

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 50.

ed by the doings of the commissioners, as aforesaid, may have a committee or jury to determine the matter as provided in chapter eighteen.

CHAPTER 51.

RAILROADS.

PETITION AND SURVEY.

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DAMAGES, ESTIMATION, PAYMENT.

5. Damages to be estimated by county commissioners, on application within three years after filing of location; to be paid by corporation. Remedy after three years. Commissioners may require security for damages if requested.
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8. Security for damages, how to be made; remedy of owner when neglected thirty days.
9. Damages remaining unpaid more than thirty days after due, bill in equity may be filed and injunction granted.
10. Proceedings in cases of violation of injunction. Court may enter a decree against those violating.
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13. Remedy for failure of corporation to do or omit acts required.
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CROSSINGS REGULATED.

15. Crossings of highways and streets, how to be made. Conditions and manner to be fixed by county commissioners and recorded, and notice given to selectmen. Corporation dissatisfied, may apply to governor, who may appoint commissioners, who may revise and adjudicate; their decision to be final. No crossing in a city without consent of mayor and aldermen. Crossings not so made, nuisances; directors making them personally liable.
16. Ways may be raised or lowered for crossing.
17. Neglect to perform acts required, subjects corporation to damages.
18. Crossing over or under a canal or railroad, how to be made. Liability for damage. Bridges and abutments to be kept in repair by corporation.
19. Bell or steam whistle to be kept on engine, and how to be used.
20. Boards to be placed at crossings to give notice.

- SEC. 21. Gates to be erected at crossings when deemed necessary by municipal officers and so decided by county commissioners, costs to be paid by corporation.
22. Penalty for neglect to comply with provisions of three preceding sections, and for neglect of person appointed to tend gates. Liability of corporation for damages.

FENCES. TRESPASSES ON ADJOINING LANDS.

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24. Remedy of owner of land adjoining, for neglect to fence.
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26. Corporation to draw cars of connecting roads at reasonable times and ordinary rates; on neglect, such roads may draw their own cars, subject to established regulations. Connecting roads, in such case, to furnish its own depots and be alone liable for injuries.
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28. Duties and proceedings of commissioners; their award to be returned to court and binding when accepted.
29. Court may prescribe course of proceeding by commissioners, and issue process to cause performance of their awards.
30. Rates of toll for lumber and wood to be fixed and posted yearly on first of October. Forfeiture for neglect, or taking greater toll than fixed.

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FORECLOSURE OF MORTGAGES TO SECURE PAYMENT OF BONDS AND COUPONS.

53. Neglect or refusal to pay bond or coupon within ninety days after due, to be deemed breach of condition of mortgage.
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 55. Foreclosure of mortgage, notice of, how to be given and proceedings. Right of redemption to cease in three years, unless bill in equity be previously commenced.
 56. Foreclosure to be prevented only on payment of all bonds and coupons dishonored at time of completion of recordings required. Claimants to have free access to books of corporation.
 57. Foreclosure to inure to benefit of all bond holders provided for in mortgage. Bond holders to constitute a corporation with rights and powers of original company. Trustees to transfer all property to new company, and on refusal may be compelled by court in equity.
 58. Name of new corporation; first meeting how to be called; rights and powers.
 59. Bill in equity to redeem, proceedings in case of.
 60. Original corporation to continue in existence for certain purposes. Foreclosure not to impair rights of recovery against corporation.
 61. Rights of parties claiming under prior mortgage, not impaired by proceedings under foregoing provisions. Rights of new company to redeem prior mortgage.
 62. Supreme court to have equity jurisdiction over all matters arising under the eight preceding sections.

PETITION AND SURVEY.

Petition, what it must contain. Survey of route. R. S., c. 81, § 1.

SEC. 1. 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; and be supported by the report of an engineer founded on an examination of the route, exhibiting a profile of the surface of the land,

an estimate of the expense of construction, the route, and its feasibility.

CHAP. 51.

REAL ESTATE, HOW TAKEN.

SEC. 2. A railroad corporation may take and hold real estate necessary for the location, construction, and convenient use of its road; may purchase land therefor; may take it under the limitations and conditions and in the manner provided for taking it for highways, not to exceed four rods in width, unless necessary for excavation, embankment, or to procure materials. No meeting-house, dwellinghouse, or public or private burying ground, can be taken without consent of the owners. The land is to be taken and held as land taken for highways; and all materials in or upon it may be used for the road. When land is owned by a person incapable of making a conveyance, his guardian may settle for and give a valid release of damages. Any person not an owner, but having an interest in land taken, has the rights and remedies of an owner, so far as his interest is concerned.

Land may be purchased or taken as land is for highways.

Restrictions.
85 Maine, 255.
R. S., c. 81,
§ 2, 3, 4, 5, 7.
1853, c. 41, § 9.

SEC. 3. The railroad is to be located within the time, and substantially according to its description in the charter. Its location is to be filed with the county commissioners, approved by them and recorded. Any subscriber to the stock, alleging that it has not been so located, may, before payment of his subscription, make a written application to the 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.

Location to be filed and recorded.
Remedy for a deviation from its prescribed course.
1853, c. 41, § 4.

SEC. 4. 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 provided in this chapter.

When road may be built.
R. S., c. 81, § 6.
1853, c. 41, § 4.

DAMAGES, ESTIMATION, PAYMENT.

SEC. 5. The damages for real estate taken are to be estimated by the county commissioners, on a written application of the corporation or owner of the estate, within three years after the location was filed, and are to be paid by the corporation. When no estimate is made within that time, the owner may maintain an action of trespass, or have any remedy provided in this chapter. When requested by the owner, the commissioners are to require the corporation to give security for the payment of damages and costs as hereinafter provided.

Damage to be estimated by commissioners, and paid by corporation.
34 Maine, 247.

Security may be required.
R. S., c. 81,
§ 3, 4, 6.
1853, c. 41, § 5.

SEC. 6. The commissioners are to make report of their general estimation of damages 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 the attorneys of record of those out of the state, and upon

Notice of estimation of damages to be given to owners.

CHAP. 51.

No petition for alteration of them after proceedings closed.
1853, c. 41, § 14.

Corporation may deposit damages and costs with clerk.
1853, c. 41, § 15.

Security for damages, how to be made.
1853, c. 41, § 16.

When damages not paid, bill in equity may be filed and injunction issued.
1853, c. 41, § 7.

Proceedings for breach of injunction.
1853, c. 41, § 8.

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. When no petition for increase or diminution 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.

SEC. 7. 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. 8. The security provided for in the fifth section is to be made by depositing with the clerk, at the risk of the corporation, 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 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 provided in this chapter.

SEC. 9. 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. 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 the same, 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 to whatever has been placed upon it, cease, and the owner may maintain any appropriate action for its recovery and protection.

SEC. 10. 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.

SEC. 11. When no proceedings for an estimation of damages have been commenced within three years, and the owner of the land files a bill containing a prayer therefor, the court may estimate the damages, decree their payment, and issue execution therefor, and the plaintiff will be entitled to the remedies for their payment by injunction, as provided in other cases.

SEC. