockholder who has been compelled to pay.  
R.S.,c.47,§47.

stock they then hold; but such liability shall continue only two years after notice of such expiration has been given in the state paper.

SEC. 46. A creditor of a bank suffering loss as described in section forty-two, or a holder of unredeemed bills as described in section forty-five, after demand at such bank or at its last and usual place of business, may avail himself of the liability of the directors and stockholders as described in said sections by a bill in equity; but this section shall not deprive any person injured by the misconduct or neglect of any officer of a bank, of an action on the case against him on the principles of the common law.

SEC. 47. Any stockholder, whether a person or corporation, who, by the provisions of this chapter, has been obliged to pay any debt or demand against the bank out of his individual property, may have a bill in equity to recover proportional parts of the money so paid, from the directors or other stockholders liable therefor, and such damages and costs as the court decrees.

#### BANK EXAMINER.

Governor, &c., to appoint a bank examiner, for three years.  
R.S.,c.47,§54.  
1879,c.125,§4.

His duties.  
R.S.,c.47,§55.

Power to examine banks and savings institutions.  
R.S.,c.47,§56.

SEC. 48. The governor, with advice of council, shall appoint an examiner of banks who shall hold his office for three years, subject to removal at any time by the appointing power, and shall not during his continuance in office hold any office in any bank in the state. His salary shall be nine hundred dollars per annum, in full, payable quarterly.

SEC. 49. At least once a year, and as much oftener as the governor and council deem it expedient, he shall inquire into and examine the transactions of the several banks in this state and ascertain their condition, and whether there has been any departure by brokerage or otherwise from the ordinary business of banking associations; note all over issues shown by the cashier's weekly balances; and make report of his doings annually to the governor and council on the first day of December, to be laid before the legislature.

SEC. 50. He may visit all banks *in this state* as often as he deems it expedient for the public safety, and thoroughly inspect and examine all their affairs, and make all inquiries necessary to ascertain their condition and ability to fulfill their engagements, and for that purpose he may summon and examine under oath, all the directors, officers, or agents thereof, and such other witnesses as he thinks proper; and any director, officer, or agent, or other person, who refuses without justifiable cause to appear and testify when so required, or who, in any way, obstructs the examiner in the discharge of his duty, as herein prescribed, shall be subject to

a fine not exceeding one thousand dollars, or imprisonment not exceeding two years. CHAP. 47.

SEC. 51. He shall, from time to time, examine the weekly balances made by the cashiers ; and when it appears that a bank has made over-issues, he shall notify its cashier forthwith to pay over the forfeiture mentioned in section twenty-one ; and if it is not so paid in ten days after notice, he shall complain to a justice of the supreme judicial court, who shall thereupon summon such bank by a notice to its president or cashier to appear before him at a time and place appointed, to answer such complaint and show cause why an injunction should not issue against it. If it appears on such hearing that the bank has over-issued and not paid the forfeiture within the time aforesaid, it shall be enjoined, until the forfeiture and costs of proceedings are paid ; and if such order is not complied with within such time as he fixes, the injunction shall be made perpetual, and receivers appointed to close the business according to law. And if on examining any bank, the examiner thinks it is insolvent ; that its further progress would be hazardous to the public, or to those having funds in its custody ; that it has exceeded its powers ; or failed to comply with all the rules, restrictions and conditions provided by law, he may apply to any justice of the supreme judicial court to issue an injunction to restrain it in whole or in part from further proceeding with its business, until a hearing is had. And said justice shall forthwith issue such process ; after a full hearing of the bank upon the matters aforesaid, may dissolve, modify, or make perpetual the injunction ; make all needful orders and decrees to suspend, restrain, or prohibit the further prosecution of the business of the bank according to the course of chancery proceedings ; and at his discretion may appoint receivers to take possession of its property and effects as hereinafter provided, subject to the rules and orders, from time to time prescribed by such court or any justice thereof in vacation. The examiner may appoint a clerk, prescribe his duties and fix his compensation, when he thinks the public good demands it. All banks whose charters have expired, or are surrendered, or revoked, shall continue subject to all the provisions and penalties in this chapter during the time allowed their stockholders to act in their corporate capacity for the purpose of closing their concerns ; and the examiner shall examine and proceed against them in the same manner as if their charters were still existing ; and shall publish in one or more newspapers nearest the location of the bank, and in such others as he sees fit, a notice of the time when the liability of such bank to redeem its bills will cease, to be continued three months next before the time named therefor.

SEC. 52. When a new bank is about to go into operation, the New banks

Proceedings  
of examiner  
in cases of  
over-issue  
and when he  
deems a  
bank or sav-  
ings institu-  
tion unsafe.  
R.S., c.47,\$57.  
See § 21.

Banks clos-  
ing up busi-  
ness, subject  
to the pro-  
visions of  
this chapter.

CHAP. 47. examiner, at the expense of the bank, shall examine and count the money actually in the vaults, and ascertain by the oaths of a majority of the directors that it has been paid in by the stockholders towards payment of their shares and not for any other purpose ; and that it is intended that it shall remain therein as part of the capital ; and he shall return a certificate thereof to the office of the secretary of state.

Examiner to enforce penalty of § 20.  
R.S., c.47,§58.

1871, c.191.  
Cashiers to make and transmit returns whenever required by examiner.

R. S., c. 47,  
§§ 48, 59.  
See 1871,  
c. 191.

SEC. 53. He shall take measures to enforce the penalty provided in section twenty.

SEC. 54. When thereto required by the examiner, the cashier of each bank shall make and transmit to him, within the time directed in such requisition, a return of the state of such bank, stating the several particulars mentioned in the following form, exhibiting in distinct columns the amounts due from the bank, and the resources of the bank, viz :

State of the \_\_\_\_\_ bank of \_\_\_\_\_, on the first Saturday of \_\_\_\_\_, 18\_\_\_\_, at two o'clock, P. M.

DUE FROM THE BANK.	RESOURCES OF THE BANK.
Capital stock, . . . . \$	Gold, silver and other coined metal, in its banking house, { \$
Bills in circulation, . . . . \$	Real estate, { \$
Net profits on hand, . . . . \$	Bills of other banks incorporated in <i>this [the]</i> state, { \$
Balances due to other banks, . . . . \$	Bills of other banks without the state, { \$
Cash deposited, including all sums whatsoever due from the bank, not bearing interest; its bills in circulation, profits, and balances due to other banks excepted. . . . \$	Balances due from other banks, { \$
Cash deposited bearing interest, \$	Amount of all debts due including notes, bills of exchange, and all stocks, and funded debts of every description, except balances due from other banks, { \$
Total amount due from the bank, \$	Total amount of the resources of the bank, { \$
Rate of last dividend,	
Amount of last dividend, \$	
When declared,	
Amount of reserved profits at the time of declaring the last dividend, \$	
Amount of debts due and not paid, and considered doubtful, \$	
Bills in circulation under five dollars, \$ *	

#### RECEIVERS.

Application to a judge of supreme court, if a bank refuses to pay its

SEC. 55. If the officers of a bank refuse or neglect to pay any of its bills, when duly presented at their banking house for payment in their usual hours of business, or any deposits on demand made in such hours, and, for the space of fifteen days thereafter,

\* [QUERY BY THE COMMISSIONER. May there not be some question whether chapter 191, of the public acts of 1871, which repealed § 48 of chapter 47 of the R. S. of that year, was not intended to repeal the latter part of § 59 of the same chapter, and thus to annul the foregoing section of this revision ?]

neglect to pay or tender payment of such bills or deposits as described in section thirty, the holder of such bill, or such depositor, may make complaint thereof in writing to any judge of the supreme judicial court, who shall thereupon cause the president or cashier to be notified to appear before him at such time and place as he appoints, to answer to such complaint, and show cause against further proceedings thereon.

SEC. 56. If the president, cashier, or other authorized agent of the bank does not so appear, or does not show sufficient cause against further proceedings, the judge shall appoint three disinterested receivers, and require them to give bond to said bank, in a sum and with sureties satisfactory to him, for the faithful discharge of their trust; and such bond shall be delivered to the bank for their use; and the supreme judicial court, with the consent of the co-sureties, and after such notice as it may order, may discharge a surety from liability for subsequent but not for prior breaches of such bond, and may require a new bond with sufficient sureties approved by it.

SEC. 57. A judge of the supreme judicial court may revoke the authority of receivers, on application as provided in section fifty-five, and notice to them and hearing of the parties.

SEC. 58. Either party aggrieved by the decision of a judge in appointing receivers, or in revoking their authority, on complaint to the supreme judicial court and such notice as any judge orders, may have the same revised at the law term thereof, and reversed for sufficient cause.

SEC. 59. Such receivers, and those appointed under section fifty-one, as soon as they have given bond, shall give notice of their appointment in the newspaper printed in the county where the bank is located, and in one in each of the cities of Portland and Bangor, to be continued three months; and shall immediately demand and receive of the officers of the bank all its real and personal estate, with all its books, papers and evidences of debts, delivering to the officers their receipt, containing accurate lists and memoranda of such estate, books, and debts; and shall diligently proceed to dispose of such property and collect the debts, and with the proceeds thereof, pay the demands against the bank.

SEC. 60. If any officer of such bank refuses or neglects to surrender to the receivers, on demand, all the property as required by the preceding section, he shall be liable in his individual capacity for the payment of all debts due from said bank in an action on the case.

SEC. 61. After giving thirty days' notice as prescribed in chapter seventy-six, for notice on the sale of real estate of banks taken on execution, and with like power to adjourn the sale, they may sell

CHAP. 47.  
bills or de-  
posits.  
Duty of  
judge in  
such case.  
R.S., c.47, §60.  
See § 30.

Judge may  
appoint  
receivers  
and require  
bond; may  
discharge  
surety and  
require an-  
other.  
R.S., c.47, §61.  
48 Me., 403.  
54 Me., 441.  
69 Me., 360.

Authority of  
receivers  
may be  
revoked.  
R.S., c.47, §62.

**CHAP. 47.** at public auction any real estate of said bank and any mortgages after notice. R.S., c.47, §66. See c. 76. of real estate due to it, and make and deliver to the highest bidder, in its name, any deed or other instrument necessary for the conveyance of such real estate or mortgages with the debts thereby secured; and the purchaser shall have the same rights and powers as a purchaser of real estate and mortgages taken on execution as aforesaid.

Receivers may sell, compound or collect any debt due the bank, and bring suits and levy executions therefor. R.S., c.47, §67. 54 Me., 441.

SEC. 62. They may sell and assign any debts due the bank, with the evidences thereof; or if they think any debt cannot be collected, they may receive payment of it in the bills of the bank, or compound it on such terms as they think expedient; or they may commence in the name of the bank or in their own names, as receivers, any action necessary for the collection of said debts, and prosecute the same to final judgment; and may sell such judgments or executions issued thereon, or levy them on real estate and sell it as provided in the preceding section; but if they purchase or hold, directly or indirectly, any claim or certificate of debt against such bank, it shall be a sufficient cause of removal.

Receivers after paying the debts, to deliver up the residue of property to the bank. R.S., c.47, §68.

SEC. 63. When such receivers have realized from the property of the bank in their hands a sum sufficient to pay all its debts, their power over the residue of the property shall cease, and they shall surrender it to the bank with all the books and papers belonging to it, and take from its officers a sufficient receipt therefor; and render to the bank a fair and just account of their proceedings, receipts, and expenditures at that time, and at such previous times as any judge aforesaid may require.

Compensation to receivers. R.S., c.47, §69.

SEC. 64. The receivers may retain for their services the sum agreed upon by them and the bank; but if they disagree, either party may apply to the supreme judicial court, and after reasonable notice to the other party, a judge thereof, at a term held in the county where the bank is located, may fix such sum.

Claims and bills against the banks to be presented to receivers for allowance and when. R.S., c.47, §70. See § 59.

SEC. 65. When receivers are appointed and have given bond, all claims and demands against the bank, whether founded on its bills or otherwise, shall be laid before them for examination and allowance, within six months after the publication of notice required in section fifty-nine; but the court on petition of one or more persons having claims against the bank, for good cause shown may allow them a further reasonable time to prove their claims; and if allowed, they are to have an equal dividend with those previously allowed. The bills of the bank shall be filed with the receivers, and they shall give the holders a certificate thereof.

A year allowed to convert assets and

SEC. 66. Only one year is allowed the receivers to convert the assets of the bank into money by collection or sale and make a report thereof to the court, unless the court or a justice thereof

extends the time; and such report shall specify all claims presented and the amount allowed on each; and any claimant may make written objections thereto in court, specifying the claims which he asks to have allowed or rejected, increased or diminished; and the court shall hear and decide the case. At request of either party, the court may direct an issue to be made up and submitted to a jury. Questions of law arising in the course of the proceedings may be made and carried to the full court as in actions in court.

All claims allowed shall bear interest from the time they are filed, *provided* that the assets in the hands of the receivers are more than sufficient to pay the principal of all the claims allowed and outstanding when the final dividend is declared.

SEC. 67. The receivers shall report to the court the amount and value of the assets in their hands belonging to such bank. When the claims against a bank have been ascertained and determined by the court, or by the court and jury upon an accepted verdict as aforesaid, the court shall order the proceeds of the assets to be applied to the payment thereof.

SEC. 68. When it appears to the court that the assets of a bank in the hands of receivers are insufficient to pay the claims allowed against such bank, the court, after reserving a sufficient sum for further necessary expenses, may assess upon all the persons liable as stockholders to contribute to the payment of such claims, the sum requisite to make up such deficiency of assets; any stockholder may deposit such sum with the receivers subject to such assessments as the court may make; and the court may, from time to time, authorize the receivers to compound with such stockholders as are unable to pay the full amount of their liability.

SEC. 69. The receivers shall thereupon file their bill in equity, in their own names but in behalf of the claimants, against the persons liable as stockholders of the bank to contribute to the payment of its debts; and they shall be cited to appear before the court, upon such notice as the court orders to be given. Upon the hearing, the court shall from time to time determine and assess the amount which the several stockholders shall pay to the receivers to meet the claims. The court may issue all requisite precepts for the collection of the sums so assessed, and for the enforcement of its orders and decrees.

SEC. 70. If judgment is rendered against the stockholders, no costs shall be awarded against those who, before service on them, had deposited with the receivers a sum equal to their liability, or compounded as aforesaid, or those on whom no service has been made. Against any stockholder who pays to the receivers before judgment the amount assessed on him by the court, or is defaulted, the costs awarded shall be only the cost of service on him and one

CHAP. 47  
make report,  
unless court  
extends the  
time. Ob-  
jections to  
report, how  
made and  
disposed of.  
R.S., c.47, §71.  
56 Me., 169.

Interest on  
claims, if as-  
sets suffice.  
1872, c.86, § 3.

Assets, how  
applied.  
R.S., c.47, §72.  
56 Me., 169.

When assets  
insufficient,  
court may  
assess on  
stock-  
holders; and  
each may  
deposit such  
sum with re-  
ceivers; and  
court may  
authorize  
receivers to  
compound.  
R.S., c.47, §73.

Assets not  
sufficient,  
bill in equity  
to be filed.  
Proceedings  
of court in  
such cases.  
R.S., c.47, §74.  
48 Me., 403.  
50 Me., 281.  
56 Me., 169.  
61 Me., 165.  
62 Me., 207,  
209.

What costs  
stockholders  
liable for.  
Court may  
require se-  
curity there-  
for. Execu-  
tion against  
each stock-  
holder for  
his part.  
R.S., c.47, §75.

CHAP. 47. dollar for other expenses. Those who appear and defend, shall be held to pay all the remaining costs, to be equitably divided between them by the court; and the court may, in its discretion, require security for the payment of such costs. When judgment is rendered against the stockholders, execution may be issued against each for the amount of his liability and for the costs awarded against him.

Enforcement  
of execution  
against  
stockholder  
of a bank in  
hands of re-  
ceivers.  
1872, c. 86, § 1.

Execution or  
land taken  
on ex' on may  
be sold if the  
ex' on cannot  
be collected  
immediately.  
1872, c. 86, § 2.

Lien on real  
estate of  
stock-  
holders.  
R.S., c.47,§76.  
50 Me., 384.

No actions  
against bank  
after receiv-  
ers' appoint-  
ment.  
R.S.,c.47,§77.

Liability of  
directors and  
stockholders  
not dimin-  
ished.  
R.S.,c.47,§78.  
48 Me., 403.

Court may  
decree dis-  
tribution, re-  
serving to  
meet con-  
tested  
claims.  
R.S.,c.47,§79.

SEC. 71. When any stockholder is so defaulted, or judgment is awarded against him, execution may be issued at any term for the amount of his assessment, interest and costs, and enforced without awaiting the final decision on the bill as to the remaining stockholders.

SEC. 72. Any execution against a stockholder, which cannot be immediately collected, may be sold by the receivers at public auction, or [and] any land taken on execution by the receivers may be so sold and conveyed, after such notice as the court may order. The purchaser of such execution may enforce it in the name of the receivers, after giving them satisfactory security for costs.

SEC. 73. The appointment of receivers in any case shall create a lien upon all real estate of the stockholders liable for claims against such bank, as fully as if it was attached by due process of law, which [lien] shall continue, [in order] that *it* [the real estate] may be seized on execution or other process granted by the court and sold or set off in satisfaction of the claims aforesaid, or until such stockholder has paid to or deposited with the receivers an amount of money equal to his liability.

SEC. 74. No action shall be maintained against any bank after the appointment of receivers thereof; but all its creditors must seek their remedy under the provisions of the seven preceding sections. All legal cost accrued upon suits commenced before the appointment of receivers shall be allowed and added to the claim sued, if such claim is adjudged valid.

SEC. 75. Nothing in the preceding eleven sections shall be construed to increase or diminish the amount for which the directors or stockholders of any bank are liable under the provision of the other sections of this chapter. In assessing the amount for stockholders to pay, the court may have reference to such liability of the directors.

SEC. 76. When the decision on any claim is delayed by questions of law arising therein, the court, when it is deemed safe and reasonable, may decree distribution among the claims allowed, and cause the stockholders to be cited in, and make assessments upon them to meet deficiencies as aforesaid; but there shall be reserved from distribution an amount sufficient to meet such contested claim or claims, if allowed.

## SURRENDER OF CHARTERS, CLOSING BUSINESS, AND REDEEMING BILLS.

CHAP. 47.

SEC. 77. Any bank may surrender its charter by a vote of the owners of a majority of stock at a meeting duly called therefor; and within thirty days thereafter, shall file a written notice thereof, certified by the clerk of the corporation, with the secretary of state, and publish the same twelve weeks successively, commencing within two months of the date of the vote, in some newspaper printed in the county and *in* one in Boston, specifying therein the time when its liability to redeem its bills will expire; and such bank has six years from the filing of such notice to close up its affairs; and after that time, but not before, its liability to redeem its bills ceases, if no bills have been issued by it after the filing of such notice, which fact is to be determined by the affidavit of the cashier. This limitation of the time for redeeming bills does not apply to banks in the hands of receivers.

Bank may surrender its charter, and how.  
R.S., c.47,§80.  
54 Me., 440.

Six years to close affairs and redeem bills.

Not applicable to banks in hands of receivers.

SEC. 78. When a bank has surrendered its charter, ceased to do business in deposits and discounts, or has passed into the hands of receivers, the officers thereof shall deliver its plates, dies, and unsigned bills to the secretary of state, or forfeit not exceeding one thousand dollars to the use of the state, to be recovered by the treasurer thereof; and the secretary, in the presence of the state treasurer, shall destroy said articles within thirty days thereafter, and make a record of his doings in this respect; and the receivers of any bank, as soon as they are appointed, shall see that the provisions of this section are carried into effect.

On surrendering charter, plates, dies and unsigned bills of bank to be delivered to secretary of state to be destroyed.  
Penalty.  
R.S., c.47,§81.

SEC. 79. When a bank which has surrendered its charter and [has] not been organized as a national bank, collects and receives from its assets a sum not less than ten per cent. of its capital, more than is needed to pay its debts, the directors shall, within ten days, give notice thereof by publishing three weeks successively in some newspaper printed in the county; and within thirty days shall declare and pay a dividend to the stockholders; and as often as ten per cent. is so received, it shall be [advertised and] divided *till* [until] the final closing of its affairs; and any officers of such bank who fail to declare or pay such dividend, shall be jointly and severally liable, in an action on the case, to any aggrieved stockholder *to* [for] double the amount so withheld.

Banks surrendering charters, to make dividends as often as ten per cent. is realized.  
R.S., c.47,§82.

Penalty for not doing it.

SEC. 80. The assignee or purchaser of any chose in action, sold at public or private sale by a bank, may, after the bank has surrendered its charter, sue the same in his own name subject to all legal and equitable defences; and any suit then pending in the name of the bank for the collection of such chose in action may be prosecuted to final judgment and execution by the purchaser, the same as if the charter of the bank had not expired, by his indorsing the writ.

Chose in action sold by bank, may be sued in name of purchaser, after surrender of charter; pending actions prosecuted in bank's name.  
R.S., c.47,§83.

**CHAP. 47.** In March, secretary of state to publish list of banks, whose liability to redeem bills ends within a year.

R.S., c.47,§84.

Punishment for frauds and embezzlements by bank officers.

R.S., c.47,§85.

Conversion of bank property.

Fraudulent issues.

Fraudulent indebtedness.

Fraudulent loans.

Fraudulent dividends.

Private, associated and foreign banking prohibited unless authorized by legislature.  
Penalty.  
R.S., c.47,§86.

**SEC. 81.** In March annually, the secretary of state shall publish a list of the banks whose liability to redeem their bills expires in a year thereafter, in some newspaper printed in Portland, Lewiston, Bangor, Bath and Augusta, and in such other places as the governor and council direct.

#### PUNISHMENT OF FRAUDS.

**SEC. 82.** The following offences by officers, stockholders, or servants of banks, committed with a fraudulent intent to injure any creditor, stockholder, holder of bank notes issued, or other person, are hereby declared to be high misdemeanors, and the persons guilty thereof shall be punished by a fine not exceeding five thousand dollars, imprisonment in the county jail less than one year, confinement in the state prison to hard labor not exceeding ten years, or any or all of said punishments according to the aggravation of the offence :

*First.*—If any such person converts to his own use, or delivers to any other person, or to his check or order, any funds or evidence of debt, or other property belonging to the bank or deposited therein.

*Second.*—If he issues or aids in issuing any bank notes or other evidence of debt obligatory on said bank, with the intent that the same shall not be paid.

*Third.*—If he becomes indebted to such bank for a valuable consideration with like intent, or aids or abets any other person so doing.

*Fourth.*—If he, on behalf of the bank, loans any money or delivers any valuable property belonging to such bank or deposited therein, to any stockholder or other person.

*Fifth.*—If he makes any dividends of the funds or effects of such bank amongst the stockholders or any of them, beyond the profits actually accrued to such bank, or aids therein, thereby diminishing the capital of said bank.

#### PRIVATE, ASSOCIATED AND FOREIGN BANKING PROHIBITED.

**SEC. 83.** No person shall issue any drafts, bills, notes or other evidences of debt payable to bearer or order, as a private banker, for the purpose of loaning them or putting them in circulation as money; nor, unless specially authorized thereto by the legislature, shall he contribute to the funds or become a member of any association for the purpose aforesaid; nor transact any other business that banks may do by their charters except making discounts and receiving deposits; nor hold any agency for the purpose of receiving, issuing, loaning or putting in circulation, as money, the bills, notes, orders or other evidences of debt of any company not

incorporated in *this* [the] state, or [of] any private banker not resident therein, under a penalty of one thousand dollars for each offence, to be recovered by indictment for the use of the state, or by action of debt, one half to the state and the other to the person suing therefor. This section does not prohibit banks, incorporated in *this* [the] state, from exercising their powers under the foregoing provisions of this chapter, nor from receiving and paying out, in the usual course of business, the bills of foreign banks, the circulation of which is not prohibited by law.

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## SAVINGS INSTITUTIONS, AND TRUST AND LOAN ASSOCIATIONS.

SEC. 84. All savings banks or institutions for savings, or trust and loan associations, now existing, or which may hereafter be lawfully organized, are declared to be corporations possessed of the powers and functions of corporations generally, and as such shall have power:

*First.* To have perpetual succession, each by its corporate name.

Savings banks, &c., declared corporations.  
1876, c. 96, § 1.  
Powers of.

Perpetual succession.

*Second.* To sue and be sued, complain and defend, in any court of law or equity.

May sue and be sued.

*Third.* To make and use a common seal.

Seal.  
By-laws.

*Fourth.* To make by-laws not inconsistent with the laws of this state or of the United States, for the management of its property and the regulation of its affairs.

*Fifth.* To receive money on deposit, to invest the same, and further transact the business of a savings bank or trust and loan association, as hereinafter provided.

May receive deposits.

SEC. 85. Any number of persons not less than thirteen, may associate themselves together for the purpose of organizing a savings bank or trust and loan association, in accordance with the provisions of this chapter; but three fourths of such number of persons shall reside in the county where the proposed bank or trust and loan association shall be located, and shall have power to fill vacancies and add to their number from time to time as they may desire, all of whom shall be residents of the state.

Savings banks, &c., how organized.  
1876, c. 96, § 2.  
Three fourths of corporators to reside in county where the bank, &c., is located.

SEC. 86. Such persons shall execute a certificate, sworn to before a justice of the peace, in duplicate, one of which shall be deposited with the secretary of state for record, and the other sent to the bank examiner, in which shall be set forth: the name of the bank or trust and loan association; the names of all the corporators [and] the places where they reside; business occupation; place where its business is to be transacted; together with the reasons why a bank or trust and loan association is needed in such place.

Certificates of organization to be sent to the secretary of state and bank examiner.  
1876, c. 96, § 3.

SEC. 87. A notice of intention to organize such savings bank Notice of in-

**CHAP. 47.** or trust and loan association, shall be published once a week for three weeks in some newspaper published in said county where said bank or trust and loan association is to be located, or in some newspaper published in an adjoining county, if none is published in said county, signed by all the corporators.

**Bank examiner, duty of.**  
1876, c. 96, § 5.

Sec. 88. When the bank examiner shall have received the certificate, together with the published order of notice, if he shall find [that] the foregoing provisions have been complied with, it shall be his duty, from the best information at his command, to ascertain :

**Bank examiner to ascertain the convenience of depositors.**

*First.* Whether greater convenience of access to a savings bank or trust and loan association, will be afforded to any considerable number of depositors by opening a savings bank or trust and loan association, at the place designated in such certificate.

**Responsibility of corporators.**

*Second.* Whether the responsibility, character and general fitness of the persons named in such certificate, for the discharge of the duties appertaining to such a trust, are such as to command the confidence of the community in which such savings bank or trust and loan association is proposed to be located.

**Examiner shall issue certificate of authorization to corporators.**  
1876, c. 96, § 6.

**—and to the secretary of state.**

Sec. 89. If the examiner shall be satisfied from his knowledge, or from information gained, concerning the several points named in the *last* preceding section, that the organization of a savings bank or trust and loan association as proposed in such certificate, will be a public benefit, he shall, within sixty days after the same has been received by him for examination, issue, under his hand, a certificate of authorization to the persons named in such certificate, or to them, or to a portion of them, together with such other persons as a majority of those named in such certificate of association shall, in writing, approve; also a duplicate to the secretary of state; which certificate, so issued by him, shall authorize the persons named therein to open an office for the deposit of savings, as designated in the certificate of association, subject to the provisions of the five preceding sections.

**Corporation, when authorized to transact business.**  
1876, c. 96, § 7.

Sec. 90. Upon the filing of any certificate of authorization of a savings bank or trust and loan association, as hereinbefore provided, with the secretary of state, the persons named therein, and their successors, shall, thereupon and thereby, be duly and lawfully constituted a body corporate and politic, and shall be vested with all the powers and charged with all the liabilities conferred and imposed by the preceding six sections.

#### SAVINGS BANKS.

**Savings banks, powers and liabilities.**

Sec. 91. Savings banks and institutions incorporated under the authority of *this* [the] state, may exercise the powers and shall be governed by the rules and be subject to the duties, liabilities and

provisions in their charters, in the following sections, and in the general laws relating to corporations, unless otherwise specially provided.

SEC. 92. The officers of every such corporation shall consist of a president, treasurer, and when in the opinion of the trustees necessary, an assistant treasurer, and not less than five trustees, not more than three of whom shall be directors in any national bank, nor more than two of whom shall be directors in the same national bank, who shall elect from their number, or otherwise, such other officers as they may see fit.

SEC. 93. Such officers shall be sworn to the faithful performance of the duties of their office, and shall hold their several offices until others are chosen and qualified in their stead.

SEC. 94. The members of the corporation shall annually at such times as may be provided in their by-laws, elect from their number not less than five trustees, who shall have the entire supervision and management of the affairs of the institution, except so far as may be otherwise provided by their by-laws. Any trustee who shall become a trustee or officer in any other savings corporation, shall thereby vacate his office as such trustee.

SEC. 95. The trustees, immediately after their election and qualification, shall elect one of their number for president, who shall also be president of the corporation. They shall also elect a treasurer, and when deemed necessary, an assistant treasurer, to hold their offices during the pleasure of the trustees. The treasurer, and in his absence the assistant treasurer, if there is one, shall be ex-officio clerk of the corporation, and of the trustees. The treasurer and assistant treasurer shall give bonds to the corporation for the faithful discharge of the duties of their offices, in such sums as the trustees may decide to be necessary for the safety of the funds, and such bonds hereafter given shall continue and be valid from year to year so long as they may be elected and hold said offices, subject to renewal whenever ordered by the trustees or bank examiner. Said bonds shall be recorded upon the books of the institutions, and the bank examiner shall annually examine the same and inquire into and certify to the sufficiency thereof, and when he shall deem any such bond insufficient, he shall order a new bond to be given within a time by him specified. They shall receive a compensation to be fixed by the trustees. The trustees may receive such compensation for their services in making examinations and returns required by their by-laws and the laws of the state, as may be fixed by the corporation at any legal meeting thereof.

SEC. 96. If any office becomes vacant during the year, the Vacancies,

CHAP. 47.  
1877,c.218,\$1.  
68 Me., 518,  
519.

Officers.  
1877,c.218,\$2.

—trustees,  
number and  
restrictions.  
May elect  
other  
officers.

Term.  
1877,c.218,\$3.

Trustees,  
election and  
duties of.  
1877,c.218,\$4.  
68 Me., 404.

Office, how  
vacated.

Officers,elec-  
tion of.  
1877,c.218,\$5.  
69 Me., 369.

—term.

Treasurer,  
ex-officio  
clerk.

Bonds of  
treasurer  
and assist-  
ant treas-  
urer.

Shall be an-  
nually ex-  
amined by  
bank exam-  
iner.

—compen-  
sation fixed  
by trustees.  
Compensa-  
tion of trus-  
tees fixed by  
corporation.

CHAP. 47. trustees may appoint a person to fill the same until it is filled at how filled.

1877, c. 218, § 6.

Special meetings, how called.

1877, c. 218, § 7.

Annual meetings, how notified.

Corporation to consist of not less than thirty members.

—how elected.  
1878, c. 5.

—how disqualified.

May receive deposits.  
1877, c. 218, § 9.

—restrictions.

Trustees may refuse deposits.

Investments of deposits.  
1878, c. 55.  
68 Me., 404.  
71 Me., 52.

trustees may appoint a person to fill the same until it is filled at the next annual meeting.

SEC. 97. Such corporations may at any time hold special meetings by order of the trustees; and the treasurer shall also call special meetings upon application in writing of ten members of the corporation. Seven days' previous notice of all annual meetings shall be given by public advertisement in some newspaper of the county where the corporation is established, or if there is no such paper, then, in the state paper.

SEC. 98. Every such corporation shall consist of not less than thirty members, and may, at any legal meeting, by a majority of at least two thirds of those present, elect by ballot any citizen of the county wherein the corporation is located, or of an adjacent county, to be a member thereof. No person shall continue to be a member after removing from the state. Any member of the corporation who shall fail to attend the annual meetings for two successive years shall cease to be a member, unless re-elected by a vote of the corporation.

SEC. 99. Every such corporation may receive on deposit, for the use and benefit of depositors, sums of money offered for that purpose; but shall not receive from any one depositor, directly or indirectly, over two thousand dollars, and no interest shall be paid to any one depositor for any amount of deposit over said sum, except for deposits by widows, orphans, administrators, executors, guardians, charitable institutions, and as trust funds. The trustees shall have power to refuse any deposit at their pleasure.

SEC. 100. Savings banks and institutions for savings are restricted to and hereafter may invest their deposits in the public funds of any of the New England States, including the bonds of the counties, cities and towns of the same; in the public funds of the United States; in the stock of any bank or banking association incorporated under authority of this state, or of the United States; in the municipal bonds of cities of twenty thousand inhabitants, or more, of the states of New York, Ohio, Indiana, Illinois, Michigan and Missouri, and in the public funds of each of the above named states, and county bonds in the same states, when not issued in aid of railroads; *provided*, that no investment shall be made in the bonds of the several cities and counties of the states of Indiana, Illinois and Missouri, with the exception of the city of St. Louis, in the state of Missouri, where the municipal indebtedness of such city or county exceeds five per cent. of its valuation; [they may also invest] in the first mortgage bonds of any railroad company or other corporation incorporated under the authority of this state; in the stocks of any such railroad company which is unencumbered by mortgage; in the stock and bonds of any other corporations

incorporated under the authority of this state which earn and CHAP. 47.  
 are paying regular dividends of not less than six per cent. a  
 year; and may invest by loan on first mortgages of real estate  
 situated in this state not exceeding sixty per cent. of its value;  
*and* may loan to any county, city or town; and on notes with a  
 pledge as collateral of any of the aforesaid securities, including  
 savings bank deposit books of any savings bank in the state, and  
 the stock of any of said railroad companies, not over seventy-five  
 per cent. of the market value of such stock; and may loan to  
 said corporations, on personal securities, with at least two good and  
 sufficient sureties, when the securities pledged are their own bonds  
 and stock; and may also loan on such other personal securities as  
 in the judgment of the trustees it will be safe and for the interest  
 of the bank to accept. All investments shall be charged and  
 entered on the books of the bank at their cost to the bank, or at  
 par when a premium is paid.

SEC. 101. Any savings bank or institution for savings shall have authority to hold real estate to an amount not exceeding five per cent. of its deposits *and* [but] no part of said amount shall be invested in real estate, except in the purchase of a building or a site, and the erection and preparation of a suitable building to be used for banking purposes; *provided*, that such corporation shall not hold real estate, for the purpose aforesaid, exceeding one hundred thousand dollars in value.

SEC. 102. No savings banks or institution for savings shall hold by way of investment, or as security for loans, or both, more than one fifth of the capital stock of any corporation, nor invest more than ten per cent. of its deposits, and not to exceed sixty thousand dollars, in the capital stock of any corporation, nor have more than seventy-five per cent. of its deposits in mortgages of real estate. This section and the two preceding *ones* shall not apply to real estate, or other assets, acquired by the foreclosure of a mortgage thereon, or upon judgment for debts, or in settlements to secure debts.

SEC. 103. Savings banks may deposit on call in banks or banking associations incorporated under the authority of *this* [the] state, or the laws of the United States, and receive interest for the same.

SEC. 104. The trustees shall see to the proper investment of deposits and funds of the corporation, in the manner hereinbefore prescribed. No loan shall be made directly or indirectly to any of the trustees, or [to] any firm of which *he* [a trustee] is a member. (a)

SEC. 105. No gift, fee, commission, or brokerage shall be received by any officer of a savings bank, on account of any transaction to which the bank is a party, under a penalty for each

(a) 56 Me., 509; 68 Me., 404; 71 Me., 52.

CHAP. 47. offence, of one hundred dollars, to be recovered in an action of debt, in the name, and to the use of the state, *provided* that nothing herein contained shall apply to any expenses of examining titles, and making conveyances upon loans made by savings banks.

—proviso.—  
—borrower to pay expenses.

Dividends not to exceed two and a half per cent. semi-annually.  
1877, c. 218,  
§ 19.

—excep-tions.

—reserved fund shall be kept until it amounts to five per cent.

—excess to be divided.

—dividends declared, credited and paid by vote of trustees.

—not to exceed earn-ings of bank.

Interest on deposits prohibited.  
1877, c. 218,  
§ 20.

Notice for payment to depositor.  
1877, c. 218,  
§ 21.

Treasurers and trustees, regulations relating to.  
1877, c. 218,  
§ 22.

—assets of bank, con-

Parties making any loan from a savings bank shall pay all expenses incurred by reason of making the same.

SEC. 106. The trustees, after passing to the reserve fund one fourth of one per cent. of the average amount of deposits for the six months previous to declaring a dividend, not subject to be divided, shall declare dividends, not to exceed two and *one [a]* half per cent. semi-annually, except as hereinafter provided, at such times as may be required by their by-laws, among depositors of three months' standing at least, before dividend day. The corporation may by their by-laws include deposits of less standing. The reserve fund shall be kept constantly on hand, to secure against losses and contingencies, until the said reserve fund amounts to five per cent. of their assets. All losses shall be passed to the debit of said account. And when said reserved fund amounts to five per cent. of the assets of any bank, all net profits thereafter made by said banks shall be divided every three years ratably among the depositors of one, two and three full years' standing, as extra dividends. No dividends or interest shall be declared, credited or paid, except by the authority of a vote of the board of trustees, duly entered upon their records, whereon shall be recorded the yeas and nays upon such vote. Trustees of savings banks and savings institutions are prohibited from making any semi-annual dividend of a rate per cent. which will make the aggregate amount of said dividend greater than the actual earning of the bank or institution on hand.

SEC. 107. No deposit shall be received under any agreement to pay any specified sum of interest for its use, other than regular semi-annual and extra dividends.

SEC. 108. No savings bank shall be required or obliged to pay any depositor five hundred dollars or less, until after thirty days' notice, nor any sum exceeding five hundred dollars, until after sixty days' notice.

SEC. 109. No treasurer of any savings bank, the deposits of which exceed one hundred and fifty thousand dollars, shall be cashier in a national or stock bank; and if the treasurer of a savings bank, having deposits not exceeding one hundred and fifty thousand dollars, is cashier in a national or stock bank, not more than one trustee of the savings bank shall be a director, nor more than two trustees shall be stockholders in a national or stock bank so connected therewith. All coin, bills, notes, bonds, securities and evidences of debt, comprising the assets of said savings bank

connected with a national or stock bank, shall be kept separate and apart from the assets or property of such national or stock bank, and shall also be kept separate and apart from the assets or property of any other bank, banker, corporation, partnership, individual or firm.

SEC. 110. All securities owned or held by savings banks shall be kept within *this* [the] state, and the place of their deposit shall be selected with reference to insuring the greatest possible security for their safe keeping, and shall be subject to the approval of the bank examiner.

SEC. 111. The treasurer of every savings bank shall, on Saturday of each *and every* week, make and declare a trial balance, *which shall* [to] be recorded in a book kept for that purpose, and said book shall be open at all times for the inspection of the trustees, corporators, and [the] examiner of banks.

SEC. 112. When the person to whom a book of deposit was issued shall in writing notify the treasurer of the bank issuing the same, that such book is lost, and that such person desires to have a duplicate book of deposit issued to him, said treasurer shall give public notice of such application by publishing at the expense of such applicant, an advertisement, for three weeks successively, in some newspaper published in the town in which said bank is located, or if none is published in said town, then in one published in the county, or, if none is published in the county, then in the state paper. If such missing deposit book shall not have been presented to the treasurer of said bank within six months after the last advertisement, then said treasurer shall issue a duplicate book of deposit to the person thus requesting the same, and such delivery of a duplicate shall relieve said bank from all liability on account of the original book of deposit so advertised.

SEC. 113. The treasurer of every savings bank and institution for savings shall annually make return of the condition and standing thereof at such time as the bank examiner may designate, which return shall be made to the bank examiner within fifteen days after the day designated in the blank form of such return which shall be furnished to every such bank or institution by the examiner.

SEC. 114. The treasurer *has power*, [may] under the direction of the trustees, *to assign, discharge and foreclose mortgages, and convey real estate held as security for loans, or the title of which accrued from foreclosure of mortgages, or judgments of courts.*

SEC. 115. The trustees shall cause all real estate of an insurable character held by them absolutely, or in mortgage, to be fully insured, the expense of which in case of mortgage, shall be added

CHAP. 47.  
nected with  
national or  
stock bank,  
how to be  
kept.

Securities to  
be kept  
within state.  
—place sub-  
ject to ap-  
proval of  
examiner.  
1877, e. 218,  
§ 23.

Treasurer  
shall make  
trial balance  
weekly.  
1877, c. 218,  
§ 24.

Duplicate  
book of  
deposit, how  
obtained, in  
case of loss  
of original.  
1877, c. 218,  
§ 26.

Treasurer  
shall make  
annual re-  
turn to bank  
examiner.  
1877, c. 218,  
§ 27.

May assign,  
discharge  
and fore-  
close mort-  
gages, and  
convey real  
estate.  
1877, c. 218,  
§ 28.

Trustees  
shall cause  
real estate to  
be insured.

CHAP. 47. to the amount of the mortgage debt to be refunded in case of redemption.

1877, c. 118, § 29.  
Bank funds not to be used by officer.

1877, c. 218, § 30.  
Deposits of married women or minors, are property of depositors.

1877, c. 218, § 31.  
—exception.

Treasurer's account to be settled annually.

1877, c. 218, § 32.  
—examiner to furnish blanks.

He shall examine savings banks, &c.

—shall visit every institution annually.

1877, c. 218, § 33.  
—shall make thorough examination.

—proceedings, and statement of condition of corporation to be published.

He may summon officers and witnesses.

1877, c. 218, § 34.  
—penalty for

SEC. 116. No officer of the corporation shall use or appropriate any of its funds to his own private purposes, under the penalties imposed by law for embezzlement.

SEC. 117. Money deposited by a married woman or minor is the property of and to be paid to the depositor or order, and is not the property of the husband or parents; and such depositors may maintain actions in their own names against the bank to recover their deposits; but this section shall not apply to any money fraudulently deposited by or in the name of a married woman or minor, belonging to a third person. The receipts of such married woman or minor for such deposits and interest or any part thereof, shall be a valid release and discharge to the corporation.

SEC. 118. Two of the trustees, at least, shall once in each year, thoroughly examine the affairs of the corporation, settle the treasurer's account, and report under oath to the bank examiner the standing of the corporation, the situation of its funds, and all other matters which the examiner requires, in [the] manner and according to the form [that] he prescribes. And the examiner shall seasonably give notice of the time and [shall] furnish blanks for said examination and return.

SEC. 119. Savings institutions and trust and loan associations shall be under the charge of the bank examiner for the purposes of examination. He shall visit every savings bank, institution for savings and trust and loan association, incorporated by authority of *this* [the] state, once in every year, and as much oftener as he may deem expedient. At such visits he shall have free access to the vaults, books and papers, and shall thoroughly inspect and examine all the affairs of each of said corporations, and make such inquiries as may be necessary to ascertain its condition, [its] ability to fulfil all its engagements, and whether it has complied with the provisions of law. He shall preserve, in a permanent form, a full record of his proceedings, including a statement of the condition of each of said corporations, a copy of which statement shall be published by such corporation immediately after the examination of the same, in a newspaper in the place where such corporation is established, or if there be [is] no newspaper in such place, then in a newspaper published at the place nearest thereto.

SEC. 120. The examiner may summon all trustees, officers or agents of any such corporation, and such other witnesses as he thinks proper, in relation to the affairs, transactions and condition of such corporation, and for that purpose may administer oaths; and whoever refuses, without justifiable cause, to appear and testify

when thereto required, or obstructs said examiner in the discharge of his duty, shall be punished by a fine not exceeding one thousand dollars, or imprisonment for a term not exceeding two years.

**CHAP. 47.**  
refusal to  
testify, &c.

**SEC. 121.** If, upon examination of any such corporation, the examiner is of the opinion that the same is insolvent, or that its condition is such as to render its further proceedings hazardous to the public or [to] those having funds in its custody, he shall apply, or if upon such examination he is of opinion that such corporation has exceeded its powers or failed to comply with any of the rules, restrictions or conditions provided by law, he may apply to one of the justices of the supreme judicial court to issue an injunction to restrain such corporation in whole or in part from proceeding further with its business until a hearing can be had. Such justice may forthwith issue process for such purpose, and after a full hearing of the corporation, may dissolve or modify the injunction or make the same perpetual, and make such orders and decrees to suspend, restrain or prohibit the further prosecution of the business of the corporation, as may be needful in the premises, according to the course of proceedings in equity; and he may appoint one or more receivers or trustees to take possession of the property and effects of the corporation, subject to such rules and orders as may from time to time be prescribed by the supreme judicial court, or [by] any justice thereof in vacation. Such receivers or trustees shall annually, in the month of November, and at such other times as the bank examiner may require, make a report to him of the progress made in the settlement of the affairs of said corporation, and the examiner shall seasonably give notice of the time and furnish blanks for the report.

Examiner  
may apply  
to justice of  
S. J. court  
for injunc-  
tion to re-  
strain cor-  
poration  
from doing  
further busi-  
ness until a  
hearing can  
be held.  
1877, c. 218,  
§ 35.  
66 Me., 244.  
68 Me., 400-1.  
Powers and  
duties of  
justice in  
such cases.

—may ap-  
point receiv-  
ers, who  
shall report  
annually.  
See § 125.

**SEC. 122.** After a decree of sequestration is passed, as provided in the preceding section, the court, or any justice thereof in vacation, shall appoint commissioners, who shall give such notice of the times and places of their sessions as the court or such justice orders; receive and decide upon all claims against the institution, and make report to the court at such time as the court orders, of the claims allowed and disallowed and of the amount due each depositor, which shall be subject to exception and amendment, as reports of masters in chancery. On application of any person interested, the court may extend the time for hearing claims by the commissioners, as justice may require. When the amount due each person is established, the court shall cause others than depositors to be paid in full, and after deducting expenses, the balance to be ratably distributed among depositors.

After decree  
of sequestra-  
tion, court  
of justice  
shall ap-  
point com-  
missioners.  
1878,c.45, § 1.  
66 Me., 244.  
—duties and  
powers.

Court may  
extend time  
for hearing  
claims.  
Claims, how  
to be paid.

**SEC. 123.** All attachments of the property of the bank shall be dissolved by the decree of sequestration, and all pending suits shall be discontinued and the claim in suit presented to the com-

Attach-  
ments dis-  
solved and  
suits discon-

**CHAP. 47.** **missioners,** unless the court, or any justice thereof in vacation, on application of the plaintiff within three months from said decree, shall pass an order allowing the receiver to be made a party to the suit, and that the same may be prosecuted to final judgment. After decree of sequestration, no action at law shall be maintained on any claim against the bank, unless the court, or a justice thereof in vacation, on application therefor within the time above named, shall authorize it, and in such case the receiver shall be made a party; any judgment recovered as herein provided shall be added to the claims against the bank.

**Claims not presented in time, barred.** **SEO. 124.** All claims not presented to the commissioners within the time fixed by the court, or litigated at law as aforesaid, shall be forever barred.

**S. J. court or justice thereof may, on petition and examination, reduce deposit account of each depositor.** **1880, c. 190, 68 Me., 399, 402.** **SEO. 125.** Whenever any savings bank, institution for savings, or trust and loan association, shall be insolvent by reason of loss on or by depreciation in the value of, any of its assets, without the fault of the trustees thereof, the supreme judicial court in term time, or any justice thereof in vacation, shall, on petition, in writing, of a majority of the trustees and the bank examiner, setting forth such facts, appoint a time for the examination of the affairs of such corporation, and cause notice thereof to be given to all parties interested, in such manner as may be prescribed; and, if upon an examination of its assets and liabilities, and from other evidence, he shall be satisfied of the facts set forth in said petition, and that the corporation has not exceeded its powers, nor failed to comply with any of the rules, restrictions, and conditions provided by law, he may, if he shall deem it for the interest of the depositors and the public, by proper decree, reduce the deposit account of each depositor so as to divide such loss pro rata among the depositors, thereby rendering the corporation solvent, so that its further proceedings would not be hazardous to the public or those having or placing funds in its custody, and the depositors shall not be authorized to draw from such corporation a larger sum than thus fixed by the court, except as hereinafter provided; *provided*, however, that *it shall be the duty of* the treasurer of such corporation [shall] to keep an accurate account of all sums received for such assets of the corporation held by it at the time of filing such petition; and if a larger sum shall be realized therefrom than the value estimated as aforesaid by the court, he shall, at such time or times as the court may prescribe, render to the court a true account thereof, and thereupon the court, after due notice thereof to all parties interested, shall declare a pro rata dividend of such excess among the depositors at the time of filing the petition. Such pro rata dividend may be declared by the court, whenever the court shall deem it for the interest of the depositors and the public, whether all, or

**Proviso.**

only a portion of such assets *have* [has] been reduced to money. No deposit shall be paid or received by such corporation after the filing of the petition, *till* [until after] the decree of the court reducing the deposits as herein provided. If the petition is denied, it shall be the duty of the bank examiner to proceed for the winding up of the affairs of the corporation, as provided in section one hundred and twenty-one.

SEC. 126. The examiner shall annually, on or before the first day of December, make a report to the governor and council, of the general conduct and condition of each of the banks visited by him, making such suggestions as he deems expedient. Such report shall be printed and laid before the legislature at its next session, and one copy sent to each savings bank in the state by the secretary of state.

SEC. 127. If, in the opinion of the examiner, any savings bank or its officers or trustees shall be found to have persistently violated any law in relation to savings banks, or institutions for savings, he shall forthwith report the same, with such remarks as he deems expedient, to the attorney general, who shall forthwith institute a prosecution for such violation in behalf of the state. The penalty for such violation, unless otherwise prescribed, shall not be less than one hundred dollars, nor more than five hundred dollars.

SEC. 128. Savings banks and institutions for savings *that* [which] have exercised the privileges of a savings bank or institution for savings and done business as such for the term of one year, shall be held to be legally organized.

SEC. 129. The clerks of savings banks or institutions for savings shall make return of the annual election of officers to the bank examiner, within ten days after their election and qualification.

SEC. 130. Any person or persons not authorized by act of the legislature, who shall advertise his business as that of a savings bank, or shall receive deposits under pretence of conducting a savings bank, shall be punished by a fine of one hundred dollars for each offence; but nothing in this chapter shall be construed as prohibiting any person from advertising his business as a banker, and offering to take and taking deposits to be loaned upon such terms and conditions as the depositor may prescribe. \*

SEC. 131. The powers, privileges, duties and restrictions, conferred and imposed upon any savings corporations, by whatever name known, by its charter or act of incorporation, are hereby abridged, enlarged or modified, as each particular case may require,

[\*NOTE. The commissioner is not sure that he understands the precise application of the word "loaned" in the last line but one of § 129.]

CHAP. 47.  
Deposit not  
to be paid or  
received  
after filing  
petition, un-  
til decree of  
court.

Proceedings  
in case of  
denial of  
petitioiu.

Examiner to  
make annual  
report to  
governor  
and ;council,  
1877, c. 218,  
§ 37.

—to be  
laid before  
legislature.

Examiner to  
report vio-  
tions of law.  
1877, c. 218,  
§ 38.

Penalty.

Institutions  
legally or-  
ganized.  
1877, c. 218,  
§ 39.

Clerks annu-  
ally to return  
election of  
officers.  
1877,c.218,  
§ 40.

Punishment  
for unau-  
thorized  
persons ad-  
vertising  
business as  
a savings  
bank.  
1877, c. 218,  
§ 41.

Powers,  
privileges,  
duties, and  
restrictions,  
conferred by  
charters,

**CHAP. 47.** modified so as to conform to this chapter.  
1877, c. 218,  
§ 42.

Legality of former investments and transactions, affected.  
Securities valid.

Change of investments not required, except as it can be made without loss.

Investments in securities not named in this chapter, deemed a misdemeanor.

Loan and building associations, how organized.  
1877, c. 198, § 1.

—constituted a body corporate and politic.  
Powers.

Seal.

May hold and convey property.

Perpetual succession.

Frst meeting how called.  
1877, c. 198, § 2.  
Examiner's fee.

Capital stock.

in such manner that *each and every* such charter or act of incorporation shall be made to conform to the provisions of this chapter, relating to savings banks, and to such amendments as may be made thereto; and *each and every* such savings corporation shall possess the powers, rights and privileges, and be subject to the duties and restrictions and liabilities conferred and imposed by this chapter, anything in their respective charters or acts of incorporation to the contrary notwithstanding. But nothing in this chapter shall be

construed to affect the legality of investments made, of transactions had, or the payment of interest at a rate not exceeding six per cent. on deposits made, until the dividend next following the eleventh day of March, eighteen hundred and seventy-seven. But the securities shall be valid in favor of the bank, pursuant to any provisions of law in force when such investments were made, or transactions had, and this chapter shall not be construed to require

the change of investments for those named herein, except as the same can be done gradually by the sale or redemption of the securities so invested in, in such manner as to prevent loss or embarrass-  
ment in the business of such corporation, or unnecessary loss

or injury to the borrowers on such securities. And the investments thereafter in any securities not named in this chapter shall be deemed a misdemeanor, on the part of the trustees authorizing, or officers making, the same; and such trustees or officers shall be subject to the prosecutions and punishments prescribed by law for that offence.

#### LOAN AND BUILDING ASSOCIATIONS.

**SEC. 132.** Loan and building associations may be organized in the manner provided in this chapter, for the organization of savings banks, [and] trust and loan associations; and upon filing of any certificate of authorization of a loan and building association with the secretary of state, as so provided, the persons therein named, their associates, successors and assigns, shall, thereupon and thereby, be duly and lawfully constituted a body corporate and politic, and [such body] may make and use a common seal, hold, manage and convey real and personal property, sue and be sued, prosecute and defend suits in law or in equity, have perpetual succession each by its corporate name, and make and ordain by-laws for its government not repugnant to the constitution and laws of the state.

**SEC. 133.** The certificate of authorization issued by the bank examiner, shall provide the method of calling the first meeting of the association. Each association shall pay the bank examiner the sum of five dollars for his services in advance.

**SEC. 134.** The capital stock of each association shall consist of not more than thirty-five hundred shares, to be issued in one or

successive series as shareholders may vote. Each shareholder shall, on each *and every* share of stock held by him, pay *the sum* of one dollar on such day or days in each *and every* month, and to such officer, as the by-laws shall require, until the value of the whole fund of the series to which such shares may belong shall be sufficient to divide to each share of that series the sum of two hundred dollars. Every share shall be subject to a lien, for the payment of any unpaid instalments and other charges incurred thereon, under the provisions of this chapter and the by-laws, and the by-laws may provide the method of enforcing such lien. New shares may be issued in the place of shares withdrawn, forfeited or redeemed.

SEC. 135. Each shareholder, for each *and every* share of stock held in any association, shall be entitled to receive a loan not exceeding two hundred dollars, such loan to be disposed of by the directors, at stated monthly meetings, to the shareholder who shall bid the highest premium for the preference or priority of the loan. Whenever a shareholder shall be entitled by such preference to a loan, he shall give such security for the repayment of the same and interest as the directors may deem sufficient, and in addition thereto, he shall assign to the association one share of stock for every sum of two hundred dollars or fraction thereof borrowed by him, which stock so assigned shall be held as collateral security for the repayment of such loan. In case such shareholder neglects to offer security approved by the directors, within such time as the by-laws provide, he shall be charged with one month's interest on the loan, together with expenses incurred, and the money may be loaned to the next highest bidder or re-sold at the next meeting. In case of non-payment of instalments or interest, by borrowing shareholders, for the space of six months, payment of principal and interest, without deducting premium paid, may be enforced by proceeding on the securities according to law. Loans may be repaid at any time before due, and, if before the expiration of eight years from the commencement of the series to which it belongs, there shall be deducted from the same one eighth of the premium paid for each of said eight years then unexpired.

SEC. 136. Any shareholder, who has not received a loan from the association, wishing to withdraw from the same may do so by giving thirty days' notice of his intention so to do, when he shall be paid the amount he has paid into the association, and such proportion of the profits as the shareholders may vote, less the amount of any fines and charges; *provided*, [that] at no time shall more than one half the funds in the treasury be applicable to the demands of withdrawing members, without the consent of the directors. Upon the death of a shareholder, his legal representatives shall be entitled

C H A P. 47.  
1877, c. 198, §3.  
Monthly  
payments on  
shares.

—subject to  
lien.

New shares  
may be  
issued.

L o a n s to  
share-  
holders.  
1877, c. 198, §4.  
How dis-  
posed of.

S e c u r i t y .

I n t e r e s t to  
be charged  
in case of  
neglect.

P a y m e n t of  
p r i n c i p a l  
a n d i n t e r e s t.  
L o a n s , w h e n  
p a y a b l e .

Share-  
holders may  
withdraw  
from asso-  
ciation.  
1877, c. 198, §5.

P r o v i s o .

D e a c e s s o f  
share-  
holders , pro-

**CHAP. 48.** to receive the full amount paid in, with six per cent. interest on the same, first deducting all fines and charges that may be due thereon; or such representatives may assume and pay future instalments under the same rights and liabilities of [as the] deceased. The money received for the shares of a deceased shareholder, or the shares themselves, as the case may be, shall descend to the same persons and be distributed in the same manner that money received from a policy of life insurance on the life of a deceased person now does by law.

**Money of deceased shareholder, how distributed.**

**Directors may invest money.**

**1877,c.198,§6.**

to receive the full amount paid in, with six per cent. interest on the same, first deducting all fines and charges that may be due thereon; or such representatives may assume and pay future instalments under the same rights and liabilities of [as the] deceased. The money received for the shares of a deceased shareholder, or the shares themselves, as the case may be, shall descend to the same persons and be distributed in the same manner that money received from a policy of life insurance on the life of a deceased person now does by law.

**Minors may hold shares.**

**—exemption.**

**1877,c.198,§7.**

**SEC. 137.** When no applications are made to borrow the money in the treasury, at any monthly meeting of the directors they may invest such money as they may deem for the best interests of the association.

**SEC. 138.** Minors may hold shares by trustees, and at least two shares of each shareholder shall be exempt from attachment and execution.

[**NOTE.** Chapter one hundred and eighty-three of the public laws of 1871, entitled "an act additional to an act entitled 'an act to enable the banks of this state to become banking associations under the laws of the United States,' approved February twenty-four, eighteen hundred and sixty-five."

And chapter sixty-six of the public laws of 1876, entitled "an act to repeal charters of Savings Banks and Banking Institutions which have not organized or shall not have organized previous to August first, eighteen hundred and seventy-six," not being of general and public interest at the present time, have been omitted from this revision.]

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## CHAPTER 48.

### MANUFACTURING, MINING AND QUARRYING CORPORATIONS.

#### MANUFACTURING CORPORATIONS.

- SEC. 1.** Powers, liabilities and officers of manufacturing corporations.
- 2.** Officers when chosen. Number of directors. President, Treasurer to give bond. Clerk to be sworn.
- 3.** First meeting how called. By-laws.
- 4.** Capital fixed, divided into shares, names of owners and their shares entered of record at first meeting. Capital may be increased.
- 5.** Certificates of stock to be issued, transferable.
- 6.** Assessments may be made, and shares sold for neglect to pay.
- 7.** Notice of sale, how given; title of purchaser.
- 8.** Treasurer to publish statements semi-annually; what to contain. Penalty.
- 9.** When capital becomes impaired, stock may be reduced. Par value of shares reduced proportionally.
- 10.** Remedy for objecting stockholder. Proceedings.
- 11.** Copy of proceedings to be filed with secretary of state. Penalty.

- SEC. 12. Such corporation may authorize issue of new shares. CHAP. 48.
13. Prohibition to contract debts beyond a certain amount; otherwise stockholders liable individually.
14. Dividends may be made, but not to reduce capital or debts due. Penalty.
15. Names of directors and clerk, and schedule of property, to be furnished to an officer having writ against company.
16. Officer having an execution may elect to take debts due corporation; proceedings.
17. Person refusing to obey two preceding sections, subject to penalty.
18. Books to be produced on trial for a penalty.
19. Children under fifteen years of age not to be employed without proof of schooling. Certificate of teacher, evidence.
20. Penalty for violation. Superintending school committee to inquire, and county attorney to prosecute.
21. Persons under sixteen years of age not to be employed more than ten hours a day. Penalty.

**MANUFACTURING, MINING AND QUARRYING COMPANIES INCORPORATED  
BY GENERAL LAW.**

- SEC. 22. Three or more persons may organize themselves into a corporation, and how. Amount of stock and officers thereof.
23. Before doing business, officers to prepare a certificate of facts, to be examined and approved by attorney general, and then recorded in registry of deeds and secretary of state's office. Their pay.
24. Then to be a corporation, subject to this and chapter forty-six.
25. Such corporations may by majority vote increase stock and number of directors. Limit. Notice to secretary of state.

**MANUFACTURING CORPORATIONS.**

SEC. 1. Manufacturing corporations are to exercise the powers and be subject to the duties and liabilities contained in this and the forty-sixth chapter, and in their charters. They are to have a president, directors, clerk, treasurer, and any other desirable officers.

SEC. 2. These officers are to be chosen annually, and are to continue in office till others are chosen and qualified in their stead. There are not to be less than three directors, one of whom is to be by them elected president. No director can hold such office after he ceases to be a stockholder. The treasurer is to give bond for the faithful discharge of his duties, in such sum, and with such sureties, as are required. The clerk is to be sworn, and to record all votes of the corporation in a book kept for that purpose.

SEC. 3. The first meeting may be called by a majority of the persons named in the act, in the manner prescribed in section four, chapter forty-six, giving fourteen days notice thereof. By-laws may be made and enforced as provided in section seven of that chapter.

SEC. 4. The capital is to be fixed within the limits of the charter and divided into shares; and the names of owners, and the

Powers, liabilities and officers of manufacturing corporations.  
R.S., c. 48, § 1.

Officers, when chosen, 1881, c. 47.

Treasurer to give bond.

Clerk to be sworn.

First meeting, how called.  
By-laws.  
R.S., c. 48, § 3.

Capital fixed and divided into shares.

**CHAP. 48.** number of shares owned by each, are to be entered of record at its first meeting. The capital may be subsequently increased to the amount allowed by its charter by adding to the number of shares.

Names of owners and their shares entered of record.  
R.S.,c.48, § 4.  
Certificates of stock to be issued;  
transferable.  
R.S.,c.48, § 5.

SEC. 5. Certificates, stating the number of shares owned by them, signed by the treasurer, with the seal of the corporation affixed, are to be furnished to the stockholders. They are transferable, as provided in the thirteenth section of chapter forty-six.

Assessments may be made and shares sold for neglect to pay.  
R.S.,c.48, § 6.

SEC. 6. Assessments, not exceeding the amount originally limited for a share, may be made on all the shares, to be paid to the treasurer, in such instalments and at such times as are ordered. If a stockholder neglects to pay such assessments on his shares for thirty days, the treasurer may sell at public auction a sufficient number of them to pay the same with incidental charges.

Notice of sale, how given; title made to purchaser.  
R.S.,c.48, § 7.

SEC. 7. The treasurer, before the sale, is to give notice of the time and place of such sale, and of the amount due on each share, in a newspaper printed in the town, if any, if not, in the county where the manufactory is established, otherwise in the state paper, three weeks successively; and a certificate of the sale of such shares, made by the treasurer, and recorded as transfers are required to be, transfers the title to the purchaser.

Treasurer to publish statements semi-annually; what to contain, penalty for neglect.  
R.S.,c.48, § 8.

SEC. 8. The treasurer is to publish semi-annually, in the months of January and July, in such newspaper as [is] designated in the preceding section, a statement under oath of the amount of assessments actually paid in, of the existing capital, of the debts due, of the capital invested in real estate and fixtures upon it, including machinery, and of the last valuation of the real estate, and of the aggregate value of the taxable property of the corporation, as fixed by assessors. For neglect or refusal to publish such a statement, the treasurer on indictment and conviction, is to be fined not exceeding two thousand dollars, or imprisoned less than one year. For such neglect or refusal, or for publishing a false statement, with intent to injure a present or future creditor of the corporation, he shall be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail less than one year, or in the state prison not exceeding ten years, any or all of them according to the aggravation of the offence.

When capital of any corporation becomes impaired, stock may be reduced.  
1878,c.16, § 1.

Par value of shares re-

SEC. 9. Whenever the assets of any corporation have been diminished by losses or depreciation of property, so that its capital is impaired, such corporation, at any meeting of the stockholders legally called therefor, with the consent expressed at such meeting or at any adjournment thereof, of not less than two thirds in amount of all the outstanding stock of said corporation, may reduce the outstanding stock to the extent of such impairment, and there-

upon the par value of all shares issued or to be issued shall be reduced proportionally. CHAP. 48.  
duced pro-  
portionally.  
Remedy for  
any stock-  
holder who  
has not  
agreed  
thereto.  
1878,c.16, § 2.

**SEC. 10.** Within thirty days after such reduction is made, any stockholder who has not agreed thereto, may file a bill in equity in any county in which said corporation has an established place of business, or [in which it] held the last stockholders' meeting, for a revision of the proceedings of the corporation in making said reduction, upon which such proceedings may be annulled or modified, so that such reduction shall not exceed the actual impairment of capital. The action of the court, or, if no bill is filed as aforesaid, the action of the corporation, as provided in the preceding section, shall be conclusive upon all parties, whether stockholders or creditors, and such reduction shall not create any personal liability whatever of any stockholder or officer of such corporation. —proceed-  
ings may be  
annulled or  
modified.  
—action of  
court, or if  
no bill is  
filed, action  
of corpora-  
tion to be  
conclusive.

**SEC. 11.** The clerk or secretary of said corporation shall file with the secretary of state a certified copy of such proceedings, within thirty days after they are taken, or *suffer a penalty of* [forfeit] one thousand dollars, to be recovered by an action of debt in favor of any existing or future creditor of such corporation first suing therefor in any court or county in which a transitory action between the same parties can lawfully be brought. Copy of pro-  
ceedings to  
be filed with  
secretary of  
state.  
1878,c.16, § 3.  
—penalty  
for failure,  
how recov-  
ered.

**SEC. 12.** Simultaneously with or after such reduction of stock of any corporation, such corporation may from time to time authorize the issue of new shares of stock, of the reduced par value, until the gross capital shall equal the gross capital authorized by the charter or articles of association of said corporation before such reduction was made, although the new shares should increase the whole issue of shares beyond the number of shares authorized by such charter or articles of association. Corporation  
may author-  
ize issue of  
new shares  
of stock.  
1878,c.16, § 4.

**SEC. 13.** *These corporations are prohibited to contract debts exceeding, at any one time, the amount of their capital invested within the state in real estate and fixtures thereon, including machinery; and from becoming indebted to an amount exceeding one half their capital paid in and remaining undivided, and of their other property and assets.\** Power to  
contract  
debts  
limited.  
R.S.,c.48, § 9.  
1872,c.205,§ 5.  
43 Me., 403.  
49 Me., 530.  
55 Me., 20-22.  
60 Me., 506.  
63 Me., 382-3.

**SEC. 14.** Dividends of profit may be made by the directors, but the capital or the debts due are not thereby to be reduced, until all debts due from the corporation are paid. Any officer or member, who votes or aids to make a dividend in violation hereof, is liable to a fine not exceeding two thousand dollars, and to imprisonment less than one year; and all sums received for such dividends Dividends  
may be  
made; but  
not to re-  
duce capital  
or debts due.  
—penalty.  
R.S.,c.48,\$10.

\* [NOTE. Inasmuch as the penalty for violation of this section has been repealed by 1872, c. 205, § 5, ought not the section itself to be repealed, as valueless? See *Poor v. Willoughby*, 64 Me., 383. The commissioner is indebted for this suggestion to Davis & Bailey, Esq's, of Bangor.]

CHAP. 48. may be recovered by any creditor of the corporation in an action on the case.

Names of  
directors,  
clerk and  
schedule of  
property to  
be furnished  
to an officer.  
R.S., c.48, §11.

Officer hav-  
ing an ex-  
ecution may  
elect to take  
debts due to  
corporation;  
proceedings.  
R.S., c.48, §12.

Penalty for  
persons  
refusing to  
comply with  
§§ 15 and 16.  
R.S., c.48, §13.

Books to be  
produced on  
trial for  
penalty.  
R.S., c.48, §14.

Children un-  
der 15 years  
of age not to  
be employed  
without  
proof of  
schooling.  
R.S., c.48, §15.

Penalty for  
violation of  
preceding  
section.  
1880, c. 221.

Duty of sup-  
erintending  
school com-  
mittees and  
county  
attorney.

No person  
under 16  
years of age  
to be em-

SEC. 15. Every agent or person having charge of corporate property, *is* [shall] on request, *to* furnish the names of the directors and clerk, and a schedule of all property, including debts known by him to belong to the corporation, to an [-y] officer having a writ or execution against the corporation for service.

SEC. 16. An officer, having an execution against such a corporation and unable to find property liable to seizure, or the creditor, may elect to satisfy it, in whole or in part, by a debt due to the corporation not exceeding the amount due to the creditor, and a [the] person having custody of the evidence of such debt is to deliver it to such officer with a written transfer thereof to him for the use of the creditor, which is to constitute an assignment thereof, and the creditor, in the name of the corporation, may sue for and collect it, subject to any equitable set-off by the debtor.

SEC. 17. Any officer or other person, who unnecessarily neglects or refuses to comply with the provisions of the two preceding sections, forfeits not exceeding four times the amount due on such execution, and may be imprisoned less than one year.

SEC. 18. When a suit or prosecution is pending for a violation of any provision hereof, the clerk or person having custody of the books of the corporation, upon reasonable written notice for the purpose, is to produce them on trial; and for neglect or refusal so to do, he is liable to the like fine or imprisonment as the party on trial would be on conviction.

SEC. 19. No child can be employed or suffered to work in a cotton or woolen manufactory without having attended a public school, or a private one taught by a person qualified to be a public teacher, if under twelve years of age, four months, if over twelve and under fifteen years of age, three months, of the twelve next preceding such employment, in each year. A certificate under oath of such teacher, filed with the clerk or agent before employment, is to constitute the proof of such schooling.

SEC. 20. Any owner, agent or superintendent of such manufactory, for each violation of the provisions of the preceding section, forfeits one hundred dollars, to be recovered by indictment, one half to the prosecutor and the other to the town where the offence was committed, to be added to its school money. Superintending school committees shall inquire into such violations, and report them to the county attorney, who, on reception thereof, shall prosecute therefor.

SEC. 21. No person under the age of sixteen years *is to* [shall] be employed by any corporation more than ten hours of a day. Any person violating this provision forfeits one hundred dollars, one

half to the town where the offence is committed, and the other to the use of the person employed; to be recovered by indictment.

MANUFACTURING, MINING AND QUARRYING COMPANIES INCORPORATED BY GENERAL LAW.

SEC. 22. Three or more persons may associate themselves together by written articles of agreement, for the purpose of carrying on any manufacturing, mechanical, mining or quarrying business. Their first meeting shall be called by one or more of the signers of said articles, by giving notice thereof, stating the time, place and purposes of the meeting to each signer, in writing, or by publishing it in some newspaper printed in the county, at least fourteen days prior to the time appointed therefor. At such meeting they may organize into a corporation, adopt a corporate name, define the purposes of the corporation, fix the amount of the capital stock, which shall not be less than one thousand dollars, nor more than five hundred thousand, divide it into shares, and elect a president, not less than three directors, a *secretary*, [clerk,] treasurer and any other necessary officers, and adopt a code of by-laws.

SEC. 23. Before commencing business the president, treasurer and a majority of the directors shall prepare a certificate setting forth the name and purposes of the corporation, the amount of capital stock, the amount already paid in, the par value of the shares, the names and residences of the owners, the name of the county where [it is] located, and the number and names of the directors, and shall sign and make oath to it; and after it has been examined by the attorney general, and [been] by him certified to be properly drawn and signed and [to be] conformable to the constitution and laws, it shall be recorded in the registry of deeds in the county where the business is to be done, in a book kept for that purpose, and a copy thereof certified by such register shall be filed in the secretary of state's office, and he shall enter the date of filing thereon, and on the original certificate to be kept by the corporation, and he shall record said copy in a book kept for that purpose. And said corporation shall pay the attorney general and secretary of state five dollars each for their services in advance.

SEC. 24. From the time of filing such certificate in the secretary of state's office, the signers of said articles and their successors and assigns shall be a corporation the same as if incorporated by a special act, with all the rights and powers, and subject to all the duties, obligations and liabilities provided by this [chapter] and chapter forty-six.

SEC. 25. In case the stockholders of any corporation organized under section twenty-two, find that the amount of the capital stock

CHAP. 48.  
ployed more  
than ten  
hours a day.  
R.S., c.48, §17.

How three  
or more persons  
may  
organize  
themselves  
into a cor-  
poration.

—amount of  
stock and  
officers.  
R.S., c.48, §18.  
1880, c.177, §1.  
61 Me., 355-7.  
64 Me., 381.  
70 Me., 146.

See c. 46,  
§§ 1, 2.

See c. 46, § 8.

Before doing  
business,  
officers to  
prepare a  
certificate of  
facts, to be  
examined by  
attorney  
general and  
then record-  
ed in registry  
of deeds and  
secretary of  
state's office.  
R.S., c.48, §19.  
61 Me., 356-7.  
64 Me., 381.  
70 Me., 146.

—their fees.

Then to be a  
corporation,  
subject to  
this chapter  
and c. 46.  
R.S., c.48, §20.  
61 Me., 356-7.  
64 Me., 381-2.  
70 Me., 146.

Manufactur-  
ing, mining

**CHAP. 49.** as fixed by the articles of agreement is insufficient for the purposes and quarrying companies, authorized to increase capital stock and number of directors. 1871, c. 202. —secretary of state to be notified.

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## CHAPTER 49.

### INSURANCE AND INSURANCE COMPANIES.

- SEC. 1. Insurance companies subject to the provisions of this chapter and chapter forty-six.
2. Business to be managed by president and directors; how chosen; tenure of office; vacancies, how filled.
3. Companies may divide their directors into two or three classes. Their terms of office to be designated. Vacancies, how filled.
4. Secretary and other officers. Duties of secretary.
5. Manner of calling meetings.
6. Capital to be at least \$100,000.
7. Liability of stockholders in certain cases.
8. Capital, how invested.
9. Loans on respondentia or bottomry.
10. What property may be insured, and limit of insurance.
11. Valid on furniture owned partly by husband and partly by wife.
12. Policies, how executed.
13. Insurance companies not to engage in trade.
14. Dividends, when and how made.
15. Loss of capital to be repaired.
16. Marine insurance companies may divide certain profits.
17. Triennial statements to be made.
18. Not to insure after loss of capital.
19. Person authorized to receive applications and payments, to be deemed agent; notice to him, and all his acts, binding.
20. Statements of description and value are representations and not warranties. No omissions, concealments or mistakes of the insured shall prevent his recovery, unless they are fraudulent or increase the risk.
21. Insured to give notice of loss, and render a particular account thereof, under oath, to company, and if required, he shall exhibit books and vouchers and be examined on oath. Inconsistent provisions in policies, void.
22. Certain provisions not to be applied to mutual companies.

## MUTUAL COMPANIES.

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- SEC. 23. Mutual companies, insurance by, regulated.
24. Regulations to be set forth in the policies.
25. All persons insured to be members.
26. Assessments on premium notes. Married woman's note valid.
27. Policy and note one contract, and loss and other claims set off against it. If company fails, maker only ratably liable on note, and if in sixty days, not at all; and in no case beyond the amount of note. When insurance ends, note to be surrendered.
28. Lien on insured real estate, and how secured.
29. Remedy if assessment is not paid.
30. Lien good on property of deceased persons insured.
31. Annual statements to be made, and published.
32. Compensation of officers. Votes by proxy limited.
33. Assessments may be examined by court, on application of any member, officer, policy-holder or creditor. Admitted claims, how adjusted when directors refuse to make assessment.
34. Order of notice and proceedings.
35. Auditor or master to be appointed. Proceedings.
36. Assessment, when final. Costs. Control of funds and payment of assessments.
37. Collection of insufficient assessment may be stayed.

## ORGANIZATION OF INSURANCE COMPANIES UNDER GENERAL LAW.

- SEC. 38. Insurance companies, how organized. Their rights and obligations.
39. Articles of agreement, what they must set forth. Capital cannot be less than \$100,000.
40. Mutual companies may be thus organized on certain conditions.
41. When new companies may issue policies.
42. May adopt a name, subject to approval of commissioner.
43. First meeting, how called.
44. Organization to be effected at first or adjourned meeting. Proceedings. Majority of subscribers must act.
45. President, secretary, etc., to be chosen.
46. Sworn certificate of articles of association to be signed by officers and submitted to commissioner for approval, and to be recorded by secretary of state. Form.
47. Capital stock, how increased. Sworn certificate thereof to be presented to commissioner. When authorized to transact business on new capital.
48. Fees of secretary of state.
49. Dividends not to exceed six per cent. Certificate of profits and increase of capital stock thereby.
50. Place of business and meetings must be in the state, and majority of directors must be citizens. Inconsistent provisions of charters and by-laws repealed.

## RIGHTS OF ASSIGNEES.

- SEC. 51. Assignee of policy may sue in his own name. Limitations.

## LIEN OF MORTGAGEES.

- SEC. 52. Lien of mortgagee upon policy.
53. How enforced, if mortgagor does not consent.
54. How amount recovered in suit is to be applied. Costs of suit if company defends.
55. Priority of mortgages, how determined.
56. Claims of mortgagee, when to be void.

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## SECURITIES DEPOSITED WITH STATE TREASURER.

- SEC. 57. Insurance companies may deposit securities with treasurer of state.  
 58. Treasurer to furnish certificate thereof.  
 59. Interest or dividend may be collected by the company. Securities, how withdrawn.  
 60, 61. When to be returned to the company.  
 62. Duty of treasurer in case of failure of the company.  
 63. Treasurer's fees.

## THE APPOINTMENT, TENURE OF OFFICE, POWERS, DUTIES AND COMPENSATION OF THE INSURANCE COMMISSIONER.

- SEC. 64. Appointment, tenure of office, salary and duties of insurance commissioner. He must keep an accurate account of his fees and settle the same. Also a record of his official acts.  
 65. He shall examine domestic insurance companies, and may require the production of books and papers, and ask questions of officers. Penalty for refusing.  
 66. New companies to organize in two years, or charter void. No such company to do business without a license from the commissioner. Fee therefor. Annual renewal of license.  
 67. When the commissioner thinks any domestic company insolvent, he shall apply for an injunction. Proceedings thereon. Clerk's fees, how paid.  
 68. Proceedings in case of life insurance companies.  
 69. Capital stock of insurance companies to be restored by assessment, when net assets are reduced to three fourths of stock. Proceedings. To what extent company may reduce its capital stock.  
 70. Domestic company violating the foregoing section, proceedings against.  
 71. Foreign companies required to restore capital stock. Proceedings in case of neglect.  
 72. No foreign insurance company shall do business in the state without exhibiting its financial condition to the commissioner, and receiving a license from him, to be annually renewed. Fees.  
 73. No person shall act as agent of any insurance company without filing a copy of his power of attorney with the commissioner and receiving a license. Penalty therefor. Fees of commissioner. Policy issued without license, valid.  
 74. Commissioner may license insurance brokers. Fees therefor. Penalty for acting without license.  
 75. Commissioner may suspend operations of unsafe foreign companies. Penalty for doing business thereafter. Commissioner may require statement of their condition.  
 76. When such companies are dissolved or restrained at home, or suspended by the commissioner, court may appoint receivers, who may maintain actions in their own names.  
 77. Companies to make annual returns to commissioner on blanks furnished by him.  
 78. Foreign companies annually to publish condensed statement of their condition in each county where they issue policies. Penalty.  
 79. Commissioner may visit and examine foreign insurance companies doing business in the state, and employ assistants. Expenses to be paid by company. Proviso.  
 80. His authority over books, papers and officers of such company. Penalty if company refuses to submit to his examination.

- SEC. 81. Commissioner to preserve statements of all companies examined by him and all rendered to him; and annually to report to governor and council and publish the condition thereof.
82. When commissioner may suspend an insolvent foreign life insurance company. Penalty for issuing policies afterwards. How it may resume business.
83. Company may appeal to a judge of S. J. C. from the decision of the commissioner suspending its business or refusing to allow it to resume. His decision final.
84. Penalties, how recovered. County attorney to prosecute.
85. Receivers, powers and proceedings of.

#### INQUESTS INTO INSURANCE FRAUDS.

- SEC. 86. Investigation of insurance frauds by commissioner or magistrate appointed by him, on application of an officer of insurance company. Fees therefor.

#### FOREIGN INSURANCE COMPANIES AND AGENCIES.

- SEC. 87. Definition of "domestic" and "foreign."

88. No foreign fire or marine insurance company to do business in the state without a paid up capital of \$200,000; no foreign life insurance company with less than \$100,000, and no stipulations in charter, by-laws or policy, shall defeat jurisdiction or limit right of action to less than two years.
89. Suits against foreign companies may be brought in courts of this state. Service, how made. When judgment against them is not paid in thirty days after demand, commissioner may suspend their operations. Penalty for violating such suspension; but policy so issued, binding.
90. Agents of all insurance companies regarded as principals; and all notices served on them binding on the principals; and all knowledge by them same as by principal.

#### LIFE INSURANCE.

- SEC. 91. What life policies are continued in force after forfeiture, and to what extent. Proceedings. Endowment policies.
92. In case of death during term of continued insurance, amount of policy must be paid. Proviso.
93. Life risks exceeding one half not to be re-insured except by permission of commissioner.
94. How far life and accident policies are exempt from attachment in the life time of the insured.

#### STOCK COMPANIES.

- SEC. 1. All incorporated insurance companies may exercise the powers, and shall be subject to the duties and liabilities contained herein and in chapter forty-six, so far as [is] consistent with the provisions of their charters.

- SEC. 2. The business of such companies shall be managed by not less than seven directors, who shall be chosen by the stockholders at the time and place and in the manner provided in their by-laws; be stockholders and citizens of the state, and hold their offices one year, and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the pur-

All companies subject to provisions of this and chapter 46.  
R.S., c.49, § 1.

Business to be managed by president and directors.  
How chosen.  
Tenure of office.  
Vacancies,

CHAP. 49. pose. In elections and other business, stockholders have one vote for each share. The directors shall choose one of their number president.

Directors of insurance companies may be divided into classes.  
1876, c. 70, § 1.  
Terms of office.  
1876, c. 70, § 2.

Vacancies, how filled.  
1876, c. 70, § 3.

Secretary and other officers.  
R.S., c. 49, § 3.  
65 Me., 379.

Manner of calling meetings.  
R.S., c. 49, § 4.

Capital to be at least \$100,000.  
R.S., c. 49, § 5.

Liability of stockholders in certain cases.  
R.S., c. 49, § 6.

Capital and assets, how invested.  
1881, c. 16.

SEC. 3. All insurance companies, stock or mutual, established in *this* [the] state, may, by their by-laws, divide their directors into two or three classes, to hold their office for two or three years, according to the number of classes, and until others shall be chosen in their stead. At the first election after such classification, the company shall designate the term for which each director is elected, in such manner that one class shall thereafter go out of office annually. Vacancies shall be filled for the remainder of the term of the class in which they occur. The repeal of such by-law shall not affect the term of the directors then in office; but all directors elected before such repeal shall hold office until the expiration of the term for which they were originally elected.

SEC. 4. Every stock company or the directors thereof, as often as once a year, shall, by ballot, elect a secretary, who shall be the clerk of the company and sworn to the faithful discharge of his duty; besides other duties required by the by-laws of the company, he shall keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders, and of the number of shares held by each, and record every transfer of shares in a book kept for the purpose. The directors may appoint such other officers as they think necessary.

SEC. 5. The secretary shall call special meetings of such company, besides any meeting for which the by-laws provide, to be held at the time and place, and for the purposes required in writing by the proprietors of one fifth of the capital stock; if the by-laws of such company prescribe no mode of calling such meeting, it may be notified in the manner prescribed in the act of incorporation for calling the first meeting.

SEC. 6. No insurance company shall be incorporated in this state with a capital of less than one hundred thousand dollars, to be paid in at the periods and in the proportions required by the charter.

SEC. 7. If any such company becomes insolvent before its whole capital is paid in by the stockholders, any creditor thereof may have his action on the case against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, to recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares.

SEC. 8. The capital and other assets of stock insurance companies, incorporated in this state, except such as may be needed for immediate use, shall be invested in the funded debt or bonds

of the United States, or any of the New England states, or in the bonds or securities of county, town, or other municipal corporations of said New England states, or in the purchase of real estate in fee, or loans on mortgages of real estate, or deposits in savings banks in said states, or in bonds or stocks of incorporated companies of said states, of an undoubted character for credit, insurance company bonds or stocks excepted, and in no case shall any such funds be loaned on the security of names alone.

—no loans to be made on names alone.

SEC. 9. Such company may loan to citizens of *this* [the] state, any portion not exceeding one half of its capital stock on respondentia or bottomry; but not unless at least three fourths of all the directors agree to such loan, and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting.

Loans on respondentia or bottomry.  
R.S., c.49, § 8.

SEC. 10. Such company may make insurance on vessels, freight, money, goods, and effects, against captivity of persons, on the life of any person during his absence at sea, on money lent on bottomry and respondentia, against fire on dwelling-houses or other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment; but no risk on any one bottom or on one building and contents shall exceed ten per cent. of its capital stock actually paid in.

What property may be insured.  
R.S., c.49, § 9.  
56 Me., 376.

SEC. 11. Insurance effected by a husband or wife on a dwelling-house owned by the insured and on the furniture therein, shall be valid for all the furniture, though part is owned by the husband and part by the wife.

—limit thereof.

SEC. 12. All policies of insurance shall be signed by the president, or in case of his death, inability, or absence, by any two of the directors, and countersigned by the secretary; and they shall be binding upon the company as if executed under its corporate seal.

Furniture owned part by husband and part by wife.  
R.S., c.49, § 10.  
45 Me., 473.  
51 Me., 111.  
Policies, how executed.  
R.S., c.49, § 11.  
56 Me., 377.

SEC. 13. Said company shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities whatever.

Insurance companies not to trade.  
R.S., c.49, § 12.

SEC. 14. The directors, at such times as their charter or by-laws prescribe, shall make dividends of so much of the profits of the company as they think advisable; but moneys received and notes taken for premiums on risks, which are undetermined at the time of making such dividends, shall not be part of said profits.

Dividends, when and how made.  
R.S., c.49, § 13.

SEC. 15. After any diminution of the capital stock by losses, depreciation or otherwise, no dividend shall be made until such diminution is supplied by actual funds, or the value restored.

Loss of capital to be repaired.  
R.S., c.49, § 14.

SEC. 16. Any marine insurance company may, by *the* by-laws or votes duly passed for that purpose, divide among the stockholders

Marine companies may

CHAP. 49. thereof, and the persons insured therein, in proportion to the stock owned by such stockholders, and to the amount of premiums paid by the insured on risks terminated, all the clear profits of the company above six per cent. *per annum* [a year] on its capital stock. Before such division is made, all arrearages of dividends to stockholders, required to make up their annual dividends equal to six per cent. *per annum*, [a year] shall first be paid.

Triennial statements to be made.  
R.S., c.49, §16.

SEC. 17. Once in every three years, and oftener if required by the stockholders, the directors shall lay before them at a meeting, an exact and particular statement of the affairs of the company, showing their profits, if any, after deducting losses and dividends.

Not to insure after loss of capital.  
R.S., c.49, §17.

SEC. 18. If the company sustains losses to an amount equal to *their* [its] capital stock, and the president or directors after knowing the same make any new or further insurance, the estates of all who made such insurance or [who] consent thereto, shall be jointly and severally liable for the amount of any loss which occurs under such insurance.

Person authorized to receive applications and payments, to be deemed agent; notice to him, and all his acts, binding.  
R.S., c.49, §18.

SEC. 19. An agent authorized by an insurance company, 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. (a)

Statements of description and value are representations and not warranties.

—no omissions, concealments or mistakes by insured shall prevent his recovery, unless fraudulent or increased risk.  
R.S., c.49, §19.

SEC. 20. All statements of description or value in an application or policy of insurance, shall be deemed representations and not warranties ; erroneous descriptions or statements of value or title by the insured, shall not prevent his recovering on his policy unless the jury find that the difference between the property as described and as it really existed, contributed to the loss or materially increased the risk ; a change in the property insured, [or in] its use or occupation, or a breach of any of the terms of the policy by the insured, shall not affect the policy unless they materially increase the risk ; nor shall any misrepresentation of the title or interest of the insured in the whole or a part of the property insured, real or personal, unless material or fraudulent, prevent

(a) 47 Me., 386; 49 Me., 203; 52 Me., 324; 54 Me., 170; 56 Me., 379; 59 Me., 432; 69 Me., 410; 70 Me., 539.

his recovering on his policy to the extent of his insurable interest. (a) CHAP. 49.

SEC. 21. In case of loss, under a policy against fire, the insured shall notify the company or its agent thereof, and within a reasonable time afterwards, shall deliver to the same, 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; to 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 [to be] true; the insured shall, if so requested, within ten days after notice of loss, exhibit to the agent or company his books of account, bills of parcels and any other vouchers in his possession, and shall if requested, submit to an examination under oath, in the place of his residence; no other preliminary proof of any kind shall be required before commencing an action against such company. All provisions contained in any policy of insurance, in conflict with any of the provisions hereof, are null and void, and all contracts of insurance made, renewed or extended in *this* [the] state, or on property within *this* [the] state, shall be subject to the provisions hereof. (b)

SEC. 22. The provisions in the foregoing sections relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profit thereon, and other provisions incidental to the nature of its fund, and such of said provisions as relate to the liability of directors or stockholders in case of deficiency of capital, and the regulations concerning the business of any such company contained in sections nine and ten, shall not be construed as applicable to mutual fire insurance companies; but the other preceding and the following provisions shall be binding on such companies, so far as [is] consistent with their charters.

Insured to give notice of loss and render a particular account thereof, of, under oath, to company, and if required, shall exhibit his books and vouchers, and be examined on oath.  
Inconsistent provisions in policies, void.  
R.S., c.49, §20.

Certain provisions not to be applied to mutual companies.  
R.S., c.49, §21.  
61 Me., 416.  
See §§ 9, 10.

#### MUTUAL COMPANIES.

SEC. 23. Domestic mutual fire insurance companies may make insurance for a term, not exceeding seven years, on dwelling houses, stores, shops, and other buildings, and on household furni-

Mutual companies, insurance by, regu-

(a) 45 Me., 171; 46 Me., 397, 501; 47 Me., 409; 48 Me., 286, 559; 49 Me., 203; 50 Me., 583; 51 Me., 99; 52 Me., 61, 182, 325, 335; 54 Me., 170; 57 Me., 137; 59 Me., 457, 582, 586; 61 Me., 416; 65 Me., 373; 69 Me., 411.

(b) 46 Me., 501; 47 Me., 386; 49 Me., 205, 284; 51 Me., 34; 52 Me., 326, 496; 53 Me., 109; 54 Me., 172; 56 Me., 380, 481; 64 Me., 500; 65 Me., 373; 67 Me., 184; 68 Me., 313.

CHAP. 49. ture, merchandise and other property, the contents of any building  
lated.  
R.S., c.49, §22. within *this* [the] state, against loss or damage by fire originating  
in any cause other than by design in the assured.

Regulations  
to be stated.  
R.S., c.49, §23.  
18 Me., 155.  
29 Me., 97, 292.

34 Me., 487.

Insured to

be members.

R.S., c.49, §24.

37 Me., 137.

Assessments  
on premium  
notes.

Married  
woman's  
note valid.

R.S., c.49, §25.

34 Me., 453.

49 Me., 448.

50 Me., 305.

53 Me., 226.

64 Me., 128-9.

Policy and  
note one  
contract, and

loss, &c., set  
off against it.

If company  
fails, maker  
only ratably  
liable on

note, and if  
in 60 days,  
not at all;

and in no case  
beyond am't  
of note.

When insur-  
ance ends,  
note to be

surrendered.  
R.S., c.49, §26.

48 Me., 274.

49 Me., 425.

64 Me., 128-9.

Lien on in-  
sured real  
estate, and

how secured.  
R.S., c.49, §27.

28 Me., 253.

SEC. 24. No by-law, rule, or requirement, made by any such  
company shall be binding on any person insured, to vacate his  
policy, unless it is distinctly set forth in the policy or renewal.

SEC. 25. Every person insured by such company, or his legal  
representatives or assigns continuing to be insured therein, shall be  
deemed a member of the company during the term specified in his  
policy, and no longer.

SEC. 26. The insured, before receiving his policy, shall deposit  
his promissory note for the sum of money determined by the  
directors; such part of it as the by-laws require, shall be immedi-  
ately paid towards incidental expenses and indorsed thereon; and  
the remainder shall be payable in such instalments, as the direc-  
tors, from time to time, require for the payment of losses and other  
expenses, to be assessed on all who are members when such losses  
or expenses happen, in proportion to the amounts of their notes.

A married woman may insure her property and give her note, with  
or without her husband, and it shall be as valid against her as if  
she was [were] unmarried.

SEC. 27. A policy of insurance, issued by life, fire or marine  
insurance company, domestic or foreign, and a deposit note given  
therefor, shall be deemed one contract; and a loss under such  
policy or other equitable claims may be proved in defence to said  
note, though it was indorsed or assigned before it was due; and  
where a company becomes insolvent, the maker of the note shall  
only be liable for the equitable proportion thereof which accrued  
during the solvency; and if the insolvency occurs within sixty  
days of the date of the note, it shall be void except for the amount  
of the maker's claim, if any, on the company. No insured shall  
be held to contribute to any losses or expenses beyond the amount  
of his deposit note. At the expiration of his term of insurance,  
his note, on payment of all assessments for which it is liable, shall  
be relinquished to him, except as provided in the next section.

SEC. 28. The company shall have a lien against the assured,  
on the buildings insured and the land appurtenant thereto, for the  
amount at any time due on said note, to commence from the time  
of the recording of the same, as hereinafter provided, and to con-  
tinute sixty days after the expiration of the policy, on which such  
note is given; if the company causes a certificate of its claim to  
such lien, signed by the secretary, to be recorded by the register  
of deeds for the county or district; and, during the pendency of  
such lien, an attachment of such property, in a suit on said note  
in favor of the company, shall have priority of all other attach-

ments or claims ; and execution, when recovered, may be levied on CHAP. 49. it accordingly.

SEC. 29. If an assessment, made as provided in section twenty-six, remains unpaid for thirty days after demand made by any agent of the company on any person liable to pay the note, the directors may sue for and collect the amount due on such note ; and the amount collected shall remain in the treasury of the company subject to the payment of such sums as might otherwise be assessed on the note ; and the overplus at the expiration of the policy shall be the property of the assured.

Remedy if  
assessment  
is not paid.  
R.S.,e.49,§28.  
48 Me., 78.

SEC. 30. Upon the decease of a member, the lien of the company shall remain good on the property insured to the amount due on the deposit note, and the policy shall descend to the executor or administrator of the deceased for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the provisions of the charter of the company.

Lien good  
on property  
of deceased  
persons  
insured.  
R.S.,e.49,§29.

SEC. 31. The directors of *each* [every] such company shall cause a detailed account of their expenses for the year next preceding their annual meeting, the amount of property actually insured at that time, the amount due on their premium notes, and amount of all debts due to and from the company, to be laid before the stockholders at their annual meeting in each year ; and a copy thereof shall be printed in some newspaper published in the county, if any, otherwise in the state paper ; but no such company, having an accumulated fund for the payment of losses, shall be required to publish the names of its debtors.

Annual  
statements  
to be made  
and pub-  
lished.  
R.S.,e.49,§30.

SEC. 32. The salary or compensation for services of the directors, treasurer, and secretary, shall be fixed by the stockholders at their annual meeting, and no stockholder or other person shall be allowed more than fifteen votes by proxy.

Compensa-  
tion of offi-  
cers. Votes  
by proxy  
limited.  
R.S.,e.49,§31.

SEC. 33. Whenever the directors of any mutual fire insurance company, or any mutual marine insurance company, shall make an assessment, or call on its members for money, or shall by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policy-holder, or creditor, may apply to the supreme judicial court for any county, by a petition in the nature of a bill in equity, praying the court to examine said assessment or call, or to determine the necessity therefor, and all matters connected therewith, and to ratify, amend or annul the assessment or call, or to order that the same be made as law and justice may require ; *provided*, [that] such application, when made by any party except the corporation, or a receiver, or the insurance commissioner, shall rest in the discretion of the court. And whenever the directors shall unreason-

Assess-  
ments, when  
made, may  
be examined  
by the court,  
on applica-  
tion of par-  
ties inter-  
ested.  
1875,e.20, § 1.

**CHAP. 49.** ably neglect to make an assessment or call, to satisfy an admitted Claims, how or ascertained claim upon the company, any judgment creditor, or adjusted, when directors neglect to make claim, or the insurance commissioner, may make the application *to the court*. assessments. Upon such application, if made by the directors, or upon order of court, if made by application of any other party, the directors shall set forth the claims against the company, its assets, and all other facts and particulars appertaining to the matter.

**Order of notice to parties interested.** SEC. 34. The court before which such petition is filed, shall order notice to be given to all parties interested, by publication or otherwise, and the petition may be filed in vacation, in which case the order of notice may be made by any justice of the court; and

**Court may examine and determine the case.** upon the return thereof, the court shall proceed to examine the assessment or call, or the necessity therefor, and all matters connected therewith; and any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as in other equity cases. The court may refer the apportionment.

**Assessments altered or amended, proceedings in case of.** The court may refer the apportionment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered to be made, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer.

**Time and place for hearing parties, appointment of.** SEC. 35. Whenever the court shall appoint a master or auditor to make the apportionment or calculation for an assessment under the foregoing provisions, such master or auditor shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing, to the insurance commissioner, and through the post office, or in such other manner as the court shall direct, so far as he may be able, to all persons liable upon said assessment or call. And said auditor or master shall hear the parties, and make report to the court of all his doings respecting such assessment or call, and all matters connected therewith, and all parties interested in such report or assessment.

**Auditor shall hear parties and report to the court.** And said auditor or master shall hear the parties, and make report to the court of all his doings respecting such assessment or call, and all matters connected therewith, and all parties interested in such report or assessment shall have the right to be heard by the court, respecting the same, in the same manner as is above provided.

**Right of parties to be heard.** SEC. 36. When an assessment or call has been, as above provided, ratified, ascertained, or established, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call as to the necessity of the same, the authority of the company to make or collect the same, the amount thereof, and all formalities connected therewith. And where an assessment or call hereafter made shall be altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call shall be binding upon

**Assessment when final.**

1875, c. 20, § 4.

**—amended, made final.**

all parties who would have been liable under it as originally made, CHAP. 49.  
 and in all legal proceedings shall be held to be such original  
 assessment or call. All proceedings above provided for shall be  
 at the cost of the company, unless the court for cause otherwise  
 order; and in all cases the court may control the *disposition* [dis-  
 posal] of the funds collected under these proceedings, and may  
 issue all necessary processes to enforce the payment of such assess-  
 ments against all persons liable therefor.

SEC. 37. Whenever it shall appear to the presiding judge of  
 the court before which such petition is pending, that the net pro-  
 ceeds of any assessment or call will not be sufficient to furnish  
 substantial relief to those having claims against the company, *said*  
*judge* [he] may decree that no assessment shall be collected; and  
 when, upon *the* application of the insurance commissioner, or any  
 person interested, said judge shall be of opinion that further  
 attempts to collect any assessment then partially collected will not  
 benefit those having claims against the company, he may stay the  
 further collection of said assessment.

#### ORGANIZATION OF INSURANCE COMPANIES UNDER GENERAL LAW.

SEC. 38. Any ten or more persons, residents of *this* [the] state,  
 who shall have associated themselves together by an agreement in  
 writing, such as is hereinafter described, with the intention of consti-  
 tuting a corporation for the purpose of transacting the business of  
 insurance, either upon the stock or mutual principle, against loss  
 or damage by fire, by lightning, by tempest, or by the perils of  
 the sea, and other perils usually insured against by marine insur-  
 ance companies, including risks of inland navigation and trans-  
 portation, shall become a corporation upon complying with the  
 provisions of section forty-six, and shall remain a corporation  
 with all the powers, rights and privileges, and subject to all the  
 duties, liabilities and restrictions set forth in all general laws,  
 which are or may be in force relating to insurance corporations.

SEC. 39. Such agreement shall set forth the fact that the sub-  
 scribers thereto associate themselves with the intention to consti-  
 tute a corporation, the name by which the corporation shall be  
 known, the class or classes of insurance for the transaction of  
 which the corporation is to be constituted, the plan or principle  
 upon which the business is to be conducted, the town or city in  
 which it is established or located, and if a *joint* stock company,  
 the amount of its capital stock, and if a mutual company with a  
 guarantee capital, the amount thereof. The capital stock of a  
*joint* stock company organized for any of the purposes hereinbe-  
 fore mentioned shall not be less than one hundred thousand  
 dollars.

—costs, how paid.

—control of funds and payment of assessments, how enforced.

Assessment not sufficient, collection may be stayed.  
 1875,c.20,§5.

Insurance companies, how established.  
 1876,c.144,§1.

—rights, powers and privileges.

Articles of agreement, what they must set forth,  
 1876,c.144,§2.

—location, capital stock, &c.  
 —capital at least \$100,000.

**CHAP. 49.** SEC. 40. Any mutual insurance company may be organized under the provisions of sections thirty-eight to fifty inclusive, with a guarantee capital of not less than one hundred thousand dollars, divided into shares of one hundred dollars each; and no policy shall be issued by such corporation until one fourth, at least, of its guarantee capital shall have been paid in, in cash, and invested as provided in section eight.

New companies, when to issue policies.  
1876,c.144,§4.

SEC. 41. No policy shall be issued by a purely mutual company until applications shall have been made in good faith, for insurance to the amount of thirty thousand dollars; and no policy shall be issued by a *joint stock* company until its capital stock shall have been paid in, in cash, and invested as provided in section eight.

May adopt a company name.  
1876,c.144,§5.

—when insurance commissioner may object to name.

SEC. 42. Any name not previously in use by an existing corporation or company may be adopted, provided, that the words "insurance" or "mutual insurance," as the business is to be conducted, shall constitute a part of such title. The insurance commissioner may refuse his certificate hereinafter provided, until the adoption of a different name, if, in his judgment, the name adopted too closely resembles the name of an existing corporation or company, or is likely to mislead the public.

First meeting, how called.  
1876,c.144,§6.

SEC. 43. The first meeting for the purpose of an organization shall be called by a notice signed by one or more of the subscribers to such agreement, stating the time, place and purpose of the meeting, a copy of which notice shall seven days at least before the day appointed be given to each subscriber, or left at his usual place of business or residence, or deposited in the post office, postage prepaid, and addressed to him at his usual place of business or residence. Such notice shall be proved by affidavit of the person giving it.

Organization shall be effected.  
1876,c.144,§7.

—clerk.  
—by-laws.  
—directors.  
—clerk to record proceedings.  
—majority of subscribers necessary to form organization.

SEC. 44. At such first meeting, including any adjournment thereof, an organization shall be effected by the choice by ballot of a temporary clerk, who shall be sworn to the faithful discharge of his duties; by the adoption of by-laws consistent with the constitution and laws of *this* [the] state, and by the election in the manner provided by law, of directors and such other officers as the by-laws may require, but at such first meeting no person shall be a director who has not subscribed to the articles of association. The temporary clerk shall record the proceedings until and including the qualification of the secretary of the corporation by his being duly sworn. No organization shall be effected at any such meeting or its adjournment, unless a majority of the subscribers to the articles of agreement and association are present and voting. [vote.]

SEC. 45. The directors so chosen shall elect a president, a CHAP. 49.  
secretary and other officers which under the by-laws they are  
authorized to choose.

SEC. 46. The president, secretary and a majority of the directors shall forthwith make, sign and swear to a certificate setting forth a copy of the articles of association, with the names of the subscribers thereto, the date of the first meeting, and of any adjournment thereof, and shall submit such certificate and the records of the corporation to the inspection of the insurance commissioner, who shall examine the same, and who may require such other evidence as he may deem necessary. The commissioner, if it shall appear that the requirements of the two preceding sections have been complied with, shall certify that fact and his approval of the certificate by indorsement thereon. Such certificate shall thereupon be filed in the office of the secretary of state by said officers, and upon being paid by them the fee hereinafter provided, the secretary shall cause the same, with the indorsement thereon, to be recorded, and shall thenceforth issue to said corporation a certificate in the following form:

“STATE OF MAINE.

Be it known, that whereas” [names of subscribers to association] “have associated themselves with the intention of forming a corporation, under the name of —, for the purpose” [here the purpose declared in the articles of association shall be inserted,] “with a capital stock of \$—, and have complied with the provisions of the statutes of the state in such case made and provided, as appear from the certificate of the president, secretary and directors of said corporation, duly approved by the insurance commissioner and recorded in this office. Now, therefore, I, ——, Secretary of the State of Maine, do hereby certify that” [subscribers' names] “their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of the — company, with all the powers, rights and privileges, and subject to the duties, liabilities and restrictions which by law appertain thereto. Witness my official signature, hereunto subscribed, and the seal of the State of Maine hereunto affixed, this — day of —, A. D., —.” (In case of purely mutual companies, so much as relates to capital stock shall be omitted.)

The secretary of state shall sign the same and cause the seal of the state to be thereto affixed, and such certificate shall have the force and effect of a special charter, and be conclusive evidence of the organization and establishment of such corporation. Said certificate shall be duly recorded in the office of the secretary of

President,  
sec'y, &c.  
1876,c.144,§§.

Certificate  
of articles of  
association  
to be sub-  
scribed and  
sworn to.  
1876,c.144,§9.

—to be sub-  
mitted to in-  
surance com-  
missioner.

—to be ap-  
proved by  
commis-  
sioner and  
filed and re-  
corded in  
the office of  
secretary of  
state.

Form of  
certificate of  
organiza-  
tion.

Certificate to  
be recorded  
in office of  
secretary of  
state.

CHAP. 49. state, and a duly authenticated copy of such record may be used in evidence, with like effect as the original certificate.

Capital stock, how increased.  
1876, c. 144,  
§ 10.

Company shall present certificate to insurance commissioner.  
Certificate to be subscribed and sworn to.

Company, when authorized to transact business on increased capital.

Fees of secretary of state.  
1876, c. 144,  
§ 11.

Rate of dividends.  
1876, c. 144,  
§ 13.

Certificate of profits.  
Capital stock increased by amount of certificates issued.

Insurance commissioner to certify amount of capital stock.

Place of business and meetings must be in the state, and majority of directors citizens of state.  
1881, c. 57, § 1.  
Inconsistent charters, &c., repealed.  
1881, c. 57, § 3.

SEC. 47. Any *joint* stock insurance company may, at a meeting called for the purpose, increase the amount of its capital stock, and the number of shares therein, and within thirty days after the payment and collection of the last instalment of such increase, shall present to the insurance commissioner a certificate setting forth the amount of such increase, and the fact of such payment, signed and sworn to by the president, secretary and a majority of the directors of such corporation. The insurance commissioner shall examine the certificate and ascertain the character of the investments of such increase, and if the same conforms to law shall indorse his approval thereof, and such certificate shall then be filed with the secretary of state, and thereupon the company shall be authorized to transact business upon the capital so increased, and the insurance commissioner shall issue his certificate to that effect, and any mutual insurance company with a guarantee capital, may increase his capital in the same manner.

SEC. 48. The fees of the secretary of state for the services required in the two preceding sections shall be twenty dollars and ten dollars, respectively.

SEC. 49. No *joint* stock insurance company organized under the laws of *this* [the] state, shall declare cash dividends exceeding in amount six per cent. semi-annually on their capital stock; but any such company may issue, pro rata to its stockholders, certificates of such portion of its profits and income as the directors may from time to time determine, not including therein any portion of the premium money of risks not terminated, and after providing for all expenses, losses and liabilities then incurred; and the capital stock of such company shall be increased by the amount of the certificates of stock so issued; and whenever any increase of capital stock shall be made by any insurance company under the provisions of sections thirty-eight to fifty inclusive, a certificate thereof shall be filed with the insurance commissioner, whose *duty it shall be to certify* to the amount of the capital stock of the company so increased, in like manner as is provided in section forty-seven.

SEC. 50. All insurance companies incorporated and organized under the laws of *this* [the] state, shall have their principal place of business in some city or town in *this* [the] state, and a majority of its directors shall be citizens of the state. The meetings of the directors shall be held in *this* [the] state. The provisions of any charter inconsistent with this section, are repealed; and any by-law of any company inconsistent herewith is declared void.

## RIGHTS OF ASSIGNEES.

## CHAP. 49.

SEC. 51. The assignee of any policy, the assignment of which has been assented to by the company or its agent, may sue the company on the policy in his own name, and all sums due on such policy may be recovered in such suit, subject to any defence existing against the original party, the assignee so suing to hold the judgment or its proceeds subject to the claims and equities of any other parties who may be interested therein.

Assignee of policy may sue in his own name.  
1873,c.14§.§6.  
69 Me., 411.

## LIEN OF MORTGAGEES.

SEC. 52. The mortgagee of any real estate shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the secretary of the company a written notice, briefly describing his mortgage, the estate conveyed thereby, and the sum remaining unpaid thereon. If the mortgagor, by a writing by him signed, and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the company, and the mortgagee's receipt therefor shall be a sufficient discharge of the company *therefor*.

Lien of mortgagee upon policy.  
R.S.,c.49,§32.  
29 Me., 339.  
45 Me., 453.  
47 Me., 237.  
51 Me., 71.  
52 Me., 132.  
64 Me., 217.  
68 Me., 363.

SEC. 53. If the mortgagor does not so consent, the mortgagee may, at any time within sixty days after a loss, enforce his lien by a suit against the mortgagor, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived.

How enforced, if mortgagor does not consent.  
R.S.,c.49,§33.  
64 Me., 217.

SEC. 54. The amount so recovered shall be applied first to the payment of the costs of the suit and officer's fees on the execution, and next to the payment of the amount due on the mortgage; and the balance, if any, shall be retained by the company and paid to the mortgagor. If the company assumes the defence of the suit, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the suit, would be.

How amount recovered in suit is to be applied, costs.  
R.S.,c.49,§34.

SEC. 55. When two or more mortgagees claim the benefit of the three preceding sections, their rights shall be determined according to the priority of their claims and mortgages by the principles of law.

Priority of mortgagee, how determined.  
R.S.,c.49,§35.

SEC. 56. When any mortgagee claims the benefit of said sections, any policy of insurance, which he had procured or subsequently procures on his interest in the same property by virtue of his mortgage, shall be void, unless it is consented to by the company insuring the mortgagor's interest.

Claims of mortgagee, when to be void.  
R.S.,c.49,§36.  
45 Me., 453.

## CHAP. 49.

## SECURITIES DEPOSITED WITH STATE TREASURER.

Insurance companies may deposit securities with treasurer of state.  
R.S.,c.49,§37.

SEC. 57. When any insurance company, incorporated in *this* [the] state, desires to deposit any portion of its stocks or other securities with any officer of *this* [the] state, as a pre-requisite to the establishment of agencies in any other state in compliance with the law thereof, the treasurer of state is to receive such stocks or other securities and to hold the same on deposit and in trust for the benefit of all the policy holders in said company.

Treasurer to furnish certificate thereof.  
R.S.,c.49,§38.

SEC. 58. The treasurer shall then furnish such company with a certificate or certificates of the fact, in his official capacity, embracing the items of the security so deposited, the amount and par value of each, and his opinion of their value.

Interest or dividends may be collected by company. Securities, how withdrawn.  
R.S.,c.49,§39.  
When to be returned to company.  
R.S.,c.49,§40.

SEC. 59. He shall hold such securities on deposit in accordance with these provisions, but such company may receive and collect the interest or dividends on them, and withdraw them, from time to time, on depositing in lieu thereof others of like character and value, to be determined by the treasurer.

SEC. 60. The treasurer on being satisfied of the repeal or alteration of the law of such other state, disqualifying such company from continuing its business therein, shall return the securities on demand.

Securities to be returned to company ceasing to do business.  
R.S.,c.49,§41.

SEC. 61. When such company desires to relinquish its business out of the state, the treasurer, on application thereof and on the oath of the president and secretary, that its assets are ample to meet all the existing demands against it, shall deliver its securities.

Duty of treasurer in case of failure of the company.  
R.S.,c.49,§42.

SEC. 62. If any such company fails, while its securities are so on deposit, the treasurer shall demand of its secretary or clerk, and he shall furnish a full and complete list of the names and residences of all policy holders and others having claims upon the company; and they shall be notified forthwith through the post-office by the treasurer, of the condition of the company; and he shall state in the notice, that the securities held by him will be disposed of, and the proceeds, after paying expenses, paid over in a ratable proportion upon their claims properly authenticated, and the time when such dividend will be made; but nothing in the foregoing provisions shall be construed to impose any liability on *this* [the] state on account of any delinquency of the treasurer.

Treasurer's fees.  
R.S.,c.49,§43.

SEC. 63. Such company, on so depositing its securities, shall pay to the treasurer the sum of five dollars for each certificate granted by him; and in case of proceedings under the provisions of the preceding section the treasurer shall retain, as compensation for the services thereby required of him, *the sum of* two per cent. on the amount received and disbursed by him.

THE APPOINTMENT, TENURE OF OFFICE, POWERS, DUTIES AND CHAP. 49.  
COMPENSATION OF THE INSURANCE COMMISSIONER.

SEC. 64. An insurance commissioner shall be appointed by the governor and council, who shall hold his office three years, unless sooner removed, but shall not at the same time be examiner of banks. He shall have no compensation for his official services except the fees prescribed in the following sections. He may administer oaths in the performance of his official duties, in any part of the state, and at any time. He shall keep a correct account of all his doings, and of all matters relating to the subject of insurance and insurance companies, on which he is officially called to act, and shall keep an accurate account of all fees received from said companies and brokers for licenses, and settle the same annually with the governor and council, and if they amount to more than nine hundred dollars, exclusive of all postage expenses, he shall pay the balance into the treasury of the state, and shall give bond to the treasurer in the sum of five thousand dollars for the faithful discharge of his duties.

Insurance  
commissioner,  
appointment,  
term,  
compensa-  
tion and  
duties.  
1881, c. 63.

Shall settle  
annually  
with gover-  
nor and  
council and  
give bond in  
\$5,000.  
1879,c.125,§4.

SEC. 65. He shall annually examine or cause to be examined, every domestic *joint stock* insurance company and mutual life insurance company, to ascertain its ability to meet its engagements and do a safe insurance business; and make such other examinations as he regards necessary for the safety of the public or the holders of policies. In all such cases he may require the officers to produce for examination any and all books and papers of the company, and to answer, on oath all questions propounded to them in relation to the condition and affairs of the company; and any officer who refuses to produce any such books or papers upon his demand, or to be sworn, or to answer any such questions, shall be subject to a penalty not exceeding two hundred dollars.

He shall ex-  
amine do-  
mestic in-  
surance  
companies  
and may re-  
quire the  
production  
of books and  
papers, and  
ask ques-  
tions of  
officers.  
R.S.,c.49,§45.  
Penalty for  
refusing to  
comply.

SEC. 66. Every such insurance company shall organize within two years after its charter is granted, otherwise the charter shall be void; and upon such organization [it] shall inform the commissioner thereof. No such company shall for the first time commence business by issuing policies, until the commissioner [has] *first examines* [examined] and *ascertains* [ascertained] that the company has complied with the terms of its charter, paid in its capital stock, and become qualified to act; and he shall then issue to it his certificate of that fact, for which service he shall receive from it twenty dollars and all travelling expenses; and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, the commissioner shall issue to it a like certificate and receive a like fee.

New com-  
panies to  
organize in  
two years,  
or charter  
void.  
No such  
company to  
do business  
without a  
license from  
the commis-  
sioner.  
R.S.,c.49,§46.

Fee.  
Annual  
renewal of  
license.

SEC. 67. If on examination the commissioner thinks that any

## CHAP. 49.

When the  
commissioner  
thinks  
any domes-  
tic company  
insolvent, he  
shall apply  
for an in-  
junction.

Proceedings  
thereon.

Clerk's fees,  
how paid.  
R.S., c.49, §48.

domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its policy holders, he shall apply to a justice of the supreme judicial court to issue an injunction restraining the company in whole or in part from further proceeding with its business. Such justice or any other justice of said court may thereupon, either with or without notice, issue such temporary injunction or if on notice such temporary or permanent injunction as he may think proper, either of which he may afterwards modify, vacate or perpetuate, and may pass such orders and decrees, appoint receivers to receive the assets of the company, and *such* masters, and do any other act conformable to the general rules of chancery practice as may in his opinion be requisite for the safety of the public and for the best interests of all parties concerned, all which orders and decrees he may in like manner enforce. All such proceedings shall be at once made known to the clerk of the courts for the county, who shall enter them on his docket, place them on file and record them in the records of the court. The clerk's fees shall be audited and allowed by the court, and paid from the assets of the company.

Proceedings  
for appoint-  
ment of re-  
ceiver of life  
company,  
to be main-  
tained only  
by com'r.  
1878, c. 54.

—shall sus-  
pend right of  
insolvent  
companies to  
do business.  
See § 82.

If solvent,  
proceedings  
shall be  
dismissed.

Capital stock  
shall be re-  
stored by as-  
sessment to  
the legal  
amount.  
1878, c. 148, §1.

Shares shall  
be sold for  
non-pay-  
ment of  
assessments.  
Notice of  
sale.

SEC. 68. No bill in equity, or other proceedings for the appointment of a receiver of a domestic life insurance company, or to wind up its affairs, shall be maintained by any other person than the insurance commissioner. If it shall appear to the commissioner that the assets of any such company are less than its liabilities, reckoning the net value of its policies according to the combined experience or actuaries' rate of mortality, with interest at six per cent. a year, he shall suspend the right of such company to do business, and apply to a justice of the supreme judicial court to proceed as provided in the preceding section; but if it shall appear that the assets are greater than its liabilities, computed as aforesaid, such proceedings shall not be commenced, or, if commenced, they shall be dismissed, and the company allowed to resume the transaction of business.

SEC. 69. Whenever, after setting aside a sum equal to the full amount of premiums on outstanding marine risks, together with one half of all premiums on existing fire and inland risks, the net assets of any insurance company with a specific capital, do not amount to more than three fourths of its capital stock, the company shall by assessing the stock, restore its capital to the legal amount. Shares on which such assessment is not paid within sixty days after demand upon the owner thereof shall be forfeited, and ordered by a vote of the directors to be sold at public auction, seven days' notice of the sale thereof shall be given in some daily or weekly paper published in the place where such company is

located; the proceeds of sale, after deducting expenses and the assessments due on such shares, shall be paid to the owner or his representative; *provided*, that whenever the capital stock of any insurance company shall be impaired as aforesaid, such company may by a majority vote of the stock, at a meeting of the stock-holders legally called, reduce its capital, by cancelling its shares pro rata to the number thereof, or may reduce the par value of its shares, or such company may thus reduce its capital stock and also assess as hereinbefore provided; but no such company shall reduce its capital stock as aforesaid more than twenty per cent. thereof nor to a sum less than one hundred thousand dollars.

SEC. 70. Any insurance company incorporated in *this* [the] state, having a specific capital, which does not within three months after receiving notice from the insurance commissioner that its capital is thus impaired, satisfy him that it has fully complied with the provisions of law relating thereto, shall be proceeded against according to the provisions of section sixty-seven.

SEC. 71. Whenever, after setting aside a sum equal to that required by the two preceding sections, the cash assets of any foreign insurance company having a specific capital, doing business in *this* [the] state, do not amount to more than three fourths of its legal capital, the company shall, by assessing its stock for the difference, or in some other way, *repair* [restore] its capital to its legal amount, and unless it does so within three months after notice from the insurance commissioner, [it] shall no longer be permitted to do business in *this* [the] state, and the commissioner shall thereupon proceed as provided in sections seventy-five and seventy-six, if in his opinion such proceeding is necessary.

SEC. 72. No foreign insurance company shall transact any insurance business in *this* [the] state, unless it first obtains a license therefor from the commissioner. Before receiving such license, it shall furnish the commissioner with a true certified copy of its charter and by-laws, with a statement under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner. Upon receiving such copies and statement, the commissioner shall grant a license, if he thinks it ought to be granted, which shall authorize the company to do an insurance business in *this* [the] state subject to the laws of the state, until the first day of July then next; and annually thereafter, such license may be renewed, so long as he regards the company responsible and safe, in all cases to terminate on the first day of July next succeeding. For such license and each renewal, the company shall pay the commissioner twenty dollars.

SEC. 73. No person shall act as agent of any insurance company until he has produced to the commissioner and filed with him

CHAP. 49.  
Proceeds of  
sale,  
Proviso.

Capital stock  
may be re-  
duced.

Insurance  
companies,  
proceedings  
against, for  
non-compli-  
ance with  
provisions of  
this chapter.  
1873,c.148,§2.

Foreign in-  
surance  
companies  
required to  
restore their  
capital to  
the legal  
amount.  
1873,c.148,§3.

—proceed-  
ings in case  
of neglect.

No foreign  
insurance  
company  
shall do  
business in  
the state,  
without ex-  
hibiting its  
financial  
condition to  
the commis-  
sioner, and  
receiving a  
license from  
him, to be  
annually re-  
newed.

Fees.  
R.S.,c.49,§49.  
70 Me., 544.

No one shall  
act as agent

CHAP. 49.  
of any insurance company, without filing his power of attorney with the commissioner, and receiving a license.

Penalty.

Fees of commissioner.

Policy issued without license, valid.  
R.S., c.49, §50.  
70 Me., 544.

Commissioner may license insurance brokers.

Fees.

Penalty for acting without license.  
R.S., c.49, §51.

When com'r may suspend unsafe foreign companies.

Penalty for doing business thereafter.

Com'r may require statement of their condition.  
R.S., c.49, §52.

When such companies are dissolved or restrained at home, or suspended by the commissioner, court may appoint receivers, who

a duplicate power of attorney from the company or its authorized agent, authorizing him to act as such agent. Upon filing such power the commissioner shall issue a license to him if the company [is a domestic company or]\* has received a license to do an insurance business in *this* [the] state; and such license shall continue until the first day of July then next, and may be renewed from year to year on producing a certificate from the company that his agency is continued. For each such license or renewal thereof, the commissioner shall receive *the sum of* one dollar. And if any person solicits, receives or forwards any risk or application for insurance to any insurance company, without first receiving such license, or fraudulently assumes to be an agent, and thus procures risks and receives money for premiums, he shall forfeit not more than fifty dollars for each offence; but any policy issued on an application thus procured, shall bind the company if otherwise valid.

SEC. 74. Any person may be licensed by the commissioner as insurance broker to negotiate contracts of insurance, and to effect insurance for others than himself for a compensation, and by virtue thereof he may place risks or effect insurance with any insurance company of *this* [the] state, or with the agents of any foreign insurance company who have been licensed to do an insurance business in *this* [the] state, but with no other. For such license he shall pay *the sum of* five dollars, which shall authorize him thus to act until the first day of July then next; and on payment of the same fee his license may be renewed from year to year afterwards, ending annually on the first day of July. Any person without such license, assuming to act as such broker, shall forfeit not more than fifty dollars.

SEC. 75. When the commissioner thinks [that] any licensed foreign insurance company is in failing condition or unsafe, he may, on reasonable notice, suspend its right to do insurance business in the state until the disability is removed. And if the company or any of its agents after such suspension or the injunction mentioned in section sixty-seven, issues any new policies, such agent or company shall forfeit not exceeding two hundred dollars. And to enable the commissioner to act in the premises, he may at any time require of any such company a full statement of all its affairs bearing upon its responsibility, in the form prescribed by him.

SEC. 76. When any foreign insurance company doing business in *this* [the] state is dissolved, restrained or prohibited from doing business in the place where it incorporated, and when under the last preceding section the commissioner regards the proceedings advisable, he may apply to the supreme judicial court, or any justice thereof, either in term time or vacation, setting forth the facts, and thereupon the court or justice may appoint a receiver

\* [NOTE. A license is not required for domestic companies, but is required for agents of all companies. See § 72.]

or receivers, to take possession of the assets of the company in *this* [the] state, and collect, sell, or dispose of the same as the court or justice may decree, and divide the proceeds pro rata among the creditors in *this* [the] state, who prove their claims before said court or justice before the dividend is made ; and the balance, if any, shall be paid over to the company or [its] assigns. The proceedings herein provided for, shall conform to the provisions of section sixty-seven. The receivers may maintain any action on or for any such assets in their own names as receivers, subject to all equities which exist between the original or previous parties.

SEC. 77. Every domestic insurance company, and every foreign insurance company doing business in *this* [the] state shall annually, by the thirty-first day of January, render to the commissioner an exact statement, under oath, of its condition as it existed on the thirty-first day of December previous, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner.

SEC. 78. Every foreign insurance company doing business in *this* [the] state, shall annually cause to be published three weeks successively, in some daily or weekly paper printed in the county where said company has a duly authorized agent, or takes policies, a condensed statement of its condition conformable to its last annual report to the commissioner ; and any such insurance company which shall neglect or refuse to publish such statement shall forfeit not less than fifty dollars.

SEC. 79. It shall be the duty of the insurance commissioner, whenever he deems it necessary for the protection of policy holders in *this* [the] state, to visit and examine any insurance company not incorporated in *this* [the] state and doing business by agencies therein. He may employ such assistants as are necessary in making the examination ; all necessary expenses for such examination without the state, shall be borne by the company so examined ; *provided*, that in relation to the affairs of any company incorporated by or organized under the laws of any state of the United States, it shall be optional with the said commissioner to accept the certificate of the insurance commissioner or superintendent of the state under the laws of which the said company was organized, as to its standing and condition, or to proceed to investigate its affairs as hereinbefore provided.

SEC. 80. For the purposes aforesaid the commissioner, or any person whom he may empower, shall have free access to all the books and papers of any insurance company doing business in *this* [the] state, and may examine under oath its officers or agents relative to its business and condition. If any such company, its officers or agents, refuse to submit to such examination, or to comply with

CHAP. 49.  
may main-  
tain actions  
in their own  
names.  
R.S., c.49,\$53.  
See § 67.

Domestic in-  
surance com-  
panies, their  
annual state-  
ment of con-  
dition.  
1874,c.208,\$1.

Foreign in-  
surance com-  
panies to  
publish an  
annual state-  
ment of con-  
dition.  
1874, c. 207.  
—penalty in  
case of neg-  
lect.

Insurance  
commissioner  
may ex-  
amine insur-  
ance compa-  
nies out of  
the state do-  
ing business  
in the state.  
1873,c.148,§7.  
—may em-  
ploy assis-  
tants.  
Proviso.

He may ex-  
amine books,  
papers and  
officers of  
any company  
doing busi-  
ness in the  
state.  
1873,c.148,§8.

**CHAP. 49.** any provisions of this chapter in relation thereto, the authority of such company to do business in *this [the]* state shall be revoked until such time as satisfactory proof is furnished to the commissioner that the company is in a sound and solvent condition.

**Penalty if company refuses to submit.**  
1881,c.12, § 2.  
—to make annual report and publish condition of companies.

**Commissioner to preserve condition of every company.**  
1881,c.12, § 2.  
How it may resume business.  
R.S.,c.49,\$57.

**Company may appeal from decision of com'r suspending its business, &c., to a judge of the S. J. C.**  
His decision final.  
R.S.,c.49,\$58.

**Receivers, their powers and proceedings.**  
1873, c. 148, § 10.

**Penalties,**

**SEC. 81.** The commissioner shall preserve in a proper form, the statement of the condition of every company examined or caused to be examined by him, and all [statements] which shall be rendered to him as herein required ; and shall annually report to the governor and council, and cause to be at once published, the general condition of the insurance companies doing business in *this [the]* state, and such suggestions as he thinks proper in connection therewith, and shall prepare and publish as aforesaid an abstract of all returns and statements made to him by insurance companies.

**SEC. 82.** When the commissioner learns that the net cash funds of any [foreign]\* life insurance company doing business in *this [the]* state, are not equal to its liabilities, including the net value of its policies according to the "combined experience or actuaries' rate of mortality," with interest at four per cent. per annum, he shall give notice to such company and its agents to cease issuing policies within *this [the]* state. He may purchase and use the life valuation tables adopted by the insurance department of Massachusetts for this and all purposes of valuation. When he is satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed. If any officer or agent, after such notice of suspension is given, issues any new policy in behalf of such company, he shall forfeit for each offence a sum not exceeding three hundred dollars ; and the delivery of a policy in this state by mail or otherwise shall be deemed an issuing of such policy.

**SEC. 83.** When the commissioner suspends the operations of a company, or, on application, refuses to countermand such suspension, it may appeal to a judge of the supreme judicial court, by presenting to him a petition therefor in term time or vacation, and he shall fix a time and place of hearing which may be at chambers and in vacation, and cause notice thereof to be given to the commissioner ; and after the hearing, he may affirm or reverse the decision of the commissioner ; and the decision of such justice shall be final.

**SEC. 84.** Receivers appointed under this chapter, shall have the same power and rights of action, and the course of proceeding so far as applicable shall be the same, as prescribed for receivers of banks in chapter forty-seven.

**SEC. 85.** All penalties provided by this chapter, may be recov-

\* [NOTE. See § 68 which fixes the rate of interest at 6 per cent. in case of domestic life insurance companies.]

ered in an action of debt in the name of the state, and enure to the state when collected. The county attorney for the county where the forfeiture is incurred, shall sue therefor at the direction of the commissioner.

CHAP. 49.  
how recovered.  
Co. att'y to prosecute.  
R.S., c.49, §59.

#### INQUESTS INTO INSURANCE FRAUDS.

SEC. 86. On application in writing to the commissioner by an officer of any insurance company doing business in *this* [the] state, stating that he has reason to believe and does believe that any person has procured of said company an insurance by false representations, or that the company has sustained a loss by the fraudulent act of the insured, or with his knowledge or consent, and *requests* [requesting] an investigation thereof, said commissioner, or such magistrate as he appoints, shall summon and examine, under oath, at a time and place designated by him, any persons, and require the production of all books and papers necessary for a full investigation of the facts, and make report thereof with the testimony by him taken to the company making such application. Such company shall pay the commissioner or magistrate his expenses for making such investigation and ten dollars a day for his services, and the fees of the witnesses to be taxed as in the supreme judicial court.

Investigation of insurance frauds by commissioner, or magistrate appointed by him, on application of an officer of insurance company.  
Fees therefor.  
R.S., c.49, §60.

#### FOREIGN INSURANCE COMPANIES AND AGENCIES.

SEC. 87. The word "domestic," when used in this chapter, means companies incorporated by this state; and the word "foreign," means companies not so incorporated.

Definition of "domestic" and "foreign."  
R.S., c.49, §61.

SEC. 88. No foreign fire or marine insurance company which had not been admitted to do business in this state, before the twenty-sixth day of March, eighteen hundred and seventy-five, shall be admitted to do business in *this* [the] state unless it has a bona fide, paid up, unimpaired capital, if a stock company, of at least two hundred thousand dollars, well invested in or secured by real estate, bonds, stock or securities other than names alone, or if a mutual company, cash assets to the amount aforesaid; and no foreign life insurance company shall be admitted to do business in *this* [the] state unless it has a bona fide, paid up, unimpaired capital, if a stock company, of at least one hundred thousand dollars, well invested in or secured by real estate, bonds, stock, or securities other than names alone; or if a mutual company, cash assets to the amount aforesaid. And no stipulations or conditions shall deprive the courts of this state of jurisdiction of actions against such companies, nor limit the time of commencing them to a period of less than two years from the time the cause of action accrues.

Foreign fire and marine companies forbidden to do business in this state with capital less than \$200,000.  
1875, c. 44,  
§§ 1, 3,  
67 Me., 182.  
Foreign life insurance companies, capital of \$100,000 required.

Jurisdiction of state courts.

CHAP. 49. SEC. 89. Any person having a claim against any foreign insurance company, may bring a trustee or any other appropriate suit therefor in the courts in this state. And service made on any authorized agent of said company shall be valid and binding on the company, and hold it to answer to such suit. And the judgment rendered therein shall bind the company as a valid judgment in every respect, whether the defendants appear or not. In case no agent of such company can be found, such notice or service, served on the state insurance commissioner, who shall immediately notify said insurance company, by mail, shall be valid and binding on the company, as though served on their agent. Unless any such judgment is paid within thirty days after demand made upon any such agent or insurance commissioner, the commissioner may, on notice and hearing of the parties, suspend the power of the company to do business in *this* [the] state until it is paid. And if the company, or any agent thereof, issues any policy in *this* [the] state during such suspension, said company and agent shall each forfeit not exceeding one hundred dollars; but any policy so issued shall be binding on the company in favor of the holder.

Suits against foreign companies, where brought.  
1876, c. 74.  
56 Me., 420,  
479.  
Service on agent valid against company.  
Judgment binds co.

If no agent is found, service, how made.

Company suspended, unless judgment is paid in 30 days.  
—penalty.

Notices and processes, how served.  
1874, c. 226.  
69 Me., 411.

Company bound by knowledge of risk.  
65 Me., 382.

Life policies issued after Mar. 31, 1877, forfeited for non-payment of premium after being in force three years, containing no surrender provision, how far continued in force.  
1879, c. 164.

How net value of pol-

SEC. 90. All notices and processes which by any law, by-law or provision of any policy, any insured or other person has occasion to give or serve on any such company, may be given to or served on its agent, or on the insurance commissioner, as provided in the preceding section, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company shall be bound by their knowledge of the risk and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it the same as if noted in the policy.

#### LIFE INSURANCE.

SEC. 91. Every policy of life insurance issued after the thirty-first day of March, *in the year of our Lord one thousand eight [-een]* hundred and seventy-seven, by any company chartered by the authority of *this* [the] state, which may be forfeited for non-payment of premiums, including all notes given for premiums or interest thereon, after it shall have been in force three full years, and which shall not contain provision for a surrender value at least equivalent to the value arising under the terms of this and the following section, shall, nevertheless, be continued in force to an extent, and for a period of time to be determined as follows, to wit: The net value of the policy, when the premium becomes due and is not paid, shall be ascertained according to the combined

experience, or actuaries' rate of mortality, with interest at four per cent. a year; after deducting from three fourths of such net value any indebtedness to the company, or notes held by the company against the insured, which notes, if given for premiums, shall then be cancelled, what remains shall be considered as a net single premium of temporary insurance, and the term for which it will insure shall be determined according to the age of the party at the time of the lapse of the policy, and the assumptions of mortality and interest aforesaid; but if the policy be an endowment, payable at a certain time, or at death, if it should previously occur, then, if what remains, as aforesaid, shall exceed the net single premium of temporary insurance for the balance of the endowment term for the full amount of the policy, such excess shall be considered as a net single premium or simple endowment, payable only at the same time as the original endowment, and in case the life insured survives to such time; and the amount thus payable by the company shall be determined according to the age of the party at [the] time of the lapse of the policy, and the assumptions of mortality and interest aforesaid. But any such company may issue to a resident of any other state or country a policy conforming to the laws of such state or country and not subject to the provisions of this section.

SEC. 92. If the death of the life insured occurs within the term of temporary insurance covered by the value of the policy, as determined in the previous section, and if no condition of the insurance, other than the payment of premium has been violated by the insured, the company shall be bound to pay the amount of the policy the same as if there had been no lapse of premium, anything in the policy to the contrary notwithstanding; *provided, however,* that notice of the claim and proof of the death shall be submitted to the company, in the same manner as provided by the terms of the policy, within ninety days after the decease; *and provided, also,* that the company shall have the right to deduct from the amount insured in the policy the amount compounded at seven per cent. per annum of all the premiums that had been forborne at the time of the death, including the whole of the year's premium in which the death occurs.

SEC. 93. No life insurance company organized or incorporated under the laws of this state, shall be permitted to re-insure its risks except by permission of the insurance commissioner; but nothing in this chapter shall be construed to prevent any life insurance company from re-insuring a fractional part, not exceeding one half of any individual risk.

SEC. 94. All life and accident policies, and the money due thereon are exempt from attachment, and from all claims of credi-

CHAP. 49. .  
icy shall be  
ascertained.

After de-  
ducting  
from three  
fourths of  
such net  
value any in-  
debtedness  
to the com-  
pany, dis-  
posal to be  
made of the  
balance.  
If the policy  
is an endow-  
ment, pro-  
ceedings.

Such com-  
pany not con-  
fined to this  
chapter in  
effecting in-  
surance in  
other states.

In case of  
death during  
term of tem-  
porary in-  
surance,  
company to  
pay amount  
of policy.

1877, c. 185, §2.

Proviso.

Life insur-  
ance com-  
panies not to  
re-insure  
risks except  
by permis-  
sion of com-  
missioner.

1878, c. 34.

—may re-  
insure frac-

**CHAP. 50.** tors, during the life of the insured, when the annual cash premium paid does not exceed one hundred and fifty dollars; but when it exceeds that sum, and the premium was paid by the debtor, his creditors have a lien on the policies for such sum over one hundred and fifty dollars a year, as the debtor has paid for two years, subject to any pledge or assignment thereof made in good faith.

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## CHAPTER 50.

### TOLL BRIDGES.

- SEC. 1.** Military companies may pass over toll bridges free; also others going to or returning from funeral, or worship on the Lord's day.
2. Persons exempted to give toll gatherer name and place of abode, on request. Forfeiture for refusal or giving false information.
  3. Restrictions on weight of teams and droves of cattle and horses.
  4. Penalty for delaying passengers.
  5. Only two persons and children to pass in a carriage toll free.
  6. Penalty for injuring toll gates or attempting to pass without paying toll.
  7. Covered toll bridges to be lighted. Penalty for neglect.
  8. Surrender of toll bridges to county may be accepted by county commissioners. Party aggrieved may appeal.
  9. Owners of toll ferries and bridges, may take land for a toll house.

Who may pass over toll bridges free.  
R.S., c.50, § 1.

**SEC. 1.** All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, and all persons going to or from any funeral, or public worship on the *sabbath*, [Lord's day] may pass over any toll bridge free of toll. \*

Persons exempted to inform the toll gatherer.  
R.S., c.50, § 2.

**SEC. 2.** Every traveller, claiming to pass any toll bridge free, shall communicate to the toll gatherer his name and place of abode, if required. Whoever refuses or omits so to do, or willfully renders a false answer, and thereby evades the payment of his legal toll, shall forfeit to the use of the proprietors ten dollars to be recovered in an action of debt.

Restrictions on weight of teams and on droves of cattle and horses.  
R.S., c.50, § 3.

**SEC. 3.** If any person driving neat cattle or horses over any toll bridge more than fifty feet in length from one abutment, pier, or tressel part to another, without the consent of the toll gatherer, or agent of the corporation owning it, permits more than twenty neat cattle or horses to be on such bridge at the same time, or drives or transports over it any loaded cart, wagon or other carriage, the weight whereof exceeds forty-five hundred pounds, exclusive of the team and carriage, and thereby breaks it down or injures

\* [NOTE. A change of phraseology is suggested to conform to the more accurate language of cc. 81, 82 and 124.]

it, neither he nor the owner of any property under his charge shall recover any damages against such corporation for his loss or injury. CHAP. 50.

SEC. 4. If a bridge corporation, or its agent, unreasonably delays or hinders any person driving any cart, wagon, sleigh or other carriage, from passing any toll gate, the corporation shall forfeit to such person not less than two, nor more than twenty dollars; to be recovered by an action on the case.

SEC. 5. No more than two persons, and children with them not received for the purpose of evading the payment of toll, shall have a right to pass any toll bridge in any carriage free of the toll payable by foot passengers in addition to the toll due on the carriage.

SEC. 6. If any person maliciously breaks down or otherwise destroys or injures any toll gate, or toll bridge, or passes or attempts to pass such gate with intent to avoid the payment of toll, when liable thereto, and it is demanded, he shall forfeit not less than five, nor more than fifty dollars to the use of the proprietors of the bridge, in addition to any actual damage caused by him; but no process shall be maintained to recover such penalty, unless the corporation has complied with the requirements of its charter, and the bridge is in repair, as public safety and interest require.

SEC. 7. Every toll bridge, if in whole or in part covered, shall be suitably lighted with not less than one sufficient light for every seventy-five feet thereof in length which is covered, commencing within twenty minutes after sunset, and continuing until ten o'clock in each evening; except at the seasons of the year, if any, when toll is not demanded; and for each evening's neglect or refusal to do so, the corporation shall forfeit two dollars, to be recovered by an action of debt, in the county where any part of the bridge is situated, to the use of the person suing therefor; and shall also be liable, in a special action for damages, to any person injured thereby.

SEC. 8. When a toll bridge corporation offers to the county commissioners of the county or counties where it is established, to surrender its bridge free of cost or incumbrance, and they think it for the public interest and convenience, they shall accept it, and it shall thereafter be the property of such county or counties, and be maintained at their expense; but they shall not so accept a bridge connecting with a way not located and accepted by the town or county where it is situated. Any party aggrieved by the doings of the commissioners, as aforesaid, may have a committee or jury to determine the matter as provided in chapter eighteen.

SEC. 9. Towns, corporations and individuals, owning ferries and bridges authorized to receive toll, may take and use land within the limits of the highway for erecting and maintaining toll-houses, but not to obstruct the public travel.

Penalty for delaying passengers.  
R.S.,c.50, § 4.

Only two persons and children to pass in carriage toll free.  
R.S.,c.50, § 5.

Penalty for injuring toll gates or attempting to pass without paying toll.  
R.S.,c.50, § 6.  
28 Me., 304.

Covered toll bridges to be lighted.

Penalty for neglect.  
R.S.,c.50, § 7.

Surrender of toll bridges to the county.  
R.S.,c.50, § 8.

Owners of ferries and bridges may take land for toll houses.  
R.S.,c.50, § 9.

CHAP. 51.**CHAPTER 51.****RAILROADS.****ORGANIZATION OF RAILROAD COMPANIES UNDER GENERAL LAW.**

- SEC. 1. Articles of association. Capital stock. Gauge. Shares. Directors. Subscription.
2. Articles, when filed. Oath of majority of directors that stock has been subscribed and five per cent. paid.
3. Articles to be approved by railroad commissioners. Their certificate to be recorded by secretary of state and a certificate issued by him. Form. Secretary's certificate when recorded, evidence of organization.
4. First meeting, how called.
5. Capital stock, how increased.
6. Location to be approved by commissioners on petition of company, after hearing upon due notice. After approval, road may be constructed. Provisos.
7. Construction to be begun and ten per cent. of capital expended within two years.
8. Map and profile, when to be filed with secretary of state. Maps, how drawn.
9. Tolls may be revised by commissioners after hearing of parties.

**PETITION FOR LEGISLATIVE CHARTER.**

- SEC. 10. What petition must contain.

**NUMBER OF DIRECTORS. STOCK VOTE.**

- SEC. 11. Any company may fix the number of its directors.
12. Any stockholder at a company meeting may call for a stock vote.

**REAL ESTATE, HOW AND FOR WHAT TAKEN.**

- SEC. 13. Land may be purchased or taken as for public uses; but not dwellings, meeting houses, or burying grounds. Guardians may release damages. Person having any interest, deemed owner.
14. Railroad commissioners to decide as to necessity of land for side track, depots and buildings, and give a certificate thereof, to be recorded. Proviso.
15. Location to be made, filed and recorded. Remedy for defective location, and liability for damages. Subscriptions, when released by new location. Proceedings before county commissioners.
16. Land not to be used till damages are paid or secured.
17. Companies authorized to locate and build branch tracks to mills and factories.

**ESTIMATION AND PAYMENT OF DAMAGES.**

- SEC. 18. Damages to be estimated by county commissioners within three years, and paid or secured by corporation. If proceedings fail, new ones in one year. How to be secured.
19. Notice on petitions of assessment of damages for lands taken.
20. Cattle guards and passes to be made and maintained by the company; and on failure, it may be compelled, or enjoined, or liable for damages.

- SEC. 21. Commissioners to report damages and rights of each party; notice to be given to owners; application for increase or decrease of damages; when proceedings are closed; no alteration after that; compensation of commissioners and costs on appeals.
22. Appeal, when made. Damages, how determined. Notice of appeal. Exceptions.
23. Corporation may deposit amount of damages, interests and costs with the clerk of courts.
24. Damages remaining unpaid more than thirty days after due, bill in equity may be filed and injunction granted, or owner may pray for an estimate of damages to be ordered by the court.
25. Service of process and notices, how made.
26. Proceedings in cases of violation of injunction. Court may enter a decree against those violating.

#### CROSSINGS REGULATED.

- SEC. 27. Crossings of highways and streets, how to be made.
28. Ways may be raised or lowered for crossing.
29. Neglect to perform acts required, subjects corporation to damages.
30. Crossing canal or railroad. Bridges how repaired. Town officers to give notice when bridge is unsafe. To be repaired within ten days. Proceedings, if neglected.
31. Bridge-guards to be maintained to the approval of railroad commissioners. Penalty for neglect, and for destroying guards.
32. Bell on engine, and when to be rung. Whistle or bell sounded for warning. Boards erected to give notice of crossings.
33. Gates at crossings; proceedings respecting them.
34. Penalty for neglect, and liability to action for damages.

#### FENCES AND TRESPASSES ON ADJOINING LANDS.

- SEC. 35. Fences, how and where made. Liability for injury, how recovered.
36. Remedy of owner of land adjoining, for neglect to fence.
37. Further penalty for neglect of company to fence.
38. Injuring or removing railroad fence, penalty for.
39. Company liable for trespasses on adjoining lands, the trespassers also.

#### CONNECTIONS.

- SEC. 40. Duties of corporations owning connecting roads.
41. Trains due at same hour at crossing or junction to wait twenty minutes for each other, and give time to change baggage. Penalty.

#### RATES OF FARE AND TOLL.

- SEC. 42. Rates of toll for lumber and wood to be fixed and posted annually. Penalty.
43. Fares established by company subject to revision by legislature.
44. Tickets good for six years, but special tickets may be sold.
45. Tickets, cancellation and exchange of. Exchange tickets good for full original term.

#### CHANGE OF ROUTE AND DISCONTINUANCE OF TRAINS.

- SEC. 46. Change of location of track prohibited. Refusal to operate road forbidden.
47. Order of notice from S. J. Court upon company so refusing. Notice to attorney general and hearing. Appointment of receivers.

- CHEAP. 51. SEC. 48. Receivers, authority and duties of.  
 49. May hire money to repair and refurnish road. Lien created for payment of loan.  
 50. Railroad to be restored to company on certain conditions. Proviso. Company to give bond to state to keep road in repair.  
 51. In case of disagreement, R. R. commissioners to fix receiver's pay.  
 52. Vacancies among receivers, how filled.  
 53. Questions of law, how determined.

## ASSIGNMENTS, LEASES, TRANSFER OF SHARES AND ISSUE OF BONDS.

- SEC. 54. Assignment or lease of road forbidden. Exceptions.  
 55. Shares, how to be transferred.  
 56. Bonds may be issued and sold at less than par.  
 57. Holder of coupons may collect them in his own name.  
 58. Damages by foreign companies. S. J. Court may compel payment of.  
 59. Judgment creditor, remedy of against lessors.

## ANNUAL REPORTS.

- SEC. 60. Report to be made annually by December 1, to R. R. commissioners. Penalty for neglect.

## PROVISIONS FOR SAFETY.

- SEC. 61. One brakeman to every two cars.  
 62. Danger signals, when disconnected cars are left on main track.  
 63. Penalty for violating preceding section. Attorney general to prosecute. Horse railroads exempted.  
 64. Railroad liable for damages caused by fire from engine, or by want of fences.  
 65. Coroner to hold inquest on bodies of those killed on road.  
 66. Intoxication on railroads punished.  
 67. Negligence occasioning injury punished.  
 68. Occasioning death, how punished.  
 69. Not liable for death of person walking on road.  
 70. Forfeiture for walking on road.  
 71. Printed copy of preceding section to be posted.  
 72. Getting on or off train while in motion, penalty for. Liability of company not affected.  
 73. Disorderly conduct on train, penalty for.  
 74. Conductor may arrest and detain culprit.  
 75. Highways, how to be passed; not to be obstructed. When one railroad crosses another, engineer to stop train and proceed slowly.  
 76. One stop sufficient, when two crossings are within 400 feet. Signals to approaching trains. Penalty.  
 77. Location of railroad near station of another railroad.

## EVASION OF FARES AND LOITERING AT RAILROAD OR STEAMBOAT STATIONS.

- SEC. 78. Evading payment of fare; penalty.  
 79. Loitering in cars or at railroad or steamboat station-house, &c., forbidden. Penalty.  
 80. Copies of law to be posted.

## BAGGAGE AND EFFECTS.

- SEC. 81. *Lists of effects left by passengers to be published.*  
 82. *Lists to be examined by municipal officers and sold at auction.*  
 83. *Disposal of proceeds.*  
 84. *Corporation liable for neglect of these duties.*

## THE ELECTION, POWERS AND DUTIES OF TRUSTEES OF MORTGAGES.

- SEC. 85. Bondholders, with confirmation of S. J. C., may elect trustees to fill vacancies, or supply removals. Old trustees to convey to new.
86. What constitutes a breach of conditions of a mortgage. Trustees to call meeting of bondholders, and how notified.
87. Bondholders to have one vote for each \$100 of bonds, and may vote whether trustees shall take possession of road.
88. If they so vote, trustees to take possession of mortgaged property and have the powers of the corporation.
89. Trustees to keep account of receipts and expenses; keep road in repair, and apply balance of funds to payment of mortgage and damages for misfeasance; when mortgage is paid, property to be surrendered.
90. Trustees shall call annual and other meeting of bondholders and report. Bondholders may fix their pay, and instruct them to contract for operating road.

## FORECLOSURE AND REDEMPTION OF MORTGAGES.

- SEC. 91. How and when railroad mortgages may be foreclosed. Must be redeemed within three years or bill brought, founded on payment, tender or averment of willingness to pay.
92. Holders of overdue bonds and coupons to present them to trustees to be recorded; right of redemption not lost by non-payment of claims not so presented.
93. Foreclosure enures to benefit of all claimants under mortgage; claimants constituted a corporation, and trustees to convey to it. Court may compel trustees.
94. How first meeting of new corporation is to be called; it may adopt new name, and take and hold mortgaged property.

## NEW CORPORATION MAY REDEEM PRIOR MORTGAGES.

- SEC. 95. New corporation may vote to redeem prior mortgage, and to make assessments therefor, and how and when paid.
96. If assessments not paid, stock sold and new certificates issued. Delinquent not entitled to commutation or dividends until paid.
97. Directors to apply funds to redemption of mortgage, and when redeemed, property to vest in corporation.

## REDEMPTION OF PRIOR MORTGAGES BY SUBSEQUENT MORTGAGEES.

- SEC. 98. When and how subsequent mortgagees may redeem prior mortgage.
99. Trustees to call a meeting for that purpose, and how mortgagees may vote to redeem, and each to contribute his portion, or any other for him.

## PART OF SUBSEQUENT MORTGAGEES MAY ALSO REDEEM.

- SEC. 100. If no such meeting, or they refuse to redeem, any one interested in subsequent mortgage, may redeem.
101. Delinquents may afterwards pay their proportions and be restored to their rights. Those redeeming may become a new corporation.
102. How the stockholders of the old corporation may redeem such prior mortgage; and what to be paid therefor and when.
103. Non-contributing stockholders may pay their proportions and be restored to their rights.
104. Prior mortgagees may vote to extend the time of redeeming, after foreclosure is commenced.

CHAP. 51. RIGHTS OF PURCHASER UNDER A SALE OF RAILROAD AND FRANCHISE.

- SEC. 105. When railroad and franchise are sold, purchaser has rights of original company. Such corporation may redeem, and how and when.
106. Trustees operating a railroad and all new corporations to have same rights and obligations as original corporation had. Subject to alterations by the legislature and general laws.
107. Original corporation continues, to close its business, and may sue and be sued.
108. S. J. C., has jurisdiction, as in equity, of all disputes, but not to take away rights at law; to follow law of trusts and mortgages.
109. Twenty-four former sections apply to mortgages given to trustees, as if foreclosed legally. Rights of holders of scrip and bonds.
110. Capital stock of new company, amount of. Value of shares. Not liable to further assessment.

## RAILROAD COMMISSIONERS.

- SEC. 111. Appointment of railroad commissioners; term, and by whom paid.
112. Board to examine railroads and rolling stock when necessary, and make annual reports.
113. Corporation to file certificate of the state of its road and pay commissioners. Penalty and liability for neglect.
114. If board find road unsafe, to notify managers; may require them to reduce speed and repair road.
115. If they do not comply, to apply to S. J. C. to compel them or enjoin.
116. Commissioners may forbid passenger trains on unsafe railroads.
117. When connecting railroads do not agree as to transportation of passengers and freight, they may apply to R. R. commissioners to award in the matter. Their proceedings and the result.
118. Award to be returned to court for action. Exceptions may be taken, and how heard. Award accepted binding, and court to make it effectual. Penalty.
119. Company desiring to take grounds belonging to another company, proceedings.
120. Passenger or freight stations, commissioners may order erection of.
121. They shall designate site, and kind of building.
122. Refusal of company to obey order of commissioners. Proceedings.
123. Costs of hearing to be paid by losing party.
124. Commissioners to examine into cause of serious accidents, and include the results in their annual reports.

## EQUAL TRANSPORTATION FOR ALL RAILROADS.

- SEC. 125. Intersecting railroads deemed connecting.
126. Dispatchers may determine on what lines goods shall be forwarded. Their directions to be followed by company in billing freight.
127. Companies forbidden to discriminate between passengers and freight transported wholly on their own lines and those destined for other roads. Proviso in regard to Me. Central R. R.
128. Forfeiture for disobedience.
129. Sections 117, 118, 125, 126, 127 and 128, apply to all railroads.
130. Equal advantages to be given to all railroads.
131. Penalty for violation of two preceding sections.

## EQUAL TRANSPORTATION FOR ALL EXPRESSES.

- SEC. 132. Railroads to furnish equal facilities to all expresses.

## TOWNS MAY AID IN THE CONSTRUCTION OF RAILROADS.

## CHAP. 51.

- SEC. 133. Towns may aid in construction of railroads not exceeding five per cent. of their valuation.
134. Towns raising money by loans, to pay interest and three per cent. of principal each year after the third.
135. How meetings in cities are to be called, and votes cast and counted.
136. Cities and towns to vote only once a year on aiding same person or corporation.
137. Towns owning railroad stock, how to vote at railroad meetings.
138. Railroads owned in part by a town, eligibility of citizens as directors.

## CONTRACTORS' LABORERS PROTECTED.

- SEC. 139. Companies to require security from contractors for payment of laborers. Company liable if seasonably notified. Suit to be brought within six months.

## ORGANIZATION OF RAILROAD COMPANIES UNDER GENERAL LAW.

SEC. 1. Any number of persons not less than ten, a majority of whom shall be citizens of *this [the]* state, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property within *this [the]* state, and for that purpose may make and sign articles of association in which shall be stated the name of the company, the gauge of the road, the places from which and to which the road is to be constructed, maintained and operated, the length of such road, as near[-ly] as may be, and the name of each town and county in *this [the]* state through which or into which it is to be made; the amount of the capital stock of the company, which shall not be less than six thousand dollars for every mile of road proposed to be constructed of the gauge of four feet eight and a half inches, nor less than three thousand dollars *per [a]* mile for any narrower gauge, and the number of shares of which said capital stock shall consist, and the names and places of residence of at least five persons, a majority of whom shall be citizens of *this [the]* state, who shall act as directors of the proposed company, and shall manage its affairs until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company.

Railroad companies,  
how formed.  
1876,c.120,§1.

—articles of  
association.

—capital  
stock.

—gauge of  
road.

—shares.

—directors.

—articles of  
association,  
subscription  
to.

SEC. 2. Said articles of association shall not be filed and recorded in the manner provided in section three of this chapter until the capital stock named in section one has been subscribed thereto, in good faith, by responsible parties, and five per cent. paid thereon in cash to the directors named in said articles of association, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and five per cent. paid thereon in

Articles,  
when filed.  
1876,c.120,§2.

CHAP. 51. cash as aforesaid, and that it is intended in good faith to construct, maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association as aforesaid.

Approval of  
articles, by  
railroad  
commiss-  
ioners.  
1876,c.120,§3.  
—when  
recorded.  
—secretary  
of state shall  
issue a cer-  
tificate.

SEC. 3. Whenever it shall be shown to the satisfaction of the board of railroad commissioners that all the provisions of sections one and two have been complied with, said board shall indorse upon the articles of association a certificate of such fact and the approval of the board in writing. The secretary of state shall, upon *the payment of the sum of* twenty dollars to the use of the state, cause the same with the indorsement thereon, to be recorded, and shall issue a certificate in the following form :

“STATE OF MAINE.

Certificate,  
form of.

Be it known that, whereas, [here the names of the subscribers to the articles of association are to be inserted] “have associated themselves together with the intention of forming a corporation under the name of” [here the name of the corporation shall be inserted] “for the purpose of building and operating a railroad between” [here insert the description of the road contained in the articles of association] “and have complied with the statutes of *this* [the] state in such cases made and provided. Now, therefore, I,” [here the name of the secretary is to be inserted] “secretary of the state of Maine, do hereby certify that said” [names of subscribers], “their associates and successors, are legally organized and established as an existing corporation under the name of” [name of corporation] “with the powers, rights and privileges, and subject to the limitations, duties and restrictions, which by law appertain thereto. Witness my official signature hereunto subscribed, and the seal of the state of Maine hereunto affixed, this — day of —, in the year of our Lord,” [day, month and year inserted].

—to be evi-  
dence of es-  
tablishment  
of corpora-  
tion.

—to be  
recorded.

First meet-  
ing, how  
called.  
1876,c.120,§4.

The secretary of state shall sign the same and cause the seal of the state to be thereto affixed, and such certificate shall be conclusive evidence of the organization and establishment of such corporation at the date of such certificate. The secretary shall also cause a record of such certificate to be made, and a copy of such record duly certified may with like effect as the original certificate be given in evidence to prove the existence of such corporation.

SEC. 4. The first meeting for the purpose of organizing such corporation, shall be called by a notice, signed by five or more of the subscribers to such articles of association, stating the time, purpose and place of such meeting, a copy of which notice shall, seven days at least before the day appointed for such meeting, be given to each [such] subscriber, or left at his usual place of business or place of residence, or deposited in the post-office, post paid,

*and addressed to him at his usual place of business or residence; CHAP. 51.*  
and whoever gives such notice, shall make affidavit of his doings,  
which shall be recorded in the records of the company.

SEC. 5. In case the capital stock of any company formed under the foregoing provisions is found to be insufficient for constructing and operating its road, such company may increase its capital stock from time to time, to any amount, for the purposes aforesaid. Such increase must be sanctioned by a vote, in person or by proxy, of two thirds in amount of all the stockholders of the company, at a meeting of said stockholders, called by the directors of the company for that purpose.

Capital stock, how increased.  
1876, c. 120, § 5.

SEC. 6. Every corporation organized under the foregoing provisions, before commencing the construction of its road, shall present to the board of railroad commissioners a petition for approval of location, accompanied with a map of the proposed route on an appropriate scale, and with a profile of the line on a vertical scale of ten to one compared with the horizontal scale, and with a report and estimate prepared by a skillful engineer from actual survey. The board of railroad commissioners shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said board shall deem reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. If the board of railroad commissioners, after hearing the petition, shall approve the proposed location, and [find] that the public convenience requires the construction of such road, the corporation may proceed with the construction of their road; *provided*,

Petition for approval of location.  
1876, c. 120, § 6.

[that] they shall first file with the clerk of the court *or* [of] county commissioners of each county through which the road passes, a plan of the location of the road, defining its courses, distances and boundaries, and another copy of the same with the board of railroad commissioners; but the location so filed shall not vary,

—hearing on.  
—notice to be given.

except to avoid expense of construction, from the route first presented to said board of commissioners, unless said variation shall be approved by them. And said location, together with any variation

—when corporation may proceed with construction of road.

that [may] be made therein, shall be filed within two years from the time when the articles of association are filed in the office of secretary of state. *Provided further*, that no railroad shall be made across tide waters where vessels can navigate, nor shall any railroad be located and built, under the foregoing sections, running in the same general direction *of* [as] any other railroad already built, or in process of construction, within ten miles of such other railroad, without special permission of the legislature therefor first

—proviso.  
—location not to vary, except to avoid expense.

btained.

—to be filed within two years.

—R. R. not to be made across navigable waters, or parallel with another R. R., without consent of legislature.

1877, c. 190.

## CHAP. 51.

Building of road to be begun within three years.  
1876, c. 120, §7.

Map and profile of road to be filed in secretary of state's office.  
1876, c. 120, §§8.

—maps, how drawn.

Tolls established by directors.  
1876, c. 120, §9.

—but may be revised by R. R. commissioners.

Petition, what it must contain.  
R.S., c. 51, §1.

Railroad companies may fix the number of directors.  
1871, c. 177.

Any stockholder at a company meeting may call for a stock vote.  
1872, c. 28.

SEC. 7. If any corporation formed under the foregoing sections shall not, within three years after its articles of association are filed and recorded in the office of the secretary of state, begin the construction of its road, and expend thereon ten per cent. of the amount of its capital, its corporate existence and power shall cease.

SEC. 8. Every corporation organized as aforesaid shall within one year after any part of their road has been constructed and opened for operation, cause to be made a map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the secretary of state; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording deeds in the county in which such parts of road shall be. Every such map shall be drawn on a scale and on paper to be designated by the board of railroad commissioners, and certified and signed by the president and engineer of the corporation.

SEC. 9. Said corporation *shall have the right to [may]* establish and collect such tolls for the transportation of persons and freight over its road as the directors shall deem fair and reasonable, and *[shall]* have a lien on its freight therefor, but, upon what shall, at any time, be deemed by the railroad commissioners a sufficient complaint, by interested and responsible parties, that the tolls are unreasonably high, *they* *[said commissioners]* may revise and establish them, after due notice and hearing, for a time not exceeding one year. And the commissioners, before directing said hearing, shall give opportunity to the company complained of to reply to the charge made against it.

## PETITION FOR LEGISLATIVE CHARTER.

SEC. 10. When a petition for a railroad corporation is presented to the legislature, it must state the places where the road is to begin and end, the distance between them, its general course, and the names of the towns through which it may pass.

## NUMBER OF DIRECTORS. STOCK VOTE.

SEC. 11. Any railroad company *in this [the] state* may at its annual meeting fix the number of *[its]* directors *of said company*, *provided* *[that]* in the call for said meeting notice be given of an intention to act upon said subject.

SEC. 12. Any stockholder, or representative of any stockholder in any railroad company shall have power to call for a stock vote of such company at any meeting of its stockholders, on any question that may be legally before such meeting, anything in the charter or by-laws of such company to the contrary notwithstanding.

## REAL ESTATE, HOW AND FOR WHAT TAKEN.

## CHAP. 51.

SEC. 13. A railroad corporation, for the location, construction, repair, and convenient use of its road, may purchase, or take and hold, as for public uses, land and all materials in and upon it; but the land so taken shall not exceed four rods in width unless necessary for excavation, embankment or materials. (a) \*

SEC. 14. The railroad is to be located within the time and substantially according to the description in the charter; and the location is to be filed with the county commissioners, approved by them and recorded. When a corporation, by its first location, fails to acquire the land actually embraced in its roadway, or the location as recorded is defective or uncertain, it may, at any time, correct and perfect its location, and file a new description thereof; and in such case [it] shall be liable for damages, by reason of such new or amended location, only for land embraced therein for which the owner had not previously been paid. Any subscriber to the stock, alleging that it has not been located according to its charter, may, before payment of his subscription, make a written application to the county commissioners in the county where the deviation is alleged, stating it, who after fourteen days' notice to the corporation, and upon a view and hearing, shall determine whether it has been located as required; if they determine that it has been, no such defence is to be made to any process to enforce payment; if they determine that it has not, the subscription of such applicant shall be void. The prevailing party recovers costs.

SEC. 15. Any railroad corporation may also take and hold, as for public uses, land for borrow and gravel pits, necessary tracks, side tracks, depots, [stations,] wood sheds, repair shops, and car, engine and freight houses; [but if the owner of said land does not consent thereto, or] if the parties do not agree as to the necessity and [thereof or the] extent of the real estate [necessary] to be taken, the corporation may make written application to the railroad commissioners, describing the estate, and naming the persons interested; the commissioners shall thereupon appoint a time for the hearing near the premises, [and] require notice to be given to the persons interested as they direct, fourteen days at least before said time; and shall then view the premises, hear the parties and determine how much, if any, of such real estate is necessary for the reasonable accommodation of the traffic and appropriate business of the corporation. If they find that any of it is so necessary, they shall furnish the corporation with a certificate containing a definite

Land may be purchased or taken for R.R. location, &c., as for public uses. R.S., c. 51, § 2. See §§ 15, 16, 18.

Location to be filed and recorded.

—remedy for defective location, and liability for damages. 1881, c. 82. 59 Me., 530.

—subscriptions, when released by new location. R.S., c. 51, § 4. —proceedings before county commissioners.

Company may take land for stations, repair shops, &c. R.S., c. 51, § 2. 1872, c. 70.

—R.R. com'rs to decide disputes as to necessity of land therefore; and to give certificate, to be recorded. R.S., c. 51, § 3. 66 Me., 38, 43, 45.

(a) 35 Me., 258; 40 Me., 556; 41 Me., 220; 47 Me., 46, 206, 347; 51 Me., 320; 66 Me., 38-43, 46; 67 Me., 360.

\* [See note on next page.]

CHAP. 51. description thereof; and when it is filed with the clerk of the court in the county where the land lies, it shall be deemed and treated as taken; *provided*, however, that when land is held by a tenant for life, and the reversion is contingent as to the persons in whom it may vest on the termination of the life estate, such fact shall be stated in the application, and the commissioners shall, in addition to the notice to the tenant for life, give notice by publication to all others interested in such manner as they shall deem proper.

Land not to be used till damages are paid, &c.  
R.S., c. 51, § 5.  
—certain property to be taken only by consent.  
R.S., c. 51, § 2.

Companies authorized to construct branch tracks to mills and manufacturing establishments.  
1871, c. 210.

SEC. 16. The land taken is not to be entered upon, except to make surveys, before the location has been filed, and the damages estimated and secured as hereinafter provided; and no railroad corporation shall take, without consent of the owners, meeting-houses, dwelling-houses, or public or private burying grounds. (a) \*

SEC. 17. Any *railway*[-road] corporation, under the direction of the railroad commissioners, may locate, construct and maintain branch railroad tracks to any mills or manufacturing establishments now or hereafter erected in any town or township, but not within any city through which the main line of said railroad is or may be constructed, without the consent of the city council thereof, and for that purpose said corporation shall have all the powers and rights granted, and be subject to all the duties imposed upon said corporation by its charter.

Damages to be estimated by co. com'rs within 3 years, and paid or secured by company.—if proceedings fail, new ones in one year.  
R.S., c. 51, § 6.  
—guardian may release damages.  
—person having any interest deemed owner to that extent.  
R.S., c. 51, § 2.  
—how secured.  
R.S., c. 51, § 6.  
34 Me., 252.  
47 Me., 446.  
52 Me., 208.  
59 Me., 537.  
64 Me., 506.

#### ESTIMATION AND PAYMENT OF DAMAGES.

SEC. 18. For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on a written application of either party, made within three years after filing the location, or if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter; [and] when no estimate is made within such time, the owner may maintain an action of trespass, or have any remedy herein provided. The guardian of a person incapable of giving a valid conveyance, whose land is taken, may settle and give a valid release for damages; and persons having any interest in such land have the rights and remedies of owners to the extent of their interest.\* When requested by the owner, the commissioners are to require the corporation to give security for the payment of damages and cost[s], by depositing, at its risk, with the clerk, specie, notes or obligations of a state or public corporation, or other security satisfactory to the party requiring it. When entitled to it, so much of any specie so deposited *is to* [shall]

(a) 40 Me., 557; 47 Me., 446.

\* [NOTE. While introducing into the text the statutes of 1871, 1872 and 1881, the commissioner has taken the liberty to re-arrange §§ 2, 5 and 6 of the revision of 1871, to avoid obscurity. For this suggestion the commissioner is indebted to Hon. Josiah H. Drummond, of Portland.]

be paid to him, as will satisfy his judgment. Notes or obligations so deposited are to be delivered to the officer having a warrant of distress, to be by him sold as personal property is sold on execution, to satisfy the warrant and fees, and any balance is to be paid to the treasurer of the corporation. When the corporation neglects for more than thirty days to give the security required, the owner is entitled to the remedies by injunction herein provided.

SEC. 19. In all cases of petition to the county commissioners of any county praying for the assessment of damages on account of any railroad corporation having taken any lands therein, the notice to be given to the adverse party of the time and place of the hearing thereon, shall be a personal notice of fourteen days, or by publication of the petition and order of notice thereon in some newspaper published in said county, two weeks successively, the last publication to be fourteen days before said hearing.

SEC. 20. The commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable; prescribe the time and manner of making them, and consider this work in awarding pecuniary damages; and if the corporation after forty-eight hours' notice in writing to its president or superintendent, neglects to commence the work or complete it within a reasonable time, the owner may apply to the supreme judicial court, and the court, after due notice to said corporation, shall issue all necessary processes to enforce the specific performance of such orders, or restrain it by injunction; or the party interested may recover, in an action on the case, double the damage he has sustained by such neglect.

SEC. 21. The commissioners are to make a report of their general estimate of damages, stating therein specifically, the rights and obligations of each party, at a regular session, and cause it to be recorded; their clerk is then to make out a notice to each person, stating the amount of damages awarded to him, which is to be served by an officer on those resident in the state, and upon others, if any, by a publication three weeks successively in a newspaper printed in the county, if any, if not, in the state paper. The expense of notices is to be added to the costs of the proceedings and paid accordingly. Either party has the same right to apply for an increase or decrease of damages as in case of highways; but no committee or jury shall alter the requirements in the report of the commissioner. When no petition for increase or decrease is filed within thirty days after service of notice, the proceedings are closed. When such petition is filed and is not prosecuted, the same is to be dismissed, and the proceedings closed at the next regular session, unless good cause for delay is shown. No such petition is to be entertained after the proceedings are closed. The

CHAP. 51.  
65 Me., 249.  
67 Me., 363.

Notice on petitions for assessment of damages for lands taken by railroad corporations.  
1871, c. 195.

Cattle guards and passes to be made and maintained by road; and on failure, may be compelled, or enjoined by court, or road liable to action.  
R.S., c. 51, § 7.

Commissioners to report damages and rights of each party; notice to be given to owners; application for increase or decrease of damages; when proceedings close; no alteration afterwards. Compensation of commissioners and costs on appeal.  
R.S., c. 51, § 8.  
45 Me., 207.  
52 Me., 208.  
60 Me., 236.  
64 Me., 506-7.  
65 Me., 249.  
67 Me., 292.

CHAP. 51. commissioners are to be paid the same for their services as in cases of highways; and in cases between the owners and occupants of lands and corporations, they are to be paid by the corporation ; when an appeal is taken, the losing party is to pay the cost[s] thereon.

Appeal from  
decision of  
county com-  
missioners,  
when made.  
1873, c. 95.  
65 Me., 230.  
67 Me., 292.  
70 Me., 499.

Damages,  
how deter-  
mined.

Notice of  
appeal, how  
made.

Exceptions  
may be  
taken.

Company  
may deposit  
damages in-  
terest and  
costs with  
clerk of  
court.  
R.S., c. 51, § 9.

When dam-  
ages are not  
paid, bill in  
equity may  
be filed and  
injunction  
issued; or  
owner may  
pray for an  
estimate of  
damages to  
be ordered  
by the court.  
R.S., c. 51, § 10.  
56 Me., 537.  
58 Me., 251-2.  
66 Me., 53.  
72 Me., 100.

SEC. 22. Any person aggrieved by the decision or judgment of the county commissioners in relation to damages for land taken for railroad purposes, may appeal therefrom to the next term of the supreme judicial court which shall first be holden in the county where the land is situated, more than thirty days from and after the day when the report of the commissioners estimating said damages is made, excluding the day of the commencement of the session of said court, which court shall determine the same by a committee of reference if the party so agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered with costs to the party prevailing in the appeal. The appellants shall serve written notice of such appeal upon the *railroad* company [opposite party] fourteen days at least before the session of said court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rning of the court as in other cases.

SEC. 23. When the proceedings are closed, the corporation may deposit with the clerk the amount of damages, with interest thereon from the time when the estimation was recorded, and legal costs, in full satisfaction therefor, unless a demand had been previously made and payment neglected.

SEC. 24. When the damages remain unpaid for more than thirty days after they are due and demanded, a bill in equity may be filed in court, in term time or vacation, by the person entitled to them, praying for an injunction against the use or occupation of his land taken. If proceedings for an estimation of damages are not commenced within three years, and the owner of the land files a bill praying therefor, the court may estimate the damages, decree their payment and issue an execution therefor; and the plaintiffs will be entitled to a bill for an injunction; and in either case, any judge of the court, after summary notice to the corporation and upon proof of the facts, may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. The bill is to be entered, service of it made, and continued at the term next after the injunction is issued. At the second term, if payment has not been made, the injunction may be made absolute; and all rights acquired by taking the land, and [all rights of property in and] to whatever has been placed upon it, cease, and the owner may maintain any appropriate action for its recovery and protection.

SEC. 25. Service of process and notice may be made upon the president of the corporation. When no president, upon any of its officers. When no officer, upon a stockholder. Service of an injunction issued against any person, whether a party to the bill or not, may be made upon him, and he will be liable to all the penalties and consequences provided for a breach of it.

CHAP. 51.  
Service of  
process and  
notices, how  
made.  
R.S., c.51, §11.

SEC. 26. If such injunction, after service, is violated, the court may order those doing so, or using the land, to show cause at a time fixed, why a decree should not be entered and execution issued against them individually, and their goods and estate, for the damages, interest, costs, and for additional damages and costs for breach of the injunction. Upon service and return of such order, the court may enter such decree as is just and equitable against such persons, and issue execution accordingly; or may proceed against them as for breach of injunction in other chancery cases.

Proceedings  
for breach of  
injunction.  
R.S., c.51, §12.

#### CROSSINGS REGULATED.

SEC. 27. Railroads may cross highways in the line of the railroad; but cannot pass along them without leave of the town. The conditions and manner of crossing are to be first determined, in writing, by the county commissioners, and entered in their records, who are to give reasonable notice of their intentions to the municipal officers of the town, in which such crossing is proposed. When the corporation is dissatisfied with their decision, it may make a written application to the governor, who is to appoint three disinterested persons not residents of the county, who, after notice to the commissioners, and at the expense of the corporation, are to revise and adjudicate upon the matter; and their decision, signed and recorded in the records of the commissioners, is to be final. No crossing of a street in a city not a highway, is to be made without the written consent of the mayor and aldermen, stating the manner and conditions thereof, to be recorded in the records of the commissioners. Crossings not so made are to be regarded as nuisances, and may be so treated, and the directors making them are personally liable.

Crossings of  
highways  
and streets,  
how made.  
R.S., c.51, §13.  
45 Me., 563.  
49 Me., 11,  
121, 157.  
51 Me., 315.  
57 Me., 134.  
58 Me., 47.

SEC. 28. Upon a written application and after notice to those interested, the commissioners may authorize any way to be raised or lowered, or its course to be altered, to facilitate a crossing, and may prescribe the manner in which it is to be done by the corporation. While its passage is thereby obstructed, a temporary way is to be provided by the corporation.

Ways may  
be raised or  
lowered for  
crossing.  
R.S., c.51, §14.  
38 Me., 30.  
49 Me., 121,  
157.

SEC. 29. When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in an action on the case, commenced within one year after performance is required.

Neglect, sub-  
jects to  
damages.  
R.S., c.51, §15.  
49 Me., 126.  
51 Me., 315.  
67 Me., 33.

**CHAP. 51.** SEC. 30. A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation of [on] them. The corporation making such crossing is liable for damages occasioned by it in an action on the case. Bridges and their abutments, constructed for a crossing of any way, are to be kept in repair by the corporation, or [by] persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to such persons, parties or corporations, that a bridge required at such crossing has not been erected, or is out of repair, and not safe and convenient, within the requirements of section fifty-six of chapter eighteen, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient, as required by said section ; and it shall be the duty of such persons, parties or corporations, to erect or repair such bridge, or make such crossing safe and convenient, as aforesaid, within ten days from the service of said notice ; and if they neglect so to do, any one of said municipal officers may apply to any justice of the supreme judicial court, in term time or vacation, to compel such persons, parties or corporations, to erect or repair such bridge, or make such crossing, as aforesaid ; and after hearing such justice or court may make any order thereon [which] the public convenience and safety may require, and [may,] by injunctions compel the respondents to comply therewith ; or the said municipal officers of any city or town may, at the expiration of ten days from the date of the notice aforesaid, cause necessary repairs to be made, and the expense of making such repairs shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.

**Bridge to be erected or repaired within ten days from service of notice.** Proceedings in case of further neglect.

**Company shall erect and maintain bridge guards.** 1878, c. 6. —to be approved by R. R. com'rs. Penalty for refusal or neglect. —for breaking or destroying.

**Bell on engine, and when to be rung.** Whistle or bell sounded

SEC. 31. Every railroad corporation shall erect and maintain suitable bridge guards at every bridge or other structure any portion of which crosses the railroad less than twenty feet above the track ; such guards to be approved by the railroad commissioners, and to be erected and adjusted to their satisfaction. Any corporation within this state which refuses or neglects to comply with the provisions of this section, shall, for each month of continuance in such neglect or refusal, forfeit the sum of fifty dollars ; and whoever shall willfully destroy or break any such bridge guard shall forfeit a sum not exceeding one hundred dollars, and be liable to imprisonment not exceeding thirty days.

SEC. 32. A bell of the weight of thirty-five pounds or more shall be placed on each engine used on a railroad, and [shall be] rung at the distance of eighty-five rods or more from the crossing of a way on the same level or running contiguous thereto, and

[shall be] kept ringing until the engine has passed the same; and a steam whistle, or, in cities and villages, a bell, shall be sounded as a warning at a distance of a hundred rods; and boards, with the words, "Railroad Crossing," distinctly painted thereon, on each side, in letters plainly legible, are to be placed on the side of a way where it is crossed by a railroad, on a post or other structure, in such position as to be easily seen by persons passing upon such way.

SEC. 33. When the municipal officers of a town deem it necessary, for public safety, that gates should be erected across a way where it is crossed by a railroad, and that a person should be appointed to open and close them, they may, in writing, request it to be done; and in case of neglect or refusal, they may apply to the county commissioners to decide upon *its* [the] reasonableness [of such request,] who, after notice and hearing, are to decide. When they decide that such a request is reasonable, or that at said crossing a flagman is necessary for the public safety, they may, upon said application, order one to be stationed there, instead of gates, and the corporation *is to* [shall] comply with *it* [such order] and pay the costs; when they decide otherwise, the costs are to be paid by the applicants.

SEC. 34. For unnecessarily neglecting to comply with any provision of the two preceding sections, the corporation forfeits not exceeding five hundred dollars. Any person, whose duty it is to open or close such gates for the passage of an engine or traveller on a way, neglecting so to do, forfeits not exceeding fifty dollars. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent, or for the mismanagement of an engine, to be recovered in an action on the case by the person damaged thereby.

#### FENCES AND TRESPASSES ON ADJOINING LANDS.

SEC. 35. Legal and sufficient fences are to be made on each side of land taken for a railroad, where it passes through inclosed or improved land, or wood lots belonging to a farm, before a construction of the road is commenced, and *they* [such fences] are to be maintained and kept in good repair by the corporation. For any neglect of *it* [such duty] during the construction of the road, and for injuries thereby occasioned by its servants, agents or contractors, the directors are jointly and severally personally liable. For any subsequent neglect, the corporation is liable to a fine sufficient to make or repair the fence, to be recovered by indictment and expended by an agent appointed by the court to make or repair the fence.

SEC. 36. The owner of any inclosed or improved land or wood lot belonging to a farm abutting upon any railroad which is

CHAP. 51.  
for warning.

—boards  
erected to  
give notice  
of crossing.  
R.S., c.51, §17.  
55 Me., 441.  
57 Me., 134.

Gates of flag-  
men at rail-  
road cross-  
ings, pro-  
viding for.  
1881, c.48, §1.

—proceed-  
ings in case  
of neglect or  
refusal.

Penalties for  
neglect of  
§§ 32 and 33,  
and liabili-  
ties to  
action for  
damages.

R.S., c.51, §19.  
57 Me., 134.

Fences how  
and where  
made.

—liability  
for injuries,  
and how  
recovered.  
R.S., c.51, §20.  
29 Me., 308.  
39 Me., 276.  
46 Me., 166.  
59 Me., 534.  
60 Me., 244.  
63 Me., 309.

Line fences  
to be built

**CHAP. 51.** finished and in operation, may at any time from the twentieth [day] of April to the end of October in each year, give written notice to the president, treasurer, or to either of the directors of the corporation owning, controlling or operating such railroad, when such is the fact, that the line fence against his said land has not been built, or if built, that the same is defective and needs repair. And if, after receiving such notice, said corporation shall neglect to build such fence or to repair it, as the case may be, for a period of thirty days, it shall forfeit to such owner one hundred dollars, to be recovered in an action on the case.

**Penalty for neglect by a railroad company to keep its road fenced.**

1871, o. 218, §1.

**SEC. 37.** Whenever any railroad [corporation whose road is] finished and in operation [but] is not fenced or its fences need repair, shall neglect to make or repair the same for ten days after written notice by any person served on either of the directors, the superintendent, or treasurer thereof, said corporation shall forfeit to the person giving said notice one hundred dollars, and shall be liable for all damages to any person on account of such neglect after ten days' notice as aforesaid.\*

**Penalty for injuring railroad fences, &c.**

1873, c. 126.

**SEC. 38.** Any person who[ever] shall take[s] down or intentionally injure[s] any railroad fence, which has been erected to protect the line of any railroad in this state, or shall turn[s] any horse, cattle or other animals, upon or within the inclosures of said [such] railroads, shall, upon complaint and conviction thereof, before any court of competent jurisdiction, be fined not less than ten nor more than one hundred dollars, to be paid into the treasury of the county wherein the offence was committed, or imprisoned not less than ten days [n]or more than six months, in the jail of said county at the discretion of said court.

**Company liable for trespasses on adjoining land.**

—**the trespasser also.**  
R.S., c. 51, §22.  
59 Me., 534-5.  
62 Me., 438.

**SEC. 39.** The corporation is liable for trespasses and injuries to lands and buildings adjoining or in the vicinity of its road, committed by a person in its employ[-ment], or occasioned by its order, when the party injured has, within sixty days thereafter, given notice of it [thereof] to the corporation ; but its liability does not extend to acts of willful and malicious trespass. The person committing a trespass is also liable for it.

#### CONNECTIONS.

**Duties of corporations owning connecting roads.**

R.S., c. 51, §23.  
46 Me., 73.  
47 Me., 210.  
52 Me., 442.

**SEC. 40.** A corporation owning a railroad on which cars run, is on request to draw over its road the cars of any other railroad connecting with it, at reasonable times, and for a toll not exceeding its ordinary rate. When it neglects, the corporation owning the connecting road may draw its cars over such road with its own engines during such neglect, subject, while on such road, to its regulations

\* [QUERY. Was not the act of 1875, which constitutes the preceding section, (36) designed to supersede and repeal the act of 1871, (§ 37)?]

for the management of its own trains. The corporation owning the connecting road is to furnish its own depots [stations] at the termini of the other road, and be liable for all injuries occasioned by such drawing of its cars; from which the other corporation is exempted.

SEC. 41. When railroads cross each other and passenger trains are due at the crossing at the same hour, the train first arriving shall wait for the arrival of the other, if it comes within twenty minutes; and each shall afford suitable opportunity for passengers desiring it to change with their baggage from one train to the other; and the superintendent, conductor and engineer of the road violating this provision shall be subject to a fine [of] not less than ten nor more than fifty dollars for each offence, to be recovered on complaint before a trial justice or by indictment to the use of the state.

Trains due  
at same hour  
at crossing  
or junction,  
to wait 20  
minutes for  
each other,  
and to give  
time to  
change  
baggage.  
—penalty for  
neglect.  
R.S., c. 51, § 24.

#### RATES OF FARE AND TOLL.

SEC. 42. In the month of September annually, each corporation *is to* [shall] fix its rates of toll for transportation of timber, wood, and bark, *per* [by] ton, cord, or thousand feet *per* [a] mile; and on the first day of October following, [shall] post up, at all the stations and depots on its road, a copy of such rates of toll and cause a copy to remain posted during the year. For neglecting so to fix and post, or for receiving higher rates of toll than those posted, it forfeits one hundred dollars to any person suing therefor.

Rates of toll  
for lumber  
and wood to  
be fixed and  
posted  
yearly.  
R.S., c. 51, § 25.

—penalty.

SEC. 43. Any railroad corporation may establish for its sole benefit, fares, tolls and charges, upon all passengers and property conveyed and transported on its railroad, at such rates as may be determined by the directors thereof, and may from time to time by its directors regulate the use of its road; *provided*, that such rates of fares, tolls and charges, and regulations shall at all times be subject to revision and alteration by the legislature, or [by] such officers or persons as the legislature may appoint for the purpose, anything in the charter of any such railroad corporation to the contrary notwithstanding.

R. R. compa-  
nies may  
establish  
fares and  
tolls, subject  
to revision  
and altera-  
tion by the  
legislature.  
1872, c. 84.  
53 Me., 282.

SEC. 44. No railroad company shall limit the right of a ticket-holder to any given train, but such ticket-holder shall have the right to travel on any train, whether regular or express *train*, and shall have the privilege of stopping at any of the stations along the line of the road at which such trains stop; and such tickets shall be good for a passage as above for six years from the day it was first used; *provided*, that railroad companies may sell excursion, return, or other special tickets at less than the regular rates of fare, to be used only as provided on the ticket.

Railroad  
tickets good  
for six years.  
1878, c. 9.  
60 Me., 519.  
72 Me., 389.

—proviso.  
—companies  
may sell spe-  
cial tickets.  
1873, c. 105.

SEC. 45. The foregoing section shall not be construed to prevent railroad corporations from establishing necessary rules and regulations for the cancellation of tickets, and exchange of partially used

Railroad  
tickets, can-  
cellation and  
exchange of.  
1876, c. 135, § 1.

CHAP. 51. tickets; such rules and regulations to be publicly posted at each ticket office and on all passenger trains, and when practicable, printed upon the tickets. And any ticket or check given in exchange for the unused portion of a partially used ticket, shall continue in force for the full term of the original ticket, as provided in said section.

*—tickets,  
&c., given  
in exchange  
to continue  
in force.*

## CHANGE OF ROUTE AND DISCONTINUANCE OF TRAINS.

Prohibition  
against  
change of  
location of  
railroad  
tracks or  
refusal to  
operate road.  
1872, c. 25.

SEC. 46. No railroad having established its business upon a line shall substantially deviate from the track as originally built and used, without the consent of the legislature, and no railroad having established its business as aforesaid shall cease to run its trains and operate its road, so long as said railroad company shall pay dividends to its stockholders from its earnings; but this section shall not be construed as a permission to any railroad company to cease operating its road or running its trains.

Order of no-  
tice to be  
served on  
railroad cor-  
porations  
neglecting to  
run trains.  
1874,c.204,§1.

SEC. 47. Whenever any railroad corporation *within this state* which has commenced receiving tolls, *has or shall hereafter neglect[s] or refuse[s]* regularly to run trains upon and operate its road for the transportation of passengers and freight for *the space of* sixty days at any one time, the railroad commissioners of *this state*, or any ten citizens residing in any county through which said railroad extends, may petition the supreme judicial court in any county through which such railroad extends, setting forth therein such neglect and refusal so to run trains and operate its road; which petition, before entry in court, may be presented to any justice of the court in term time or vacation, who shall order not less than fourteen days' notice thereon to be served on such corporation. The petitioners shall give written notice to the attorney general or the county attorney of the county in which said petition is filed, of the filing thereof, one of whom shall appear and take charge of proceedings in court. The court shall appoint a hearing, and at or after said hearing, if the allegations in such petition are found to be true, and if in the opinion of the court public necessity and convenience require it, [the court] shall appoint some suitable person or persons or some other railroad corporation, a receiver or receivers, to take possession and control of said railroad, together with all corporation property belonging to the same, and [shall] require such receiver or receivers to give bond to said railroad corporation in a reasonable sum, with securities satisfactory to the court, for the faithful discharge of his or their trust, and [shall] also to determine the compensation of such receiver or receivers.

*—notice to  
be given to  
attorney  
general.*

*—court shall  
appoint a  
hearing.*

*—receivers  
shall be  
appointed.*

*—shall give  
bond.*

Notice of ap-  
pointment.  
1874,c.204,§2.

SEC. 48. Such receiver or receivers *as soon as he or they have given* [immediately after giving] the required bond shall give

notice of his or their appointment by publishing the same three weeks successively in one newspaper printed in each county through which said road extends, and shall immediately take possession and control of said railroad, all its rolling stock, [stations and] depots, together with all appendages belonging to the same and necessary for the convenient use [there-of *the same*], and shall diligently proceed to repair and refurnish said railroad, its rolling stock and other appendages, *run* and operate the same for the accommodation of the public. Said receiver or receivers shall have the same authority to demand and receive tolls and otherwise manage said railroad and [shall] be subject to the same restrictions as are conferred and enjoined by the charter of said railroad upon its original corporators, and as is now or may hereafter be provided by law.

SEC. 49. In case said railroad, its track, bridges, rolling stock, and other appendages, shall be found to be *so* [too much] out of repair, or [its rolling stock and other appendages] insufficient in amount to admit of safely or successfully *operate* [operating] the same, and the earnings are not sufficient to repair said railroad, its track, bridges, rolling stock, and other appendages, or [to] rebuild or refurnish the same, said receiver or receivers, may raise, by loan, a sufficient sum of money, not exceeding five thousand dollars a mile, so to repair, rebuild or refurnish said railroad, its track, bridges, rolling stock and other appendages, said loan to bear a reasonable rate of interest, not exceeding eight per cent. [a year], payable semi-annually, and the principal payable within twenty years. A lien is created on the franchise and all the property, real and personal, road, roadbed, track, [stations] *depots*, buildings, and equipment, pertaining to and constituting said railroad, for the payment of the principal and interest of said loan. Said loan, secured by this lien, shall take precedence over any and all mortgages, bonds, stock, or other title or claim of indebtedness of any kind whatsoever, then existing or thereafter created on said railroad.

SEC. 50. Any judge of the supreme judicial court sitting in the county where the original petition was filed, on petition of said railroad corporation or the owners of the same, and after reasonable notice to such receiver or receivers, may revoke his or their authority and restore the possession and control of said railroad to said railroad corporation or its owners, by their paying the principal and interest of the aforesaid loan then existing, together with *such* [the] sum of *money* due said receiver [or receivers] for his [or their] personal services, together with all the expenses incurred in operating and repairing said railroad and its appendages during his [or their] continuance in his [or their] said capacity, over and above the earnings of the same; *provided* however, [that] —proviso.

Receivers authorized to raise money by loan to repair railroad.  
1874,c.204,§3.

—lien created for payment of loan.

Railroad restored to corporation on certain conditions.  
1874,c.204,§4.

**CHAP. 51.** *—corporation to give bond to state to keep railroad in repair.*

*In case of disagreement, railroad commissioners to decide amount due receivers.*  
1874, c. 204, §5.

*Vacancies in office of receivers, how filled.*  
1874, c. 204, §6.

*Questions of law, how determined.*  
1874, c. 204, §7.

*Assignment or lease of road forbidden.*  
R.S., c. 51, §26.

*—exceptions.*

said railroad corporation or its owners shall give bond to the state in such sum as the court may order, with sureties satisfactory to the court, conditioned that such railroad corporation or its owners thus seeking to receive possession shall operate and keep in repair said railroad, its rolling stock, and other appendages to the satisfaction of the railroad commissioners, for *the term of five years next following said order.*

**SEC. 51.** *In case [If]* said receiver or receivers and said railroad corporation or owners are unable to agree upon the amount due said receiver or receivers from said railroad corporation or its owners, *it [the question]* shall be referred by order of court to the determination of the railroad commissioners, *and* whose decision made to said court and accepted shall be final in the premises, and in no case shall said railroad corporation or its owners receive possession and control of said railroad until said receiver or receivers are paid or tendered the full amount due him or them, as aforesaid, except by his or their written consent.

**SEC. 52.** The court *shall have power and is [may] authorized to* fill any or all vacancies that may occur by death or resignation in said office of receiver, *also [and]* at the time of appointing said receiver or receivers or at any subsequent time during his or their continuing in said capacity, *to [may] issue all orders or decrees necessary to aid such receiver or receivers in the full and faithful discharge of his or their said trust, and to cause the same to be promptly enforced.*

**SEC. 53.** All questions of law arising under the provisions of the six preceding sections shall on motion of either party be at once certified by the presiding justice and transmitted to the chief justice, be argued in writing by both sides within thirty days thereafter, be considered and decided by the justices of said court as soon as may be, and the decision thereon *[shall be]* certified to the clerk of courts of the county where the case is pending, and judgment made up as of the term next preceding the time of receiving the certificate.

#### ASSIGNMENTS, LEASES, TRANSFER OF SHARES AND ISSUE OF BONDS.

**SEC. 54.** No corporation can assign its charter or any rights under it; lease or grant the use or control of its road or of any part of it, or divest itself thereof, without consent of the legislature. On complaint of a violation of these provisions by any person, the attorney general *is to [shall]* file an information in the nature of a writ of quo warranto against the corporation, and the court may enter such decree as justice and equity require. These provisions do not extend to *an agreement between the Somerset and Kennebec, and*

*the Kennebec and Portland railroad corporations, existing on April 30, 1852, or to\* any portion of the Atlantic and St. Lawrence railroad within the states of New Hampshire and Vermont; nor is any mortgage, made to secure payment of the debt of any such [said] corporation, to be affected thereby.*

SEC. 55. Shares in the capital of such corporation[s] are personal estates, and may be transferred by any written conveyance recorded in the books of the treasurer. No conveyances are operative, except between the parties, until so recorded. Upon such transfer, the certificates of shares are to be surrendered and new ones issued, unless the shares had been previously attached, when new certificates are not to be issued, until the attachment is dissolved, or the shares sold by process of law.

SEC. 56. A railroad corporation, to obtain money to build or furnish its road, or to pay debts contracted for that purpose, may issue its bonds in sums not less than one hundred dollars, bearing interest, secured in such manner as it deems expedient, and binding upon it though sold at less than par value, and no defence of usury *can* [shall] for that cause be admitted.

SEC. 57. When coupons for interest *are* issued with bonds, and for a valuable consideration, are detached and assigned by delivery, the assignee may maintain assumpsit upon them in his own name against the corporation engaging to pay them.

SEC. 58. *In all cases where* [When] any foreign railroad company or railway company [which] is or has been doing business in *this* [the] state, as the lessee of any railroad, neglects and refuses, or has neglected and refused, for the period of sixty days after demand, to pay and discharge any judgment recovered by any person against the company owning such leased road for any damages to the property of such person by the doings, misdoings or neglects of such foreign company, its agents or servants, and which judgment belongs in equity to such foreign company to pay and discharge, the supreme judicial court, on petition, is authorized and empowered to [may] compel payment thereof by such foreign corporation, and to make, pass and enforce all necessary orders, decrees and processes for the purpose.

SEC. 59. *In all cases in which* [When] any such judgment has been or hereafter may be [is] recovered, and such foreign company has neglected or hereafter may neglect[s], for the space of sixty days, to satisfy and pay such judgment to such person, the judgment creditor may have and maintain an action upon the case against such foreign company for the recovery of the amount of such judgment with interest and cost[s].

Shares how transferred.  
R.S., c.51, §27.

Bonds may be issued and sold at less than par.  
R.S., c.51, §28  
1871, c. 198.

Holders of coupons may collect them in own name.  
R.S., c.51, §29  
49 Me., 516.

Damages by foreign railroad companies leasing any R.R.  
1875, c.15, § 1.

—supreme court may compel payment of.

Judgment creditor, remedy of, against lessors.  
1875, c.15, § 2.

\* [NOTE. The italicized clause is supposed to be obsolete.]

## CHAP. 51.

## ANNUAL REPORTS.

Railroad commissioners shall prescribe form of annual returns.  
1877, c. 207.

—to be made on or before December 1.

—R. R. neglecting to make return, forfeits \$1,000.

—R. R. commissioners to notify attorney general,  
1879, c. 100.

SEC. 60. The railroad commissioners shall prescribe a form of returns uniform for all the railroads in the state, and designed to produce uniformity in the annual railroad returns of all the railroads in New England, in substance the same as that exhibited in an appendix to their report made to the governor, December thirty, eighteen hundred and seventy-six. Every railroad corporation shall, on or before December *first* [one], make an annual return to the railroad commissioners of its operations for each year ending September thirty, to be verified by the oath of its treasurer, and said return shall conform as nearly as practicable to the blank forms to be prescribed and furnished by the railroad commissioners. If any railroad corporation shall willfully neglect to make such return, it shall forfeit one thousand dollars to the use of the state, to be recovered in an action *of* [on] the case, or by complaint and indictment, *in any court having competent jurisdiction*; and *it shall be the duty of* the railroad commissioners *to* [shall] notify the attorney general of such neglect, who shall prosecute for the recovery of such forfeiture.

One brakeman to every two cars.  
R.S., c. 51, § 31.

SEC. 61. No train of cars, for passengers, moved by the power of steam, is to be run without one trusty and skillful brakeman to every two cars,

Danger signals to be placed on railroad tracks where disconnected cars are left standing.  
1880, c. 197, § 1.

SEC. 62. No car or cars, disconnected from a train, shall be left or permitted to remain standing on the main track of any railroad *in this state*, unless accompanied by danger signals, such as flagging by day and lanterns by night, placed at such distances *therefrom* [such obstruction], on the main line of the road, as will insure safety to and from moving trains, such signals to be in charge of and constantly attended by employes of the corporation owning or operating the road.

Penalty for violation of § 62.  
1880, c. 197, § 2.

—attorney general shall prosecute.  
—exception.

Railroad liable for damages by fire from engine.  
R.S., c. 51, § 32.

SEC. 63. If any railroad corporation shall violate any of the provisions of the preceding section, it shall forfeit for each offence, one hundred dollars to the use of the state, to be recovered in an action *of* [on] the case, or by complaint and indictment *in any court having competent jurisdiction*; and *it shall be the duty of* the attorney general *to* [shall] prosecute for the recovery of such forfeiture. *The [said] provisions of said section do not apply to horse railroads.*

SEC. 64. When a building or other property is injured by fire communicated by a locomotive engine, the corporation using it is responsible for such injury, and it has an insurable interest in the property along the route, for which it is responsible, and may procure insurance thereon. (a)

(a) 37 Me., 94; 42 Me., 583; 46 Me., 114; 47 Me., 524; 58 Me., 85; 63 Me., 295-7.

**SEC. 65.** When an accident occurs on a road resulting in the death of a person, the corporation using it is to give immediate notice thereof to the county attorney, who is to call upon a coroner, residing near the place of the accident, to hold an inquest upon the bodies of those whose deaths were so occasioned. If the county attorney does not reside within ten miles of *that [said]* place, some justice of the peace, residing in the county, is to be called upon to notify a coroner to hold such inquest, before notice is given to the attorney to be present at it.

**SEC. 66.** A person having charge of a locomotive engine, or acting as conductor, brakeman, or switchman, who is intoxicated while employed on a railroad, is liable to a fine not exceeding one hundred dollars, or to imprisonment not exceeding six months, or to both.

**SEC. 67.** Any person employed in conducting trains, who is guilty of negligence or carelessness occasioning an injury, is to be punished by imprisonment *in the county jail* not exceeding one year, or by fine not exceeding one thousand dollars. The corporation employing him is not thereby exempt from responsibility.

**SEC. 68.** Any railroad corporation, by whose negligence or carelessness, or by that of its servants or agents while employed in its business, the life of any person, in the exercise of due care and diligence, is lost, forfeits not less than five hundred, nor more than five thousand dollars, to be recovered by indictment found within one year, wholly to the use of his widow, if no children; and to the children, if no widow; if both, to her and them equally; if neither, to his heirs.

**SEC. 69.** No railroad corporation is liable to a fine for the loss of life of a person walking or being on its road contrary to law, or to its valid rules and regulations.

**SEC. 70.** A person, without right, standing or walking on a railroad track or bridge, or passing such bridge in any manner other than by railroad conveyance, forfeits not less than five nor more than twenty dollars, to be recovered by complaint.

**SEC. 71.** A printed copy of the preceding section is to be kept posted in a conspicuous place in every passenger *depot* [station] of a railroad; for neglect of it the corporation forfeits not exceeding one hundred dollars for every offence.

**SEC. 72.** Any person, other than a servant or employee of the road, or a passenger holding a ticket for a passage over the road, or mail agents or expressmen, who shall get upon or leave any steam engine, tender, or car at any place outside of a railroad station, while such engine, tender or car is in motion, shall be punished by imprisonment not exceeding thirty days, or by a fine not exceeding ten dollars. This provision shall not affect the liability of

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Coroners to hold inquest on bodies of those killed on road.  
R.S., c.51,§33.Intoxication on railroads punished.  
R.S., c.51,§34.Negligence occasioning injury punished.  
R.S., c.51,§35.  
43 Me., 270.  
57 Me., 218.  
63 Me., 70.Occasioning death, how punished.  
R.S., c.51,§36.  
58 Me., 180.  
60 Me., 150,  
491.  
61 Me., 115.  
67 Me., 480.Not liable for death of person walking on road.  
R.S., c.51,§37.Forfeiture for standing or walking on track or bridge.  
R.S., c.51,§38.Printed copy of preceding section to be posted.  
R.S., c.51,§39.Punishment for getting upon or leaving railroad train when in motion.  
1881, c. 85.

Liability of

CHAP. 51. liability of any railroad corporation for injuries or damages caused by the fault or negligence of the corporation or its servants.  
 corporations not affected.

Penalty for disorderly conduct on railroad train.  
 1880, c. 222, §1.

SEC. 73. Whoever shall behave in a disorderly or riotous manner while on a train of cars on any railroad *in this state*, or shall use indecent or profane language in the cars of such train, shall be deemed guilty of a breach of the peace, and, upon conviction, be liable to a fine of not less than five nor more than five hundred dollars, or imprisonment in the county jail not less than thirty days nor more than one year; but this act shall not relieve such person from any other penalty prescribed by law.

Conductor may arrest and hold guilty person.  
 1880, c. 222, §2.

SEC. 74. The conductor of a train of cars on any railroad *in this state*, may arrest and temporarily hold any person guilty of such breach of the peace, until a warrant can be obtained, or he [can] be placed in custody of the proper officers of the law.

Highways, how to be passed; not to be obstructed.  
 R.S., c. 51, §40.  
 59 Me., 190.

SEC. 75. No engine or train is to be run across a highway near the compact part of a town at a greater speed than six miles an hour. Nor is any way to be unreasonably and negligently obstructed by engines, tenders or cars. The corporation forfeits not exceeding one hundred dollars for every such offence.

Regulations at railroad crossings.  
 1874, c. 164.

SEC. 76. When a railroad crosses another railroad on [the] same grade, every engine man on both, when approaching the point of intersection, with an engine with or without a train, shall stop his engine within five hundred feet of such point and before reaching it, and shall pass it at a rate not exceeding eight miles an hour, except when from the condition of the track or train it shall be necessary to run at greater speed, and in that case the conductor or person in charge of the train shall cause some person to stand at said crossing, with a flag by day and a lantern by night, to warn trains approaching on the other road; but when two or more crossings on the same road are within four hundred feet of each other one stop will be sufficient; and if he [such engine man, conductor, or person in charge of the train] violates this provision he shall forfeit, for each offence, one hundred dollars, and the corporation on whose road the offence is committed shall forfeit two hundred dollars.

Signals to warn approaching trains.

Penalty for violation.

Location of railroad near the depot of another company forbidden.  
 1872, c. 32, § 1.  
 65 Me., 123.

SEC. 77. No railroad company shall construct or maintain any track, or run any engines or cars on any street or highway so near any *depot* [station] of any other railroad as to endanger the safe and convenient access to and use of such *depot* [station] for ordinary *depot* [station] purposes.

#### EVASION OF FARES AND LOITERING AT RAILROAD OR STEAM-BOAT STATIONS.

Penalty for evading pay-

SEC. 78. No person is entitled to be transported over a railroad, who does not, on demand, first pay the established fare.

*One who[-ever] fraudulently evades payment by giving a false answer, or by travelling beyond the place to which he has paid, or by leaving a train without paying, forfeits not less than five, nor more than twenty dollars, to be recovered on complaint.*

**SEC. 79.** No person or persons shall loiter or remain, without right, within any car, station-house of a railroad corporation or steamboat, or upon the platform or grounds adjoining such station, after being requested to leave the same by any railroad officer or officer or agent of such steamboat. Whoever violates the provisions of this section forfeits not less than two nor more than ten dollars, to be recovered on complaint.

**SEC. 80.** The officers of all railroad corporations and steam-boat companies *in the state*, shall cause a copy of the foregoing section to be posted in a conspicuous place at the several depots [stations] along the line of their roads and route of their steam-boats.

#### BAGGAGE AND EFFECTS.

**SEC. 81.** *Railroad corporations are to publish in one newspaper printed in each county where there is a passenger depot [station], in the months of January and July of each year, a list of the effects of passengers, which have been left by them and remain unclaimed at any place in their possession. The effects are to be described by all such marks on them as serve to identify them.*

**SEC. 82.** *Articles remaining unclaimed for six months after being so advertised, are to be examined by the municipal officers of the town where the articles are, on notice given, and they are to cause them to be sold at auction, or to be advertised again as before.*

**SEC. 83.** *After deducting from the proceeds of sale the expenses due to the corporation, and the costs of advertising, examination and sale, any balance is to be paid to the treasurer of state for its [the] use [of the state].*

**SEC. 84.** *For neglect of these duties, the corporation is liable to an action for damages by any person aggrieved, and to a penalty of one hundred dollars for each case of neglect, to be recovered by indictment, one half to the complainant, the other to the county where the offence was committed.\**

#### THE ELECTION, POWERS AND DUTIES OF TRUSTEES OF MORTGAGES.

**SEC. 85.** When a railroad corporation mortgages its franchise for the payment of its bonds or coupons, and trustees are appointed

\* [QUERY BY THE COMMISSIONER. May it not have been the intention of the Legislature to repeal §§ 81 to 84, inclusive, by c. 182, of 1874, which, as amended by c. 19 of 1881, constitutes sections 8, 9 and 10 of chapter fifty two of this revision.]

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ment of fare.  
R.S., c.51, §41.  
53 Me., 282.

No person to  
loiter in any  
R. R. car,  
R. R. or  
steamboat  
station-  
house, &c.  
1881, c. 43.  
Penalty.  
1877, c. 163,  
§§ 2, 3.

Copies of  
law to be  
posted in  
stations.  
1881, c. 43.

Lists of  
effects left  
by passen-  
gers to be  
published.  
R.S., c.51, §43.

Lists to be  
examined by  
town officers  
and sold at  
auction.  
R.S., c.51, §44.

Disposal of  
proceeds.  
R.S., c.51, §45.

Corporation  
liable for  
neglect of  
these duties.  
R.S., c.51, §46.

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how filled.  
1876, c. 105.  
50 Me., 561.  
69 Me., 398.  
72 Me., 74.

S. J. court shall appoint time of hearing, may order notice, affirm elections and enforce decrees.  
Decrees to be filed with clerk of courts.

What constitutes a breach of mortgage. Trustees to call meeting of bondholders, and how notified. R.S., c. 51, § 48. 50 Me., 561. 52 Me., 99.

Bondholders to have one vote for every \$100 of bonds, and may vote whether trustees shall take possession. R.S., c. 51, § 49.

Trustees may take possession of road, &c., and have powers of the corporation. R.S., c. 51, § 50. 55 Me., 406.

Trustees to keep account of receipts and expenditures. 1876, c. 123. Receipts, how appropriated. Trustees not personally liable. When trustees shall surrender road,

by it, or by special law, or by the mortgage, the bondholders, at a regular meeting called for the purpose and notified as herein-after provided, may, from time to time, elect by ballot new trustees to fill vacancies, when no other method for filling vacancies is specifically provided in the appointment, special law or mortgage.

Any party interested may present the proceedings of such meeting to the supreme judicial court, or to a justice thereof in vacation, who shall appoint a time of hearing, and order such notice to parties interested as he deems proper, and may affirm such elections, and make and enforce any decrees necessary for the transfer of the trust property, to the new trustees. All such decrees shall be filed with the clerk of the court where the hearing is had, and recorded by him.

**SEC. 86.** The neglect of the corporation to pay any overdue bonds or coupons secured by such mortgage, for ninety days after presentment and demand on the treasurer or president thereof, shall be a breach of the conditions of the mortgage; and there-upon the trustees shall call a meeting of the bondholders, by publishing the time and place thereof three weeks successively in the state paper, and in some paper in the county where the road lies, the last publication to be one week at least before the time of the meeting.

**SEC. 87.** At such meeting and all others, each bondholder present may have one vote for each hundred dollars of bonds held by him or represented by proxy; and they may organize by the choice of a moderator and clerk, and determine whether the trustees shall take possession of such road, and manage and *run* [operate] it in their behalf.

**SEC. 88.** If they so determine, the trustees shall take possession of such road and all other property covered by the mortgage, and have all the rights and powers, and be subject to all the obligations of the directors and corporation of such road, and may also prosecute and defend suits in their own name as trustees.

**SEC. 89.** They shall keep an accurate account of the receipts and expenditures of such road, and exhibit it, on request, to any officer of the corporation, or other person interested. They shall, from the receipts, keep the road, buildings and equipments in repair, furnish such new rolling stock as is necessary, and the balance, after paying running expenses, shall be applied to the payment of any damages arising from misfeasance in the management of the road, and after that according to the rights of parties under the mortgage. They shall not be personally liable except for malfeasance or fraud. When all overdue bonds and coupons secured by the mortgage are paid they shall surrender the road and other property to the parties entitled thereto.

SEC. 90. They shall annually, and at other times on written request of one fifth of the bondholders in amount, call a meeting of the bondholders in the manner prescribed in the by-laws of the corporation for calling a meeting of stockholders, and report to them the state of the property, the receipts, expenses and the application of the funds. At such meeting, the bondholders may fix the compensation of the trustees; instruct them to contract with the directors of the corporation or other competent party, to operate said road while the trustees have the right of possession, if approved by the bondholders at a regular meeting, otherwise not exceeding two years, and to pay to them the net earnings thereof; or [may] give them any other instruction they deem advisable; and the trustees shall conform thereto, unless inconsistent with the terms of the trust.

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Trustees to  
call annual  
and other  
meetings of  
bondholders,  
and report to  
them.

Bondholders  
may fix their  
compensa-  
tion and in-  
struct them  
to contract  
for operat-  
ing the road.  
R.S.,c.51,§52.

#### FORECLOSURE AND REDEMPTION OF MORTGAGES.

SEC. 91. The trustees on application of one third of the bondholders in amount to have such mortgage foreclosed, shall immediately give notice thereof, by publishing it three weeks successively in the state paper and some paper, if any, in each county in which the road extends, therein stating the date and conditions of the mortgage, the claims of the applicants under it, that the conditions thereof have been broken, and that for that reason they claim a foreclosure; and they shall cause a copy of such notice and the name and date of each newspaper containing it, to be recorded in the registry of deeds in each such county, within sixty days from the first publication; and unless, within three years from the first publication, the mortgage is redeemed by the mortgagors or those claimant under them, or a bill in equity as in cases of the redemption of mortgaged lands is commenced, founded on payment or a legal tender of the amount of overdue bonds and coupons, or containing an averment that the complainants are ready and willing to redeem on the rendering of an account, the right of redemption shall be forever foreclosed.

How and  
when rail-  
road mort-  
gages may  
be fore-  
closed.  
Must be re-  
deemed  
within three  
years or bill  
brought,  
founded on  
payment,  
tender or  
averment of  
willingness  
to pay.  
R.S.,c.51,§53.  
50 Me., 561.  
54 Me., 184.  
59 Me., 48,69.  
66 Me., 491-2,  
507.

SEC. 92. Each holder of overdue bonds or coupons shall present them to the trustees at least thirty days before the right of redemption expires, to be by them recorded; and such right shall not be lost by the non-payment of any claims not so presented; and the parties having the right to redeem shall have free access to the record of such claims.

Holders of  
overdue  
bonds and  
coupons to  
present  
them to  
trustees to  
be recorded.  
R.S.,c.51,§54.

SEC. 93. The foreclosure of the mortgage shall enure to the benefit of all the holders of bonds, coupons and other claims secured thereby; and they, their successors and assigns are constituted a corporation, as of the date of the foreclosure, for all the purposes, [and] with all the rights and powers, duties and obligations of the

Foreclosure  
for benefit  
of all claim-  
ants under  
mortgage,  
and consti-  
tutes a cor-  
poration, and

CHAP. 51. trustees are to convey to it.

Court may compel them, R.S., c.51,§55. 59 Me., 70.

66 Me., 507.

Manner of calling first meeting of new corporations.

1877,c.151,§1.

66 Me., 507-8.

—may adopt new name.

—may take possession and have the use of mortgaged property.

This section applies to § 109.

1877,c.151,§2.

original corporation by its charter ; and the trustees shall convey to such new corporation by deeds all the right, title and interest which they had by the mortgage and the foreclosure thereof, and thereupon they shall be discharged. If they neglect or refuse so to convey, the court, on application in equity, may compel them so to do.

Sec. 94. The new corporation may call its first meeting in the manner provided for the calling the first meeting of the original corporation, and [may] use therefor the old name, or by a notice, signed by one or more of said bondholders, setting forth the time, place and purpose of the meeting, a copy of which is to be published in a newspaper in the county, if any, otherwise in the state paper, seven days before the meeting ; but, at that meeting, [it] may adopt a new one, by which it shall always after be known ; and it may take and hold the possession, and have the use of the mortgaged property, though a bill in equity to redeem is pending, and may become a party defendant to such bill. The provisions of this section shall apply to all corporations mentioned in section one hundred and nine.

#### NEW CORPORATION MAY REDEEM PRIOR MORTGAGES.

New corporation may vote to redeem prior mortgage, and make assessments therefor, and how and when paid.

R.S.,c.51,§57.

66 Me., 507.

See § 109.

Sec. 95. If any part of such property or franchise is subject to a prior mortgage, such new corporation, at a legal meeting called for that purpose, may vote to redeem the same, and make an assessment therefor on all persons holding any stock, certificates for fractions of stock, bonds or coupons in such corporation in proportion to their amounts. The directors shall immediately assess such sum, and fix a time and place for the payment thereof to the treasurer, who shall publish notice accordingly six weeks successively in some newspaper, if any, in each of the counties where the road extends, the last publication to be two weeks at least before the time fixed for payment.

Sec. 96. If any person fails to pay his assessment within the time fixed, the treasurer shall sell enough of his stock at auction to pay the same, with twelve per cent. interest and the cost of advertising and selling, by first publishing notice of such sale three weeks successively in a newspaper printed in the county where the sale is to be, if any, and if not, in an adjoining county. Thereupon the president and treasurer shall issue a new certificate of stock to the purchaser ; and the delinquent stockholder shall surrender his [certificate] to be cancelled, and may have a new one for his unsold shares [by paying for the legal stamp]; and if he held bonds, coupons or certificates for fractions of stock, he shall not be entitled to commute them or [to] receive any dividends thereon until he has paid his assessment with twelve per cent. interest.

If assessments not paid, stock sold and new certificates issued. Delinquent not entitled to commutation or dividends, till paid.

R.S.,c.51,§58.

66 Me., 507.

SEC. 97. The directors shall apply the money realized from such assessments solely to the redemption of such prior mortgage until it is fully paid; and then all the property, rights and interests secured thereby shall vest in such new corporation.

REDEMPTION OF PRIOR MORTGAGES BY SUBSEQUENT MORTGAGEES.

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Directors to apply funds to mortgage; when redeemed, property to vest in corporation.  
R.S., c.51, §59.

SEC. 98. When a subsequent mortgage of a railroad, its franchise or of any part of its other property, contains no provision for a sale, or a conditional provision depending on the application of a majority in amount of the claims secured thereby, and no such application has been made to the trustees, the holder of such mortgage may redeem a prior mortgage on the same property which is under process of foreclosure, at any time before it becomes absolute; and hold it in trust for those who contributed thereto in proportion to the amount paid by each.

SEC. 99. For such purpose, the trustees of such subsequent mortgage, on the application of one or more persons interested therein, made six months prior to the absolute foreclosure of such prior mortgage, and on payment of reasonable expenses to be incurred thereby, shall call a meeting of all interested and publish a notice thereof, stating the time, place and purpose, three weeks successively in the state paper and such other papers as they think proper. If at such meeting, or one called by the trustees without application, the holders of a majority of the interests there represented vote to redeem the prior mortgage, each one may contribute his proportion thereto. The trustees shall give immediate notice of such vote by publishing it as above, and shall therein state the time and place of payment, and the amount to be paid on each hundred dollars as near[ly] as may be. If any one fails to pay his proportion, any other person interested in said subsequent mortgage may pay it, and succeed to all his rights except as hereinafter provided.

When and how subsequent mortgagees may redeem prior mortgages.  
R.S., c.51, §60.  
66 Me., 507.

Trustees to call a meeting for that purpose, and how mortgagees may vote to redeem, and each to contribute his portion or any other may for him.  
R.S., c.51, §61.

PART OF SUBSEQUENT MORTGAGEES MAY ALSO REDEEM.

SEC. 100. If no such meeting is called or it is voted not to redeem, one or more of the persons interested in such subsequent mortgage, may pay to the trustees thereof the amount required to redeem the prior mortgage; and such trustees shall redeem it accordingly and then hold it in trust for the persons so paying.

SEC. 101. When a prior mortgage has been redeemed in either mode aforesaid, and all persons interested in the subsequent mortgage have not paid their proportions thereof, the trustees shall publish a notice ten weeks successively in the state paper, the first publication not to be till the right of redeeming the prior mort-

If no such meeting, or if they refuse, any one interested in subsequent mortgage, may redeem.  
R.S., c.51, §62.  
Delinquents may afterwards pay their proportions and be restored to their rights.

**CHAP. 51.** gage would have expired, that delinquents may pay the same to them or their agents with twelve per cent. interest within one year from the first publication of said notice ; and any person so paying shall have the same rights as if he had paid originally ; and those not so paying are barred. Money so paid shall be divided ratably to those who advanced the redemption money ; and they may become a new corporation, and new certificates of stock or fractions of stock may be issued in the manner and with the rights, powers and obligations hereinbefore provided.

Those redeeming may become a new corporation.  
R.S., c.51,§63.

How the stockholders of the old corporation may redeem such prior mortgage, and what to be paid therefor and when.

R.S., c.51,§64.  
54 Me., 185.

**SEC. 102.** When a prior mortgage is thus redeemed, any number of the stockholders of the old corporation may redeem it within two years thereafter by paying to the trustees of such subsequent mortgage the amount paid therefor, with ten per cent. interest, and also the amount secured by the subsequent mortgage due to those who had contributed to redeem the prior mortgage, after deducting the net earnings of said road or adding the net deficiencies, if operated by the trustees of the subsequent mortgage ; and said stockholders may demand of said trustees an accurate account of the receipts and expenditures and amount due on the mortgage, and have the same remedies for a failure as in case of mortgages of real estate. After such redemption the redeeming stockholders shall have all the rights of those from whom they redeemed.

Non-contributing stockholders may pay their proportions, and be restored to their rights.  
R.S., c.51,§65.

Prior mortgagees may vote to extend the time of redeeming, after foreclosure is commenced.  
R.S., c.51,§66.

**SEC. 103.** The stockholders redeeming as aforesaid, shall give notice to the stockholders who have not contributed thereto ; and the latter shall have the same rights hereinbefore provided in the case of bondholders.

**SEC. 104.** The persons interested in a prior mortgage on which a foreclosure is commenced, at a meeting called for the purpose, may extend the time of redemption ; and thereupon the trustees of such mortgage, by a suitable writing, delivered to the party entitled to redeem, shall extend the time accordingly.

#### RIGHTS OF PURCHASERS UNDER A SALE OF RAILROAD AND FRANCHISE.

When railroad and franchise are sold, purchaser to have rights of original corporation. Such corporation may redeem, and how and when.  
R.S., c.51,§67.

**SEC. 105.** When the franchise of a railroad and its road, wholly or partly constructed, are sold by a decree of the court, by a power of sale in a mortgage thereof or on execution, the purchasers have all the rights, powers and obligations of the corporation under its charter, and may form a new corporation in the manner hereinbefore provided. If the original corporation or those claiming under it have a right to redeem, they may do so in the manner provided for the redemption of mortgaged real estate; but shall pay in addition to the amount of the sale and interest, the reasonable expenditures made by the new corporation in completing, repair-

ing and equipping said road, and in the purchase of necessary property therefor, after deducting the net earnings thereof. CHAP. 51.

SEC. 106. The trustees of bondholders or other parties under contract with them operating a railroad, and all the corporations formed in the modes hereinbefore provided, shall have the same rights, powers and obligations as the old corporation had by its charter and the general laws; and [but all said rights and privileges] shall also be subject to *be amended, altered* [amendment, alteration] or [repeal] *repealed* by the legislature, and to all the general laws concerning railroads, notwithstanding anything to the contrary in the original charter.

Trustees operating a railroad, and all new corporations, to have rights and obligations as the original corporation. Subject to alterations by law.  
R.S., c.51,§68.

SEC. 107. The original corporation shall exist, after the foreclosure of the mortgage, for the sole purpose of closing up its unsettled business; and the right of action against it or its stockholders shall not thereby be impaired; but in suits founded on any of the bonds or coupons secured by the mortgage, the proportional actual value of the property taken under the mortgage shall be deducted.

Original corporation continues, to close business, and for suits.  
R.S., c.51,§69.  
66 Me., 507.

SEC. 108. The supreme judicial court, in addition to the jurisdiction specifically conferred upon it by this chapter, may have jurisdiction, as in equity, of all other matters in dispute arising under the preceding sections relating to trustees, mortgages, and the redemption and foreclosure of mortgages; but not to take away any rights or remedies that any party has and may elect to enforce at law; and in all proceedings relating to trustees or to mortgages, their foreclosure and redemption, not otherwise specifically provided for herein, the law relating to trusts and mortgages of real estate may be applied.

S. J. C. to have jurisdiction as in equity of all disputes, but not to take away any rights at law, and to follow law of trusts and mortgages in cases not provided for.  
R.S., c.51,§70.

SEC. 109. The provisions of sections eighty-five to one hundred and eight, each inclusive, shall apply to and include all mortgages of franchises, lands, property hereditaments and rights of property of any kind whatever, whether heretofore given or hereafter to be given by any corporation to trustees, to secure the payment of scrip or bonds of said corporation, in all cases in which the principal of said scrip or bonds shall have been due and payable for more than three years, and shall remain unpaid in whole or in part, in the same way and to the same extent as if the mortgage had been legally foreclosed, subject to all rights of redemption, as provided in section ninety-five; and the holders of said scrip or bonds shall have the benefit of all said provisions, and shall have all the rights and powers of the corporation under its charter, and may form a new corporation in the manner provided in this chapter, whenever the holders of such scrip or bonds to any amount exceeding one half of the same shall so elect, in writing.

Preceding sections to apply to mortgages of corporations given to trustees, as if legally foreclosed.  
1878,c.53,§1.  
See § 95.  
Rights and powers of holders of scrip and bonds.

**CHAP. 51.**

Amount of capital stock of new corporation.  
1878,c.53, § 2.  
—value of shares.

—not liable to further assessment.

Sec. 110. The capital stock of such new corporation shall be equal to the amount of unpaid bonds and coupons secured by such mortgage, taken at their face at the time of the organization of the new corporation, and the amount required to redeem any prior mortgage, and shall be divided into shares of one hundred dollars each. All stock issued under the aforesaid provisions shall be taken and considered as paid for in full, and shall not be liable to further assessment; and no person, taking or holding the same, shall by reason thereof be liable for the debts of such corporation.

## RAILROAD COMMISSIONERS.

Appointment of railroad commissioners their tenure of office and compensation, and by whom paid.  
R.S.,c.51,§71.  
1879,c.125,§2.

Board to examine railroads and rolling stock when necessary, and make annual reports.  
R.S.,c.51,§72.

Corporation to file certificate of the state of its road, and pay commissioners. Penalty and liabilities for neglecting it.  
R.S.,c.51,§73.

If board find road unsafe, to notify managers, and may require them to reduce speed and repair road.  
R.S.,c.51,§74.

If managers do not comply with such requirements, the commissioners shall petition the supreme judicial court in any

Sec. 111. The governor, with advice of council, shall appoint three railroad commissioners, who shall act as a board and hold their offices three years; two of them shall be experienced in the construction and management of railroads, and one of them shall be an engineer. Their compensation shall be five dollars a day while actually employed in their official duties, to be paid by the railroads on which the services are rendered.

Sec. 112. A majority of the board, annually between the first of April and October, and at any other time on application or without when they think necessary, shall carefully examine the tracks, rolling stock, bridges, viaducts and culverts of all railroads; shall give a certificate thereof to the clerk of the corporation, therein stating the condition of the road and rolling stock, and shall annually in December make a report to the governor of their official doings with such facts as they deem of public interest or [which] he requires; and all persons managing railroads shall give the board such information as they from time to time request.

Sec. 113. The corporation shall file such certificate in the office of the secretary of state before the first day of December and pay the commissioners for the examination, or forfeit one thousand dollars to be recovered in an action of [on] the case, half to the state and half to the person suing therefor; and if the president and directors of a railroad while it is guilty of such neglect, allow a passenger train to run over it, they shall be personally liable for any damages occasioned by a defect in said road or rolling stock; but this *will* [shall] not relieve the corporation.

Sec. 114. If the board, at any examination, find the track, culverts, bridges or rolling stock in use so out of repair as to be unsafe for travellers, they shall immediately notify the managers of said road of its condition, and the time in which the repairs shall be made; and may require them to reduce the speed of all trains until repairs are made.

Sec. 115. If they do not comply with such requirements, the commissioners shall petition the supreme judicial court in any

county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement and refusal to comply; and shall notify the attorney general or the county attorney of the county where the petition is filed, of the filing thereof, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the managers of the road as they deem necessary to secure the safety of travellers; and unless such managers *will* execute a bond to the state, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or otherwise satisfy the court that they will be so made, the court shall issue an injunction on said corporation and its managers, prohibiting the running of any passenger trains over the portion of the road found to be unsafe, until the order has been complied with or revoked.

Sec. 116. When in the opinion of the railroad commissioners the passage of passenger trains over any portion of any railroad would be attended with imminent danger, they may notify the president or superintendent of such road of such unsafe condition of said portion of said road and order the immediate stopping of all passenger trains about to run over the same. In case said order is not obeyed said commissioners shall at once apply to some judge of the supreme judicial court, who may, upon satisfactory proof of the necessity for such order, and without notice to said company, issue an injunction prohibiting the running of passenger trains over said road until further order of the court.

Sec. 117. When the managers of a railroad authorized to cross or connect with another road, are unable to agree therewith, as to transportation of passengers and freight over their roads and other matters, they may apply to the commissioners in writing, and either of them may indorse an order of notice thereon to all interested, fixing a time and place for hearing; and the applicant shall cause such order to be complied with. At such hearing, any corporation or person claiming to be interested, may be made a party and be heard thereon, though not named in the application; and said commissioners have the authority of courts at law to summon witnesses, compel their attendance and testimony, and depositions may be taken and used as in suits at law. When the hearing is closed, they shall determine and award the rates for transporting passengers, freight or cars over the road of each or over any road on which either is a common carrier by contract or otherwise, and all other matters in controversy between the two roads arising from such connecting, or crossing, or the times of doing so; and

CHAP. 51.  
ply, R. R.  
commission-  
ers to apply  
to S. J. C. to  
compel them  
to enjoin.  
R.S., c. 51, § 75.  
See § 122.

Passenger  
trains pro-  
hibited from  
running over  
railroads  
when unsafe.  
1874, c. 218, § 2.

When con-  
necting rail-  
roads do not  
agree as to  
transporta-  
tion of pas-  
sengers and  
freight, they  
may apply to  
commission-  
ers to make  
award in the  
matter.  
Their pro-  
ceedings and  
the result.  
R.S., c. 51, § 76.  
See § 129.

CHAP. 51. may require either party to give security to the other for the payment of balances resulting from their mutual business, on such terms as they deem equitable; and may determine that their award may be suspended, after its acceptance, at the election of the party injured by the non-performance of the conditions thereof by the other.

Award to be returned to court for action.  
Exceptions may be taken, and how heard.  
R.S., c.51, §77.  
See § 129.

Sec. 118. The award shall be returned to the supreme judicial court in the county where the hearing was had, and accepted, or for good cause, rejected or recommitted. Exceptions to any ruling of the court in such proceedings may be taken and allowed within the rules of the court, except in recommitting the report; and when so allowed, a certified copy thereof and of all papers used at the hearing, shall be forthwith sent by the clerk of the court to the chief justice thereof; and the parties shall be heard thereon by the law court in the district where the hearing was had; but if such court does not sit within thirty days after the papers are received by the chief justice, he shall, at the request of either party, detail a majority of the justices to hear the case at the time and place ordered by him; send the order to the clerk of the court where the matter is pending, and he shall enter it on the docket under the case, and that shall be sufficient notice to the parties; and the case shall then and there be heard the same as if at a regular law term. When the award is accepted and judgment rendered thereon, it shall be binding on all parties notified, whether they appeared or not, until a new award is made on another application; and the court has full power to make the award effectual by process for contempt or otherwise as in equity cases; and if the corporation or managers of any such road, after they are notified of the acceptance of such award, fail to comply with it, the directors, superintendent or other agents *running* [operating] such road shall be subject to a fine of not less than ten nor more than fifty dollars for each day of such failure, to be recovered by indictment in the county where it occurs.

Award accepted binding, and court to make it effectual.

Penalty.

Proceedings when a R. R. company desires to locate upon grounds occupied by another company.  
1872, c.32, § 2.

The R. R. commissioners, upon petition, may order the erection of a station,

Sec. 119. No railroad company shall take the grounds occupied by any other railroad company and necessary for its use for *depot* [station] purposes, without the consent of such company. When application is made to take any such grounds, the railroad commissioners, upon notice and hearing thereon, shall determine whether the land proposed to be taken is necessary as aforesaid or not, and whether any public necessity requires it to be taken.

Sec. 120. The railroad commissioners, upon petition of responsible parties, representing that the public convenience and necessity require the erection and maintenance of a *depot* [station] for freight and passengers, or a passenger station, on the line of any railroad, after fourteen days' notice by copy of said petition upon such cor-

poration, and by publishing said petition, with the order of said commissioners thereon, in such public newspaper as shall be designated in said order, two weeks successively, the last publication to be prior to the time fixed for said hearing, shall hear the parties and determine whether the prayer of the petitioners shall be granted; and if such prayer is granted they shall determine at what place or places a *depot* or station shall be erected, or maintained if erected, and whether for passengers or for passengers and freight.

CHAP. 51.  
when public  
convenience  
and neces-  
sity require  
it.  
1871,c.204,\$1.  
63 Me., 274,  
285.

SEC. 121. Said commissioners shall designate the site and what kind of buildings shall be erected and maintained, as the case may seem to demand, and the time in which said corporation shall comply with said order.

R. R. com'rs  
to designate  
site and what  
kind of sta-  
tion shall be  
built.  
1871,c.204,\$2.  
Proceedings  
if R. R. re-  
fuses to obey.  
1875,c.204,\$3.  
63 Me., 284.

SEC. 122. If said railroad corporation refuses or neglects to comply with the order of said commissioners within the time prescribed therein, said commissioners shall enforce a compliance as provided in section one hundred and fifteen.

1871,c.204,\$2.  
Proceedings  
if R. R. re-  
fuses to obey.  
1875,c.204,\$3.  
63 Me., 284.

SEC. 123. In all cases heard before the commissioners under the provisions of the three preceding sections, the expenses and costs attending the same, including the compensation of the commissioners, shall be paid by the railroad corporation against whom the complaint is made, if the prayer of the petitioners is granted, and in case the prayer of the petitioners is denied, such costs and compensation shall be paid by the petitioners. If the party or parties against whom costs are adjudged as aforesaid shall refuse or neglect to pay the same within thirty days after such adjudication, upon complaint for such cost made by said commissioners to any one of the justices of the supreme judicial court, such justice may cause execution to issue therefor.

Costs of  
hearing  
petitioners  
to be paid  
by losing  
party.  
1871,c.204,\$4.

SEC. 124. When a serious accident occurs on a railroad and any person is thereby injured, the commissioners shall immediately proceed to the place, [and] examine into the cause thereof, may send for persons and papers, and [shall] make a full statement of the cause and results of the accident in their annual report, and in any other manner [which] they think the public good requires.

Commission-  
ers to ex-  
amine into  
cause of  
serious acci-  
dents, and  
include re-  
sults in their  
annual  
report.

R.S.,c.51,\$78.

#### EQUAL TRANSPORTATION FOR ALL RAILROADS.

SEC. 125. All railroads in this state, intersecting or crossing at grade, shall be deemed, for all business purposes, connecting roads.

Intersecting  
railroads  
deemed con-  
necting.

1879,c.94, § 1.  
Dispatchers  
to have the  
right to  
determine  
over what  
lines goods  
shall be for-  
warded.

SEC. 126. The owner or *shipper* [dispatcher] of any freight which is destined to any point reached by the Portland and Rochester, Portland, Saco and Portsmouth, or Boston and Maine railroads, and their connections south and west, shall at all times, at his own option, have the right to direct over and by which of the above named roads his freight shall be forwarded. And any

**CHAP. 51.** railroad in *this* [the] state, by its agents or servants, receiving such directions of dispatcher to be followed by R. R. Co. in billing freight. 1879,c.94, § 2. See § 129. railroad in *this* [the] state, by its agents or servants, receiving such freight for transportation, shall, in billing the same, follow explicitly the directions given by the *shipper* [dispatcher] as to the route by which said freight shall be forwarded. But if, for any good reason, it cannot be billed through to its destination by the road receiving such freight, it shall be billed to such convenient point or junction on *their* [its] own road as may be designated by the *shipper*, [dispatcher] and there delivered to such other road or person or persons as the owner or *shipper* [dispatcher] may designate.

Railroads not to discriminate between passengers and freight transported entirely over their lines and those destined for other roads. 1879,c.94, § 3. —proviso.

—proportion of rates that Me. Central R. R. shall receive in certain cases.

Forfeiture of any R. R. chartered by law of the state not complying with foregoing provisions. 1879,c.94, § 4.

Sections 117, 118, and sections 125 to 128, apply to all railroads. 1881,c.51, § 1.

**SEC. 127.** *Any* [Every] railroad doing business in *this* [the] state shall receive, forward and deliver to every other connecting railroad, without discrimination, all passengers, freight and merchandise with equal facilities and despatch, and shall transport the same at rates of fare and freight as favorable as at the time shall be established, made, or allowed for the passengers, freight and merchandise transported over its road only, or received from or destined to any other railroad; *provided*, however, that the Maine Central Railroad shall be entitled to receive the same proportion of the rates received for transportation of passengers, freight and merchandise received from or delivered to the Portland and Rochester Railroad at Morrill's Corner, in the town of Deering, that they would have received had such passengers, freight or merchandise been received from or delivered to the Portland, Saco and Portsmouth Railroad, the Boston and Maine Railroad, or any person or persons at Portland, and no more.

**SEC. 128.** Any railroad company, chartered under the laws of *this* [the] state, which shall refuse to receive, transport, or deliver any freight, merchandise or passengers according to the provisions of the three preceding sections, shall for each offence forfeit and pay to the corporation injured, *the sum of* one hundred dollars, to be recovered by an action on the case in any county where said company has a place of business.

**SEC. 129.** The four preceding sections and sections one hundred and seventeen and one hundred and eighteen, [and all other sections of this chapter relating to the transportation of passengers and freight by railroad,] shall apply to, and may be taken advantage of by any railroad in *this state*, whether it makes close connection with other railroads or not; and the railroad commissioners shall have the same authority and power as in cases where the railroads make a close and direct connection; and no railroad doing business within *this* [the] state shall demand or receive of any other railroad doing business within the same, whether making direct connection or not, or from passengers over the same, or from freight forwarded over the same, higher

rates of fare or freight than it demands or receives of any other railroad within the state. CHAP. 51.

SEC. 130. No rebate, drawback, allowance or other advantage shall be made or extended by any railroad in favor of another railroad doing business over the same, by which the operation of the preceding section shall be changed or affected, or by which one railroad doing business over the same, shall receive any greater advantage than any other railroad doing business over the same, shall receive.

SEC. 131. Any railroad company chartered under the laws of *this* [the] state, which shall refuse to receive, transport or deliver any freight, merchandise or passengers according to the provisions of the two preceding sections, and under the terms thereof, or which shall demand or receive from any other railroad *in this state*, for the transportation of its passengers or freight, any sum in excess or violation of said provisions, shall, for each offence, forfeit and pay [to] any corporation injured, one hundred dollars, to be recovered by an action on the case in any county in which any of the parties in such action has a residence or place of business.

#### EQUAL TRANSPORTATION FOR ALL EXPRESSES.

SEC. 132. Every railroad *operating in this state* shall furnish reasonable and equal facilities and accommodations to all persons engaged in express business for transportation of themselves, agents, servants, merchandise and other property; for the use of their *depots*, [stations] buildings and grounds, and for exchanges at points of junction with other roads, under a penalty of not exceeding five hundred dollars, to be recovered by indictment; and shall also be liable to the aggrieved party in an action on the case for damages.

#### TOWNS MAY AID IN THE CONSTRUCTION OF RAILROADS.

SEC. 133. Any city or town, by a two thirds vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time, or all at once, a sum of money not exceeding in all five per cent. on its regular valuation for the time being, and may appropriate it to aid in the construction of railroads, in such manner as it deems proper, and for such purpose may make contracts with any person or railroad corporation. At such meetings the legal voters shall vote by ballot, those in favor of the proposition, voting Yes, and those opposed, voting No. The ballots cast shall be sorted, counted and declared in open town meeting, and recorded, and the clerk shall make return thereof to the municipal officers, who shall examine such return, and if two thirds of the ballots cast, are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

Equal advantages to be given to all railroads.  
1881,c.51, § 2.

Penalty for violation.  
1881,c.51, § 3.

Railroads to furnish equal facilities to all expresses.  
R.S.,c.51,§79.  
57 Me., 197.

City or town by two thirds vote may raise 5 per cent. of valuation to aid in construction of R. R. May make contracts.  
1879, c. 134.  
67 Me., 298.  
How vote shall be taken, and declared.  
Duty of clerk and of town officers.

**CHAP. 51.** Provisions for payment of loan.  
R.S., c.51,§82.

How meetings in cities are to be called, and votes cast and counted.  
R.S., c.51,§83.

To vote only once a year on question of aiding same person or corporation.  
1871, c. 216.

Towns owning stock, how to vote at R. R. meetings.  
R.S., c.51,§81.  
Railroads owned in part by towns, eligibility of citizens as directors.  
1875, c. 35.

Railroad companies shall require security for payment of laborers, and be liable to them if duly notified.  
1881, c. 23.

Termination of liability.

**SEC. 134.** A city or town raising money by loan as aforesaid, shall raise and pay, besides the interest, each year after the third, not less than three per cent. of the principal unless it is satisfactorily provided for in some other way.

**SEC. 135.** Meetings for the purposes aforesaid in cities, shall be called by the municipal officers, on the order of the common council, as meetings for the election of city officers are called; and said common council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the legal voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting "yes," and those opposed, voting "no," [and] the ballots cast shall be sorted, counted and declared in open ward meeting and recorded; and the clerks shall make returns thereof to the municipal officers, who shall examine such returns; and if two thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

**SEC. 136.** Whenever any city or town has voted at any legal meeting thereof upon any question of loaning its credit to, or taking stock in, or in any way *on aid[ing]* to any person or corporation, it shall not be lawful for said city or town to vote again upon the same subject, excepting only at its annual meetings.

**SEC. 137.** When a city or town holds stock in a railroad, the municipal officers thercof, or an agent appointed by them in writing, may vote thereon at any meeting of the corporation.

**SEC. 138.** Whenever any city or town *in this state* shall, in its corporate capacity, hold one fifth, or more, of the shares in the capital stock of any railroad incorporated by the legislature *of this state*, any citizen of such city or town, being a freeholder and resident therein, shall be eligible as a director of such railroad company.

#### CONTRACTORS' LABORERS PROTECTED.

**SEC. 139.** Every railroad company, in making contracts for the building of its road, shall require sufficient security from the contractors for the payment of all labor thereafter performed in constructing the road by persons in their employment; and such company shall be liable to the laborers employed, for labor actually performed on the road, if they, within twenty days after the completion of such labor, shall, in writing, notify its treasurer that they have not been paid by the contractors. But such liability shall terminate unless the party claiming to have performed such labor shall commence an action against the company, within six months after the giving of such notice.

## CHAPTER 52.

### CORPORATIONS FOR NAVIGATION BY STEAM. COMMON CARRIERS.

#### OFFICERS AND THEIR DUTIES.

- SEC.** 1. Officers to be stockholders, treasurer's office within the state.  
 2. Liability for neglect and misconduct.  
 3. Debts not to exceed half amount of capital.  
 4. Treasurer to publish amount of capital and of debts, in January annually. Penalty for neglect or publishing false statement.  
 5. If debts exceed half amount of capital, stockholders liable.

#### BAGGAGE AND FREIGHT.

- SEC.** 6. Boats liable for loss or damage of property transported, and may be attached and sold.  
 7. Certain sections of chapter fifty-one applicable to steamboats, stage coaches, and common carriers.  
 8. Merchandise, unclaimed for six months, may be sold at auction.  
 9. Thirty days' notice of sale, how given.  
 10. Sales to be recorded.

#### PROVISIONS FOR SAFETY ON INLAND STEAMERS.

- SEC.** 11. All inland steamers to be inspected. Inspector's certificate.  
 12. Inspectors, their appointment, qualifications and term.  
 13. Steamboats, how constructed. Duty of inspectors.  
 14. Good boats, life lines, &c., to be provided. Discipline of crews.  
 15. Life preservers required. Floats, buckets and axes to be furnished.  
 16. Stair and gangway planks to be provided. Penalty for obstructing.  
 17. Inspectors, duty of. May require improvements to be adopted.  
     Shall limit number of passengers. Penalty.  
 18. What inspection certificate shall specify, and how posted.  
 19. Interference with safety-valve declared felony. Punishment.  
 20. Officers to be licensed. Penalty. Term of license. Proviso.  
 21. All inland steamers to obey foregoing provisions. Penalty for violation.  
     Damage by fire or steam, duty of inspectors to investigate.  
     Deficiency of licensed officers, how supplied. Proviso.  
     When owners and master are not liable.  
 22. In case of death thereby, damages how assessed and recovered.  
 23. Inspectors' pay. Fees for inspection and license. Proviso. Accounts, how audited.

#### OFFICERS AND THEIR DUTIES.

- SEC.** 1. Corporations, created for navigation by steam, are to have officers who are and continue to be stockholders, and to have a treasurer, who keeps an office within the state.

- SEC.** 2. They are liable for the breach of contracts, express or implied, made as common carriers; for their neglect and misconduct; and for that of their agents, to the same extent as owners of vessels are by the maritime law.

Officers to be stockholders.  
 Treasurer's office.  
 R.S., c.52, § 1.  
 Liable for neglect and misconduct.  
 R.S., c.52, § 2.  
 57 Me., 211.

**CHAP. 52.** SEC. 3. They are prohibited from contracting debts and incurring liabilities exceeding at any one time half the amount of their existing capital, estimated at its then actual value.

**Debts limited.**  
R.S., c.52, § 3.  
Treasurer to publish annually a statement of capital and debts; penalty.  
R.S., c.52, § 4.

SEC. 4. Their treasurer is to publish annually in the month of January, in a newspaper printed in the county where his office is kept, if any, otherwise in the state paper, a statement, under oath, of the amount of assessments actually paid in; the amount of its then existing capital; the amount of debts and liquidated liabilities against it. For neglecting to do it, he is liable to a fine not exceeding five hundred dollars, or to imprisonment not exceeding six months. For *such neglect, or* knowingly publishing a false statement with intent to injure a present or future creditor, he is to be punished by a fine not exceeding one thousand dollars, or imprisonment in a county jail less than one year, or in the state prison not exceeding five years, or by all of them, according to the aggravation of the offence.

**If debts exceed half of capital, stockholders liable.**  
R.S., c.52, § 5.

SEC. 5. If the amount of indebtedness, including liquidated liabilities, exceeds, at the time when contracted, or immediately after making a dividend of capital or profits, this limitation, the stockholders become individually liable for such debts, without limitation of amount, for the time and to be enforced in the manner provided in sections thirty-three to fifty-one inclusive of chapter forty-six.

#### BAGGAGE AND FREIGHT.

**Boats liable for loss or damage of property transported, and may be attached.**  
R.S., c.52, § 6.  
26 Me., 187.  
27 Me., 134.

SEC. 6. For the loss or damage of property transported on a river, stream, or bay, by boat for hire, the boat is liable, whether owned or not by the person undertaking such transportation, and may be attached on a writ against him sued out within sixty days after such loss or damage; and [the boat] may be sold on an execution issued on a judgment recovered in such suit as other personal property, and any surplus paid to the owner of the boat. Such attachment is to be effectual against any conveyance or lien after such loss or injury, and prior to the attachment.

**Certain sections of chapter 51, applicable to steamboats, stages, and common carriers.**  
R.S., c.52, § 7.  
58 Me., 181.

SEC. 7. The provisions respecting payment and evading payment of fares, contained in section seventy-eight of chapter fifty-one, are applicable to steamboats. *The effects left by passengers in steamboats are to be advertised as provided in section eighty-one of that chapter. The provisions contained in sections eighty-one, eighty-two, eighty-three and eighty-four, of that chapter, are applicable to these corporations.\** The provisions contained in section sixty-eight of that chapter are applicable to these corporations, and to the proprietors of stage coaches, and to common carriers.

\* [See note to page 579.]

SEC. 8. Whenever any goods, merchandise, packages or parcels transported by any railroad, steamboat, express or stage company, shall remain unclaimed for six months, or any goods, merchandise or other articles of personal property shall remain in any public warehouse for six months after the charges thereon shall be rightfully demanded and left unpaid, the same may be sold by auction to pay the charges thereon and the expense of advertising and selling the same.

CHAP. 52.  
Merchandise  
unclaimed  
for six  
months, may  
be sold to  
pay charges.  
1881, c. 19.

SEC. 9. Before selling any of said articles as aforesaid, the company holding the same shall give thirty days' notice of the time and place of sale, in a newspaper published at the place where said articles are held, and if no newspaper is published at said place, then in a newspaper published at a place nearest thereto; said notice shall describe said articles by all such marks on them as serve to identify them, and the proceeds of sale, after deducting all charges and expense of advertising and sale, shall be held for the persons entitled thereto.

Notice of  
sale, how  
given.  
1874,c.182,\$2.

SEC. 10. All sales, under the foregoing provisions, shall be recorded in a book kept for that purpose, in which the articles sold shall be correctly described, and the charges and expense on them, and the price at which they were sold, shall be entered, and the book shall be opened to the inspection of all claimants.

Sales to be  
recorded.  
1874,c.182,\$3.

#### PROVISIONS FOR SAFETY.

SEC. 11. All steamboats carrying passengers upon any of the inland waters of *this* [the] state, are hereby made subject to the following provisions; before being employed in transportation of passengers they shall be examined and receive the certificate of the inspectors authorizing their employment.

Steamboats  
on inland  
waters.  
Certificate  
of inspec-  
tors.  
1876,c.148,\$1.

SEC. 12. The governor, with the advice of council, shall appoint two inspectors of steamboats, of suitable qualifications *to perform the services hereinafter required*, one of whom shall have a practical knowledge of ship building, and the other, of the construction and use of boilers, engines and their appurtenances; they shall be sworn to the faithful performance of their duties, and continue in office for five years, unless sooner removed for good cause, and may be reappointed at the expiration of their term.

Inspect-  
tors, ap-  
pointment  
and qualifi-  
cation of.  
1874,c.172,\$2.

—term of  
office.

SEC. 13. All vessels mentioned in section eleven, shall be constructed so that the wood work about the boilers, chimneys, fire boxes, cook houses, stove and steam pipes exposed to ignition, shall be thoroughly shielded by some incombustible material, in such a manner as to leave the air to circulate freely between such material and wood work or other ignitable substances; and before granting a certificate of inspection, the inspectors shall require all other necessary provisions to be made throughout such vessel as they shall judge expedient to guard against loss or damage by fire.

Steamboats,  
how con-  
structed.  
1874,c.172,\$2.

Inspectors  
shall require  
all necessary  
provisions  
for safety to  
be made.

**CHAP. 52.**

Vessels to be supplied with good boats, life lines, &c.  
1874,c.172,§4.

Discipline of crews.

Life preservers to be provided.  
1874,c.172,§5.

Floats, &c.

Buckets and axes to be furnished.

Stairways and gangways to be provided.  
1874,c.172,§6.

—penalty for obstructing.

Inspectors, duty of.  
1874,c.172,§7.

—may require improvements to be adopted.

—shall fix number of passengers to be transported.

Penalty for violation.

**SEC. 14.** Every such vessel shall have at least one good substantial boat, with life lines attached, and properly supplied with oars, and kept tight and in good condition at all times and ready for immediate use, and also such other boats, if any, as the inspectors, on account of the route or the number of passengers, may deem requisite; and it shall be the duty of the master of such vessel to exercise and discipline his crew in the launching, use and management of the boats until they become skillful boatmen.

**SEC. 15.** Every vessel mentioned in section eleven shall be provided with a good life preserver, to the acceptance of the inspectors, made of suitable material, for every passenger she shall be authorized to transport, and also for every one of her crew, which life preservers shall be kept in convenient, accessible places in such vessel, in readiness for immediate use in case of accident, and the places where the same are so kept shall be designated in the inspectors' certificate, and also pointed out by printed notices posted in such places as the inspectors shall direct; floats may also be required by said inspectors. Every such vessel shall carry, in convenient places, at least ten buckets filled with water, with dip lines attached, and three axes in good order; the inspectors may require a larger number of buckets and axes if they deem it necessary.

**SEC. 16.** Every such vessel shall be provided with permanent stairways and other sufficient means convenient for passing from one deck to the other, with gangways sufficiently large to allow persons to freely pass, which shall always be open, fore and aft of the length of the vessel, and also to and along the guards, and any persons obstructing said gangways by freight or in any other manner, shall pay a fine of fifty dollars.

**SEC. 17.** It shall be the duty of the inspectors annually, or oftener if they have good cause to believe it reasonable, to inspect every vessel of the description mentioned in section eleven, to examine carefully her hull, engine, boiler, boats and other equipments, to apply proper tests to her boilers, and ascertain for how long it will be safe to use the same, and determine the pressure of steam to be allowed, and they shall regulate the fusible plugs, safety valves and steam cocks, so as to insure safety; and may require such changes and repairs and improvements to be adopted and used as they shall deem prudent for the contemplated route; they shall also fix the number of passengers to be transported, and no greater number shall be received or allowed at any one time, under a penalty of ten dollars, to be paid by the master, for each passenger in excess of the allowed number, unless special permission is first obtained therefor from the inspectors, under such precautions as they may deem expedient.

SEC. 18. The inspectors, if satisfied that such vessel is in all respects safe and in conformity to the provisions of this chapter and their requirements, shall give their certificate, setting forth the age of the vessel and date of inspection, the name of the master and vessel, the age of the boilers, the pressure of steam she is authorized to carry, the number of boats and life preservers required, and the number of passengers she can transport, one copy of which certificate and of the last thirteen sections of this chapter shall be kept posted in some conspicuous place upon such vessel.

C H A P . 52.  
Certificate  
of inspec-  
tion, specifi-  
cations of.  
1874,c.172,\$8.

—to be post-  
ed in some  
conspicuous  
place.

SEC. 19. If any person shall intentionally load or obstruct or cause to be loaded or obstructed in any way or manner the safety valve of the boiler, or shall employ any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the inspector's certificate, or shall intentionally derange or hinder the operation of any machinery or device employed to denote the stage of the water or steam in any boiler or to give warning of approaching danger, or shall intentionally permit the water to fall below the prescribed low water line of the boiler, it shall in any such case be felony, and any person concerned therein, directly or indirectly, shall be fined not exceeding five hundred dollars or imprisoned not exceeding five years; if death shall be occasioned by such felony the party committing the same shall be deemed guilty of manslaughter, and shall be imprisoned not less than two nor more than ten years.

Interference  
with safety-  
valve, &c.,  
deemed  
felony.  
1874,c.172,\$9.

Punishment.

SEC. 20. Every person employed as a master, pilot, or engineer on board such vessel, shall be examined by the inspectors as to his qualifications for the office, and if satisfied therewith they shall grant him a license for the office for one year; said license to be framed under glass and posted in some conspicuous place on board such vessel. Any person acting as master, pilot, or engineer without having first received such license, shall, on conviction, pay a fine of fifty dollars for every day he shall so act; and such license shall continue in force for one year, unless revoked by the inspectors for intemperance, incompetency, or a willful violation of any of the duties of his office. But any master, pilot or engineer holding a license for any such vessel on any line owning or *running* [navigating] more than one vessel, may under such license be employed on any vessel owned or run by the person or persons owning or *running* [navigating] the vessel for which said officers obtained their license.

Officers to  
be licensed.  
1876,c.148,\$2.

—penalty for  
neglect.  
Term of  
license.

Officers  
licensed may  
be employed  
on any ves-  
sel owned  
by same  
persons.

SEC. 21. All vessels described in section eleven shall comply with all the terms and provisions of the last thirteen sections of this chapter, and with all orders, regulations and requirements of the inspectors; and if any such vessel shall be navigated without

What vessels  
must comply  
with this  
chapter.  
1876,c.148,\$3.

CHAP. 52.

Penalty for violation.

In case of damage by fire or steam, duty of inspectors to investigate the cause.

Licensed officers, deficiency of, how supplied.

Proviso.

Owners and master not liable in certain cases.

In case of death of any person, damages, how assessed and recovered, 1874, c. 172, § 12.

Parties interested, may defend. Persons damaged entitled to remedy.

Crews or

complying therewith, or without the certificate of the inspectors, the owner or owners and master shall severally forfeit and pay to the state the sum of five hundred dollars for each offence, one half to the use of the informer, unless otherwise provided, for which sum the vessel so engaged shall be liable, and may be proceeded against in a qui tam action by attachment commenced within sixty days after the commission of the offence, or [said penalty] may be recovered by indictment. In case of damage by fire or by explosion of steam, it shall be the duty of the inspectors forthwith to investigate the cause thereof, and if found by them to have been occasioned by any violation of any of the aforesaid provisions, or of the orders, regulations and requirements of said inspectors, it shall be their duty to so certify to the governor, and also to the county attorney in the county where the offence shall have been committed, together with the names of the parties and witnesses, and prosecution shall forthwith be instituted against all parties liable.

But if any vessel described as aforesaid is deprived of the services of any licensed officer, without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the deficiency may be temporarily supplied, until others licensed can be obtained; *provided*, however, that if the owner or owners and master of any vessel described as aforesaid shall seasonably notify the inspectors of the expiration of the certificate for such vessel, and request a new inspection and certificate, and said inspectors shall for any reason fail to make said inspection and issue said certificate, if the vessel is entitled thereto, the owner or owners and master of said vessel or vessels shall not be liable for any of the penalties or forfeits provided in this chapter on account of navigating said vessel or vessels without a certificate of inspection.

SEC. 22. If the death of any person shall be caused by such explosion or fire, *the [his]* executors or administrators of the deceased may recover therefor from the owners or masters of the vessel, for the benefit of the widow and children, if any, of the deceased, otherwise for the benefit of his estate, such damages, not exceeding five thousand dollars, as the jury shall assess; and for the damages so recovered, a lien is created upon such vessel, which shall take precedence of all other liens, claims, rights or interest in said vessel, and may be enforced by attachment against her on the original writ; any party claiming an interest in said vessel may intervene, and on proof of any right, claim or interest therein may be allowed to appear and defend the same; any person damaged in his person or property by such explosion or fire, is entitled to like remedies to the same extent and effect and with the same proceedings for the recovery of his damages; [if] any of

the crew of said vessel, or persons in her employment, thus sustaining injury, his executors and administrators shall be entitled to all the benefit of the provisions of this section, if the jury shall be satisfied that the negligence of the party thus injured did not occasion or contribute materially to the injury; the liability of the owners shall not exceed twice the value of the vessel at the commencement of the trip upon which the injury *shall be* [is] sustained, and in case the damages assessed in all the cases exceed such sum, the same shall be apportioned pro rata by the court in which the suit is pending, in which the earliest attachment was made, and judgment rendered in the several cases against the owners for the proportionate amount of *the double* [the] value of the vessel.

CHAP. 52.  
employees,  
remedy for  
damages.

Damages,  
how  
assessed.

SEC. 23. The inspectors shall each receive from the state *the sum of* four dollars a day for the time *they are* actually employed under this chapter, and *shall also be paid* their actual travelling expenses incurred in performing the duties imposed upon them by this chapter. The owners of each vessel inspected and certified under this chapter shall pay to the inspectors *the sum of* five dollars, and each person licensed under this chapter shall pay to the inspectors *the sum of* two dollars for each original license, and two dollars for each renewal [there-] of *the same*; provided, that in cases where the master is also pilot of the vessel he shall not be required to hold two licenses, but may act in either or both capacities under one license, such license stating on its face that he is authorized to do so. The inspectors shall account for all such sums to the governor and council, and pay the same into the state treasury. The accounts of the inspectors for compensation and expenses under this chapter shall be audited by the governor and council.

Compensa-  
tion of in-  
spectors.  
1876, c. 148,  
§ 4.

Fees for in-  
spection and  
license.

Proviso.

Inspectors to  
account for  
moneys  
received.

—account of,  
to be audited  
by governor  
and council<sup>is</sup>

C<sub>H</sub>A<sub>P</sub>. 53.

## CHAPTER 53.

## TELEGRAPH COMPANIES.

- SEC. 1.** Owners of telegraphs, liable for errors and unnecessary delays in transmitting dispatches. All dispatches to be sent in the order received, under penalty. Penalty for falsifying dispatch, or divulging contents.
2. Operator, or other employee, not exonerated in case of fraud, or company, from liabilities at common law.
  3. Person desiring to disconnect or remove telegraph wires, first to notify company. Penalty for neglect.
  4. How damages for taking land are to be estimated and paid.

Owners of telegraphs liable for errors or delays in sending dispatches.

All to be sent in the order they are received, under penalty. Penalty for falsifying or divulging contents of dispatch.

R.S., c.53, § 1.  
60 Me., 20, 33.

**SEC. 1.** A person or company owning or using a line of telegraph, wholly or partly in *this* [the] state, for any error or unnecessary delay in writing out, transmitting or delivering a dispatch within their delivery limits, making it less valuable to the person interested therein, shall be liable for the whole amount paid on such dispatch ; and they shall transmit all dispatches in the order they are received, under a penalty of one hundred dollars to be recovered with cost by the person whose dispatch is willfully postponed ; and if any operator or agent designedly falsifies any dispatch, he shall forfeit not less than twenty nor more than one hundred dollars, to be recovered in an action of debt ; and in case of his avoidance or inability to pay such judgment, such person or company shall forfeit a like sum ; and if such operator or agent willfully divulges any part of the contents of a private dispatch entrusted to him for transmission or delivery, he shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than three months.

Operator, &c., not exonerated for frauds, or company, from common law liabilities.

R.S., c.53, § 2.  
43 Me., 495.

Person desiring to disconnect wires to notify company. Penalty for neglect.

R.S., c.53, § 3.  
60 Me., 29.

**SEC. 2.** Nothing herein shall exonerate any operator, agent, clerk or other officer, employed on a telegraph line, from liability for any act of fraud committed or attempted by means of telegraphic communication ; or the company from any liabilities existing at common law for any neglect or wrong-doing of such company or its agents.

**SEC. 3.** A person desiring to disconnect or remove the wires of a telegraph company to move a building or for any other purpose, shall leave a written statement of the time and place at *their* [its] office, if *they have* [it has] any in that town, twenty-four hours before the time fixed, if not, he shall send it by mail, postpaid, to *their* [its] nearest office, three days before the time ; and whoever disconnects or removes such wires without first giving such notice,

shall be punished by a fine not exceeding five hundred dollars, CHAP. 54.  
or by imprisonment not more than three years.

SEC. 4. When a telegraph company is authorized to locate its line over the lands of an individual or corporation, and the parties cannot agree on the damages occasioned thereby, they shall be estimated, secured and paid in the manner provided in case of land taken for railroads.

How land  
damages are  
to be esti-  
mated and  
paid.  
R.S., c.53, § 4.  
See c.51,  
§§ 18 to 26.

## CHAPTER 54.

### AQUEDUCTS.

- SEC. 1. Meeting of proprietors of aqueducts for incorporation, how called.
- 2. Declared a corporation; may decide how to call future meetings, choose clerk, directors and other officers.
- 3. Directors to choose president, make assessments and collect same by suit or sale of shares.
- 4. Registry of shares and transfers.
- 5. Manner of voting; may impose penalties for breach of by-laws; hold real estate and dig up and open roads to lay or repair pipes, but not to prevent passage of teams.
- 6. Shares may be sold for debts of holders; and franchise, pipes, fountains and real interests liable to be attached and sold for corporate debts as personal property. Corporation has two months to redeem, and if not so redeemed, franchise and property vests in purchaser. Execution satisfied by ineffectual sale, may be revived by *scire facias*.
- 7. Penalty for injuring an aqueduct.
- 8. Towns may draw water in case of fires from pipes free of expense.
- 9. Corporate powers continue after dissolution to close business; and if judgments are not satisfied in six months, private property of shareholders may be seized and sold therefor.
- 10. Proprietors, tenants in common of property left at dissolution.

SEC. 1. Any persons associated by agreement in writing as proprietors of an aqueduct, for the purpose of conveying fresh water into or within any town, or of any funds for establishing such aqueduct, may apply, in writing, to some justice of the peace for the county in which any portion of the aqueduct is situated, or is proposed to be made, stating the name and style of their association, and the objects of their proposed meeting, and requesting such justice to issue his warrant to some one of the persons applying, directing him to call such meeting; and such justice may thereupon issue his warrant accordingly, stating therein the time, place, and object of such meeting; and the proprietor, to whom the warrant is directed, shall notify such meeting, by posting up

Meetings of  
proprietors  
for incorpo-  
ration, how  
called.  
R.S., c.54, § 1.

CHAP. 54. the substance of the warrant, with his notice annexed thereto, seven days at least before the meeting, in some public place in every town in which any portion of the aqueduct is, or is proposed to be made.

Proprietors become a corporation, and may agree how to call future meetings and choose clerk, directors, and other officers.

R.S., c.54, § 2.

Directors to choose president, make assessments, and collect them by suit, or sale of shares.

R.S., c.54, § 3.

Registry of shares and transfers.

R.S., c.54, § 4.

Manner of voting; may fine for breach of by-laws; hold land and dig up roads to lay or repair pipes; but not to prevent passage of teams.

R.S., c.54, § 5.

Shares sold for debts of holders;

SEC. 2. The proprietors assembled under such warrant, and their successors and assigns, shall be a corporation by the name stated in their application; and may at any legal meeting, agree on the manner of calling future meetings; choose any number of directors and other officers to manage their business, and a clerk who shall be sworn, and record all by-laws, votes and other proceedings of the corporation in books provided and kept by him for that purpose, open to the inspection of any person appointed by the legislature for that purpose.

SEC. 3. The directors shall choose one of their number president; and may make such assessments on the proprietors of the shares in such aqueduct or funds as they find necessary; and if a proprietor fails to pay such assessment for thirty days after notice thereof they may maintain an action on the case in their corporate name to recover the amount thereof, or may sell, at auction, so many of his shares, as will be sufficient to pay the same, with necessary charges; the sale of such shares shall be first notified, by advertising in some newspaper printed in the county three weeks successively, or by posting up notifications thereof, twenty days at least before the sale, in some public places in each of the towns wherin such aqueduct is, or is proposed to be made; and the surplus moneys, if any, arising from such sale, shall be paid to the owner of the share so sold.

SEC. 4. At or immediately after the first meeting, the clerk shall enter, in such books, the names of the several proprietors, and the shares owned by each; and the subsequent transfer of shares shall also be entered by him, within three months after it is made, in such form and for such fees as the directors order; and no person shall be deemed a proprietor, whose share or interest is not so entered.

SEC. 5. The proprietors have one vote for each share, and may vote by proxy; they may impose penalties for the breach of their by-laws not exceeding thirty dollars for each offence; may purchase and hold real estate necessary for their purpose not exceeding thirty thousand dollars in value; and with the written consent of the municipal officers, they or any individual, may dig up or open any road for the purpose of laying their pipes, or repairing or extending their aqueduct; but not to prevent the convenient passage of teams and carriages.

SEC. 6. Shares in such corporation are personal estate and may be attached on a writ and sold on execution for the debts of

the holders like shares in other corporations ; and the franchises, fixtures, pipes, fountains and interests in lands of such corporations are liable to attachment and sale on execution, as personal property, for their corporate debts ; but the purchaser thereof at such sale, shall not interfere with the possession of the corporation for two months after the sale ; and within that time, it may redeem such franchise and property by paying the sum for which they were sold with interest ; but if not so redeemed, the purchaser shall have the same rights under the franchise and to such property as the corporation had. Any creditor of such corporation, whose execution has been satisfied by an ineffectual sale of such franchise or property, may revive the judgment by *scire facias*.

**SEC. 7.** Whoever maliciously injures any such aqueduct or any of its appurtenances, forfeits a sum not exceeding twenty dollars to the use of the town, to be recovered by indictment ; and is liable in a civil action, brought by the corporation, to pay treble the amount of the damages sustained thereby.

**SEC. 8.** A town where such aqueduct is located may put conductors into its pipes and draw water, free of expense, to extinguish the fire of a burning building, if they are so secured that water shall be drawn for that purpose only.

**SEC. 9.** All contracts made by or with such corporation, are in force after its dissolution ; and the last shareholders shall have a corporate capacity and may prosecute and defend suits respecting such contracts, commenced within six years after the dissolution, or after the cause of action accrued ; and if no corporate property can be found to satisfy such judgments, and they are not satisfied within six months, the creditors may satisfy them from the private property of the shareholders as if the judgment had been against them in their private capacity.

**SEC. 10.** If such corporation owns any estate at its dissolution the proprietors shall be tenants in common thereof in proportion to the shares or interest which they hold in its stock.

**CHAP. 54.**  
franchise,  
pipes, foun-  
tains, &c.,  
may be sold  
for corpor-  
ate debts;  
two months  
to redeem:  
then fran-  
chise, &c.  
vests in  
purchaser.  
Ex' on satis-  
fied by inef-  
fectual sale,  
revived by  
*scire facias*.  
R.S.,c.54, § 6.

Penalty for  
injuring an  
aqueduct.  
R.S.,c.54, § 7.

Town may  
draw water  
from pipes in  
case of fire.  
R.S.,c.54, § 8.  
See c. 6, § 6,  
item 11.  
Corporate  
powers con-  
tinue after  
dissolution;  
if judgments  
are not sat-  
isfied in six  
months,  
property of  
shareholders  
may be sold.  
R.S.,c.54, § 9.

Proprietors,  
tenants in  
common of  
property left.  
R.S.,c.54,§10.

CHAP. 55.

## CHAPTER 55.

## LIBRARIES, CHARITABLE SOCIETIES, AND PUBLIC CEMETERIES.

- SEC. 1. Application to a justice of the peace to call the first meeting.  
 2. Notice of the meeting how given.  
 3. Manner of organizing into a body corporate. Powers, duties, and liabilities.  
 4. What estate real and personal it may hold, and for what purpose.  
 5. Corporations for charitable and benevolent purposes not to sue their members, or be sued by them, for dues or benefits.  
 6. County law library association, how organized.  
 7, 8. Duties of treasurer and clerk thereof.  
 9. Towns may establish public libraries, and raise money therefor.  
 10. Towns and plantations may receive gifts for public libraries; when such plantation is incorporated, they vest in the town.

## PUBLIC CEMETERIES.

- SEC. 11. How proprietors of public cemeteries may be incorporated. Their property and stock exempt from attachment and taxation.

Certain miscellaneous societies, how incorporated.  
1876, c. 71.

SEC. 1. When seven or more persons desire to be incorporated as the proprietors of a social, military, literary, scientific, or a county law library; as a masonic lodge, or chapter of any order or degree; as a lodge of the independent order of odd fellows; as a division of the sons of temperance; as a tent of rechabites; as a grange of patrons of husbandry, as a council of the sovereigns of industry; or as a society to promote in any way the cause of temperance; or for any literary, scientific, musical, charitable, or benevolent purpose whatsoever, they may apply in writing to any justice of the peace in the county, and he may issue his warrant, directed to one of said applicants, requiring him to call a meeting of the applicants, at such time and place as the justice appoints.

Notice of the meeting, how given.  
R.S., c.55, § 2.

SEC. 2. He may call it, by reading the warrant in the presence and hearing of each, or by leaving an attested copy thereof at his last and usual place of abode, at least fourteen days before the day of meeting, or by publishing an attested copy thereof in some newspaper printed in said county, two weeks successively, the first publication to be at least fourteen days before the day of meeting.

Manner of organizing into a body corporate, &c.  
R.S., c.55, § 3.

SEC. 3. When assembled pursuant to the warrant, they may organize themselves into a corporation, with such name as they then adopt, and they, their associates, and successors may have continual succession; have a common seal; elect all necessary officers; adopt by-laws, not inconsistent with the laws of the state, and enforce the same by suitable penalties; have the same rights and be under the same liabilities, as other corporations, in prose-

cutting and defending suits at law; and *have and enjoy* all other rights, privileges, and immunities, of a legal corporation. CHAP. 55.

**SEC. 4.** Such corporation may take and hold by purchase, gift, devise, or bequest, personal or real estate, in all not exceeding in value one hundred thousand dollars, owned at any one time, and [may] use and dispose thereof only for the purposes for which the corporation was organized.

What estate it may hold, and for what purposes.  
1881, c. 10.

**SEC. 5.** No corporation, organized for charitable or benevolent purposes, shall sue any of its members for dues or contributions of any kind, or be sued by any member for any benefit or sum due him, but all such rights and benefits, dues and liabilities, shall be regulated and enforced only in accordance with its by-laws.

Charitable corporations not to sue members or be sued by them.  
R.S., c. 55, § 5.

**SEC. 6.** In every county, where five or more attorneys reside, any five of them may procure themselves and the other attorneys resident in the county to be incorporated as aforesaid for the purpose of establishing a law library; and the notification required, if posted *up* in some conspicuous part of the court house seven days previous to their meeting, shall be sufficient; and [they] may take the name of "The trustees of the law library in the county of —;" and at such meeting, which shall be held at a term of the court therein, they may choose a clerk, librarian and treasurer, to be duly sworn, and hold their offices during the pleasure of the corporation; and [they may] make all lawful regulations necessary; and at their meetings, the oldest member present of the bar of the county shall preside.

County law library association, how organized.  
R.S., c. 55, § 6.

**SEC. 7.** The treasurer of each library association, under the direction of the trustees, shall apply all moneys received of the county treasurer, [and] all bequests and donations, to form a law library under the appointed regulations; and the clerk shall keep an exact record of all their proceedings.

Duties of treasurer and clerk.  
R.S., c. 55, § 7.

**SEC. 8.** The treasurer shall keep an exact account of all moneys, donations, and bequests, belonging to the corporation, and annually settle the same on oath, in the manner prescribed; and the treasurer, librarian and clerk, shall be answerable for all misfeasance in an action by the corporation. The treasurer shall, annually in January and before the second Wednesday, deposit in the office of the state treasurer a statement of the funds received the year preceding by the corporation.

Treasurer shall keep an account of all moneys, and annually settle the same.  
R.S., c. 55, § 8.

**SEC. 9.** Any town is authorized to establish and maintain a public library therein, for the use of the inhabitants, and provide suitable rooms therefor, under such regulations for its government as the inhabitants from time to time prescribe; and appropriate, for the foundation and commencement of such library, a sum not exceeding one dollar, and for its maintenance and increase annually a sum not exceeding twenty-five cents, for each of its ratable polls in the year next preceding.

Towns may establish public libraries, and raise money therefor.  
R.S., c. 55, § 9.

**CHAP. 56.** SEC. 10. Any town or plantation, as such, may receive, hold and manage any devises, bequests or donations for the establishment, increase or maintenance of a public library therein ; and when such plantation is incorporated into a town, such gifts and the proceeds thereof shall fully vest in such town.

Towns and plantations may receive for public libraries.  
R.S., c.55, §10.

#### PUBLIC CEMETERIES.

How proprietors of public cemeteries may be incorporated, exemption from attachment and taxation.  
R.S., c.55, §11.

SEC. 11. Any seven or more persons may be incorporated in the manner hereinbefore provided, for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries ; and the property of such corporations and the shares of stock therein, shall be exempt from attachment and taxation.

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## CHAPTER 56.

### PROPRIETORS OF LANDS, WHARVES, AND OTHER REAL ESTATE, IN COMMON.

- SEC. 1. Warrant for calling meetings. To whom directed.
2. Modes of giving notice.
  3. Officers, and manner of calling future meetings.
  4. Officers to be sworn.
  5. No business to be transacted, unless specified in the warrant. How votes are to be counted. May pass by-laws, subject to approval of county commissioners, and annex penalties.
  6. Prosecution and defence of actions.
  7. Raising and assessment of moneys. Publication of assessment.
  8. Payment enforced by sale.
  9. Right of redemption.
  10. Treasurer's power and duties.
  11. Management of property. Proxies.
  12. Proprietors' records, how preserved.
  13. Certain corporate powers continued after final division.
  14. Money raised for highways.

Warrant for calling meetings.  
To whom directed.  
R.S., c.56, §1.

SEC. 1. When any five, or a majority of the proprietors of lands lying in common, are desirous of a meeting of the proprietors, and *apply in a writing*, [make written application] signed by them or their agents, to a [any] justice of the peace *throughout the state, or a justice of the peace for the county in which the lands lie*,\* he may issue his warrant for calling a meeting, at the time and place, and for the purposes distinctly stated in the application, directed to one of the proprietors, requiring him to give notice thereof.

[NOTE. See 1880, c. 215.]

SEC. 2. If the lands lie in one or more incorporated towns, a notice in writing shall be posted *up* in some public place in each, and published in the state paper, and in one of the newspapers printed in the county where any part of them lies, fourteen days before the meeting; but if not, it shall be published in the state paper, and in one other newspaper, if any, in the county where any part of them lies, four weeks successively next before the meeting; or the meeting may be warned by posting written notifications, in some public place in each town where any proprietor resides, fourteen days before the time appointed therefor.

SEC. 3. At such meeting, such as assemble in person or by attorney may choose a moderator, clerk, treasurer, assessors, collector or collectors of taxes, committees, and other needful officers; and by vote decide upon the manner of calling and notifying future meetings.

SEC. 4. The clerk shall record the votes passed at all meetings; and he, the treasurer, assessors, and collectors, shall be duly sworn by the moderator or a justice of the peace.

SEC. 5. No business shall be acted upon at any meeting, unless it is distinctly expressed in the warrant therefor; the proprietors' votes shall be counted according to the interest of each in the common lands, if known, and in that way the moderator shall make certain all doubtful votes; and they may pass by-laws as to the management, improvement, division, and disposition of their lands, or wharves, subject to the approval of the county commissioners of the county where the lands lie, and [may] annex penalties to the breach of them, not exceeding three dollars for one offence, to be disposed of as they direct.

SEC. 6. The proprietors may prosecute and defend any suits by their agent, and the certificate of the proprietors' clerk shall be evidence of such agency.

SEC. 7. At any legal meeting, they may raise any money for bringing forward, completing the settlement of, managing or improving said lands, or for their common good, and assess the same according to their interests in the lands; and the treasurer, collector or committee shall publish such assessment [in the same manner] as a meeting of the proprietors is to be notified *by the provisions hereof*.

SEC. 8. If any proprietor neglects to pay to the treasurer, collector, or committee, his assessment for the term of six months, if he resides in the state, or twelve months, if he resides without the state, then the committee may, from time to time, sell at auction so much of his right in the common lands, as will be sufficient to pay his tax and the reasonable charges of sale, after notice of such sale, posted up as aforesaid, and published in two of the newspapers

CHAP. 56.  
Modes of giving notice.  
R.S., c.56, § 2.

Officers and manner of calling future meetings.  
R.S., c.56, § 3.  
18 Me., 215.

Officers to be sworn.  
R.S., c.56, § 4.

No business to be transacted, unless specified in the warrant. How votes are to be counted.  
R.S., c.56, § 5.

Prosecution and defence of actions.  
R.S., c.56, § 6.

Raising and assessment of moneys. Publication of assessment.  
R.S., c.56, § 7.  
See § 2.

Payment enforced by sale.  
R.S., c.56, § 8.  
4 Me., 248.  
5 Me., 348.  
7 Me., 408.

**CHAP. 56.** before named five weeks successively next before the time of sale ; and may give deeds thereof in fee to the purchaser.

**Right of redemption.** SEC. 9. The proprietor of the right so sold may redeem it within a year, by paying to the committee the sum for which it was sold, with twelve dollars for each hundred produced by such sale, and in that proportion for a greater or less sum.

**Treasurer's powers and duties.** R.S.,c.56,§10. SEC. 10. The treasurer may sue for and collect all debts due to the proprietors, and shall render his account of all moneys received and paid ; and [he shall] hold his office during the pleasure of the proprietors.

**Management of property. Proxies.** R.S.,c.56,§11. SEC. 11. A majority of proprietors present at any legal meeting, may order, manage, improve, divide, or dispose of their lands as they choose ; and they may vote in person, or by attorney appointed in writing.

**Proprietors' records how preserved.** R.S.,c.56,§12. SEC. 12. After a final division of their common property, they shall cause their records to be deposited in the office of the clerk of the town in which some part of such lands lie ; and he may record votes and certify copies of such records, as the proprietors' clerk might have done ; and the last clerk chosen shall continue in office till the records are so deposited.

**Certain corporate powers continued after final division.** R.S.,c.56,§13. SEC. 13. Such a final division shall not dissolve the corporation till the end of ten years thereafter ; but the last proprietors in common and their heirs shall continue in their corporate capacity, for collecting and paying all debts due to or owing by the corporation ; and may call and hold meetings, [and] vote assessments to pay their debts and all other charges necessary for closing their business.

**Money raised for highways.** R.S.,c.56,§14. SEC. 14. The owners of an unincorporate[d] township or tract of land are authorized to call meetings to raise money, and to choose officers to assess and collect it, for making and repairing highways laid out according to law.

## CHAPTER 57.

## MILLS AND THEIR REPAIRS.

- SEC. 1. Manner of calling a meeting of mill owners.
2. Owners of half or more may repair or rebuild.
  3. How to be reimbursed. Special contracts not affected.
  4. Proceedings if a part owner is a minor, and in certain other cases.
  5. Owners of grist mills to furnish scales for weighing grain.
  6. Toll established.

SEC. 1. When an owner of a mill, or of the dam necessary for working it, thinks it necessary to rebuild or repair it in whole or in part, he may apply in writing to a justice of the peace in the county where it is situated, or if situated partly in one county and partly in another, to a justice in either, to call a meeting of the owners, stating the object, time, and place of the meeting, and such justice may issue his warrant for the purpose, directed to such owner, which shall be published in some newspaper printed in the county, if any, three weeks successively, the last publication to be not less than ten, nor more than thirty days before the meeting; or a true copy of the warrant may be delivered to each of said owners, or left at his last and usual place of abode; and either notice shall be binding on all the owners.

Manner of calling a meeting of mill owners.  
R.S., c.57, § 1.  
53 Me., 552.

SEC. 2. At such meeting, whether all the owners attend or not, the owners in interest of at least one half of such mill or dam may rebuild or repair, one or both, so far as to make them serviceable; and shall be re-imbursed what they advanced therefor beyond their proportions, with interest in the meantime, out of said mill or its profits.

Owners of half or more may repair or rebuild.  
R.S., c.57, § 2.  
53 Me., 553.

SEC. 3. If they are not re-imbursed by the profits of the mill, or paid by the other owners, within six months after the work is completed, they may charge one per cent. a month on the amount advanced, from the end of six months till so re-imbursed or paid; and if any delinquent owner dies, or alienates his interest in the premises, the advancing owners shall have a continuing lien thereon for the re-imbursement of the advancements; but no special contract, made by the owners, respecting the building or repairing such mill or dam, shall be hereby affected.

How to be re-imbursed.  
R.S., c.57, § 3.  
53 Me., 553.

SEC. 4. Where any part of such mill or dam, at the time of meeting and notice, is held and possessed by minors, married women, tenants by courtesy, in tail for life or years, or by mortgagor or mortgagee, the guardians of such minors, husband of such married woman in her right, such tenant, mortgagor, or

Proceedings if a part owner is a minor or other disqualified person.  
R.S., c.57, § 4.

CHAP. 58. mortgagee shall be deemed, for the purposes of this *act*, [chapter] the proprietors thereof, and shall be notified, vote, and contribute accordingly; and all advances so made by them, if not paid, shall be recoverable in a special action on the case with interest.

Owners of  
grist mills to  
furnish  
scales for  
weighing  
grain.  
R.S., c. 57, § 5.

SEC. 5. The owner of every grist mill shall keep therein scales and weights, to weigh corn, grain, and meal, when required; and for neglecting so to do, or refusing to weigh the same when required, or for taking more than lawful toll, he shall forfeit five dollars, to be recovered by action of debt with costs, before any trial justice for the county where the offence is committed.

Tolls estab-  
lished.  
R.S., c. 57, § 6.  
1867, c. 92.

SEC. 6. The toll for grinding, cleansing and bolting all kinds of grain, except buckwheat and Indian wheat, shall not exceed one sixteenth part thereof; and for hulling, grinding and bolting buckwheat and Indian wheat, the toll shall not exceed three quarts a bushel, and for grinding without hulling and bolting, two quarts a bushel.

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## CHAPTER 58.

### AGRICULTURAL INSTITUTIONS.

#### BOARD OF AGRICULTURE.

- SEC. 1. Board of agriculture, how constituted and tenure of office.
- 2. If more than one society in a county, convention of delegates from each to elect a member therefor. If not so elected, governor and council to elect from highest candidates. Credentials of members.
- 3. Sessions, number and length of, regulated.
- 4. Farmers' institutes to be held annually in each county. Re-imbursement of personal expenses. Expense of institutes.
- 5. Secretary, appointment and duties. Annual report, how distributed.
- 6. Secretary's salary, &c. Ex-officio, trustee of state college.
- 7. Duties of board. May take and hold donations.

#### STATE AGRICULTURAL SOCIETY.

- SEC. 8. Officers to be elected.
- 9. Society may hold property, annual income not to exceed five thousand dollars. Money received, to be paid in premiums. Treasurer to give bond and render annual account, and secretary to make annual report.

#### COUNTY AND LOCAL AGRICULTURAL SOCIETIES.

- SEC. 10. County and local societies or their treasurers, may hold property in trust, and convey or mortgage it.
- 11. On application of treasurer of society, state treasurer to pay to him as much as society raises. Limitations of amount. If more than one society in a county, each to have in proportion. Exceptions.

- SEC. 12. No such payments to be made till certain certificates and specifications are filed.
13. How the bounty of the state shall be spent.
14. Statements required of competitors, and specifications in treasurer's certificate to state treasurer.
15. Secretaries of societies to report annually to board of agriculture, and when.
16. Societies to fix bounds for their exhibitions, but not to include land without consent of owner, nor to obstruct highway. Bounds not to be passed but in conformity with regulations.
17. Penalty for passing bounds contrary to regulations.
18. Officers may appoint persons to keep order at exhibitions, with powers of constables.
19. Sale of merchandise, exhibitions, etc., near fair grounds, restricted.

**STATE COLLEGE OF AGRICULTURE AND THE MECHANIC ARTS.**

- SEC. 20. Vacancies in board of trustees filled by governor and council.

**BOARD OF AGRICULTURE.**

SEC. 1. The Maine board of agriculture for the improvement of agriculture and the advancement of the general interests of husbandry, consists of the president and the professor of agriculture of the State college of agriculture and the mechanic arts, together with one person from each county to be elected by ballot by any county agricultural or horticultural society at its annual or other meeting called for the purpose; and they hold their offices three years from the third Wednesday of January next after.

Board of agriculture, how constituted, and tenure of office.  
1880,c.235,§1.  
R.S.,c.58, § 1.

SEC. 2. If there is more than one such society in any county, the executive officers of the oldest shall designate a time and place for a convention of five delegates, chosen at a regular meeting from each society; and the secretary of such oldest society shall give written notice thereof to the secretary of each other society. The convention shall be held prior to the second Wednesday of December, [and shall] elect a president and secretary, and by ballot, a member of the board of agriculture for that county. If no election is thus made, the secretary shall immediately send to the governor and council the names of two or more persons having the highest number of votes; and they shall elect one of them. The written certificate of the secretary of the society or convention electing a member, shall be his credentials in the board.

If more than one society in a county, convention of delegates from each to elect member thereof.  
If not so elected, governor and council to elect from highest candidates.  
What shall be credentials of members.  
R.S.,c.58, § 2.

SEC. 3. The board shall hold a business session of not exceeding two days at the capitol, annually on the third Wednesday of January in each year, for the election of officers and perfecting plans for the execution of the work for the year.

Sessions, when to be held.  
1880,c.235,§2.

SEC. 4. The board, by its secretary and one of its members, shall hold annually one farmers' institute in each county, and as many more as it shall deem expedient or find practicable with the means at its disposal, for the public discussion of topics relating to husbandry, either independently or in connection with any organi-

Farmers' institutes to be held annually in each county.  
1880,c.235,§3.

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**Re-imbursement  
for personal  
expenses.**

**Expense of  
institutes.**

**Secretary,  
appointment  
and duties.  
1880,c.235,§4.**

**—annual  
report, num-  
ber of copies  
and distri-  
bution.**

**Compensa-  
tion of  
secretary.  
1880,c.235,§5.  
R.S.,c.58, § 6.**

**Ex-officio  
trustee of  
state college,  
&c.**

**Duties of  
board of  
agriculture.  
1879,c.167,§1.  
May take  
and hold  
donations.**

zation devoted to the same general object, and it may in its discretion issue bulletins, employ experts, lecturers, a reporter or other aids to enhance the usefulness of said institutes to the public; and shall, as far as practicable, aid and encourage agricultural societies and associations in their efforts. The members of the board shall receive no compensation for time and services rendered, but shall be re-imbursed for expenses incurred in the discharge of their duties, two dollars per day for subsistence and six cents per mile for travel. The whole expenses under this section not to exceed fourteen hundred dollars annually.

SEC. 5. The board shall appoint a secretary as its chief executive officer for a term of three years and until his successor shall be appointed, and may prescribe his duties, a part of which shall be to acquaint himself, by personal observation, investigation, and correspondence with the methods and wants of practical husbandry, the means of fertilization, the adaptation of various products to the soils and climate of Maine; also with the progress of scientific and practical agriculture elsewhere, with a view to the more complete development of the natural resources of the state. He shall annually, on or before the third Wednesday in January, present to the governor and council a report of the doings of the board and the results of his own labors and investigations, together with such communications, suggestions and recommendations as may be useful. Ten thousand copies of said report, in size not exceeding two hundred pages, shall be printed; nine thousand bound in paper covers, [and] one thousand in cloth, one half of those in paper covers for the use of the legislature, and the remainder, after reserving a suitable number for foreign exchanges, for distribution under the direction of the board, among the agricultural associations and the people of the state.

SEC. 6. The compensation of the secretary shall be six hundred dollars a year and re-imbursement for necessary expenses incurred in the discharge of his duties, an account thereof to be first audited by the governor and council, who from time to time, may draw their warrant on the treasurer for such sums of money as are necessary to defray the salaries and expenses herein provided for. The secretary shall be an ex-officio member of the board of Trustees of the State college of agriculture and the mechanic arts, also of the board of commissioners provided for in section fifty of chapter fourteen relative to contagious diseases in cattle.

SEC. 7. The board shall investigate all such subjects relating to agriculture, horticulture, and the *arts* [arts] connected therewith, as they may think proper, and may take and hold in trust, donations or bequests made to it for promoting agricultural education or the general interest of husbandry.

## STATE AGRICULTURAL SOCIETY.

CHAP. 58.

SEC. 8. The Maine state agricultural society, at its annual meeting, shall elect, by ballot, a president, secretary, treasurer, trustees and other necessary officers.

SEC. 9. Said society may take and hold property, real and personal, the annual income of which shall not exceed five thousand dollars, to be applied exclusively to the advancement of agriculture, horticulture, and the arts connected therewith ; and the treasurer of said society shall give suitable bonds to the board of trustees, for the safe keeping of said property, and for the faithful discharge of his duties. At each annual meeting, the treasurer shall submit a full and correct account of the money received and paid out, from whom received and to whom and what purposes paid ; and the secretary shall make a report of the doings of the society, with such information and suggestions as he deems useful to the public.

Officers to  
be elected.  
R.S., c.58, § 7.

Hold prop-  
erty, annual  
income not  
exceeding  
\$5,000.  
Money re-  
ceived, to be  
paid in  
premiums.  
Treasurer to  
give bond  
and render  
annual ac-  
count, and  
secretary to  
make annual  
report.  
R.S., c.58, § 8.

## COUNTY AND LOCAL AGRICULTURAL SOCIETIES.

SEC. 10. County and local agricultural societies may take and hold property, real and personal, the income of which shall not exceed three thousand dollars, to be applied to the purposes provided in their charters ; or their treasurers may receive conveyances or leases of such property, for their societies, and hold, sell, mortgage or pledge it, and shall give bonds to the trustees for the safe keeping thereof and the faithful discharge of their duties.

County and  
local soci-  
ties or their  
treasurers  
may hold  
property in  
trust, and  
convey or  
mortgage it.  
Treasurers  
to give bond.  
R.S., c.58, § 9.

SEC. 11. The treasurer of an incorporated agricultural or horticultural society, on application made prior to the first Wednesday of December in each year, shall be entitled to receive from the state treasury, a sum equal to that raised by such society in the year next preceding ; but not exceeding one cent to each inhabitant of the county where such society is located, according to the last preceding national census, nor more than four hundred dollars to one county. If there is more than one such society in any county, and the sums so applied for exceeds the limits aforesaid, it shall be paid to each in proportion to the amount expended by it, as hereinafter provided. But the Penobscot and Aroostook union agricultural society may annually receive as much as is raised by it, not exceeding one hundred dollars, without regard to population ; and the Waldo and Penobscot agricultural society as much as is raised by it, not exceeding one hundred and thirty dollars ; and the same shall be deducted from the sums allowed to the counties of Waldo and Penobscot, in proportion to the number of inhabitants of each county within the limits of said society ; and the Ossipee Valley union agricultural society shall receive as much as is raised by it, not exceeding two hundred dol-

lars.  
State treas-  
urer to pay to  
treasurer of  
society  
amount  
equal to that  
raised by  
society.  
1881, c. 78.  
Limitation.

If more than  
one society  
in a county,  
each to have  
proportion.  
Exceptions.

CHAP. 58. lars, and the same shall be deducted from the sums allowed to the counties of York, Oxford and Cumberland, in proportion to the number of inhabitants of each county, within the limits of said society.

No payment  
to be made  
till certain  
certificates  
and specifi-  
cations are  
filed.  
R.S., c.58,§11.

How the  
bounty of  
the state  
shall be  
spent.  
R.S., c.58,§12.

Statements  
required  
from com-  
petitors and  
specifi-  
cations in  
treasurer's  
certificate  
to state  
treasurer.  
R.S., c.58,§13.

Form of  
application.

Secretaries  
to report an-  
nually to  
secretary of  
the board of  
agriculture,  
and when.  
R.S., c.58,§14.

SEC. 12. But none of such payments shall be made to any society until the treasurer thereof files with the state treasurer a certificate, on oath, stating the amount raised by it and containing the specifications required in section *thirteen* [fourteen], and also a certificate from the secretary of the board of agriculture that said society has complied with the requirements of section *fourteen* [fifteen].

SEC. 13. Every society receiving the bounty of the state, shall expend an equal amount each year in premiums and gratuities for the improvement and encouragement of agriculture, horticulture, or mechanic arts, unless the board of agriculture directs for what purposes a sum not exceeding half of such bounty shall be expended ; and then it shall be expended accordingly.

SEC. 14. Every society applying for the bounty of the state shall require of all competitors for premiums either on animals, crops, dairy products, improvements of soil or manures, a full and accurate statement of the process or method of rearing, managing, producing and accomplishing the same, together with its cost and value, with a view of showing the profits or benefits derived or expected therefrom ; and the application for bounty shall embrace all the specifications included in the following form, to wit :

"I, A. B., treasurer of —— society, *do* hereby apply for bounty in aid of said society, as granted by the laws of the state, and being duly sworn, (or affirmed) do say that the sum of \$ —— has been raised and paid in good faith into the treasury of said society, and that the sum of \$ —— has been awarded in premiums or otherwise expended within the year past in conformity with the provisions of *the laws of the state* relative thereto."

SEC. 15. The secretaries of the several societies shall prepare an annual report, embracing a concise statement of the financial condition and doings of the society, with a synopsis of the premiums awarded, to be made by filling blanks furnished by the secretary of the board of agriculture for the purpose. Said report shall also state the leading features of the annual exhibition, the character of the efforts of the society for the advancement of agriculture, the principal crops grown in the county or district, the success attending their culture as compared with former years, and the obstacles met with ; and generally on the condition, prospects and wants of agriculture, so far as they are able to ascertain them ; which report, with a list of the officers of the society and the post office address of each, to be renewed whenever a new election occurs, and all statements made by successful competitors for pre-

miums, and any reports of committees, essays, addresses or other papers presented to the society containing matters of general interest, shall be returned to the secretary of the board of agriculture on or before the first Wednesday of December of each year. Upon receipt and after examination of said returns, if the secretary of the board of agriculture finds them full, faithful and accurate, according to the intent hereof, he shall, and not otherwise, issue the certificate mentioned in section twelve.

SEC. 16. All incorporated agricultural societies may, by their officers, define and fix bounds of sufficient extent for the erection of their cattle pens and yards, and for convenient passage ways to and about the same, on the days of their cattle shows and exhibitions, and for their plowing matches and trial of working teams, within which no person shall be permitted to enter or pass, unless in conformity with the regulations of the officers thereof; but they shall not so occupy or include the lands of any person without his consent, or obstruct the public travel of any highway.

SEC. 17. If any person, contrary to such regulations and after notice thereof, enters or passes within the bounds so fixed, he shall forfeit a sum not exceeding five dollars, to be recovered, on complaint, for the use and benefit of such society.

SEC. 18. The officers of any such society may appoint a sufficient number of suitable persons, inhabitants of the county, to act as constables at cattle shows and exhibitions; and they shall have and exercise all the powers of constables, in relation to the preservation of the public peace, and enforcing the rules and regulations of said society, within the towns where such shows and exhibitions are held, from twelve o'clock at noon of the day preceding the commencement of such shows and exhibitions, and until twelve o'clock at noon of the day succeeding the termination thereof, and no longer.

SEC. 19. If any person shall sell any refreshments, or other merchandise, or exhibit any show or play, within one fourth of a mile of the fair grounds of any agricultural society, during the time of any exhibition of said society, unless in the dwelling house, or usual and ordinary place of business of such person, or let any land or building adjoining, or overlooking the fair grounds of such society, to spectators of any exhibition of said society, during the time of such exhibition, without the written consent of the trustees of said society, he shall be punished by a fine not exceeding one hundred dollars, to be recovered on complaint of two of the trustees, for the use of said society.

#### STATE COLLEGE OF AGRICULTURE AND THE MECHANIC ARTS.

SEC. 20. All vacancies occurring in the board of Trustees of the State college of agriculture and the mechanic arts shall be filled by the governor with the advice and consent of the council.

To fix bounds for their exhibitions, not to include land without owner's consent, nor to obstruct highway.  
R.S., c.58, §15.

Penalty for violation of regulations.  
R.S., c.58, §16.

Persons may be appointed to keep order, with powers of constables.  
R.S., c.58, §17.

Sale of merchandise, etc., near grounds of agricultural societies, restricted.  
1880, c. 212.

Vacancies in board of trustees, how filled.  
1874, c.194, §1.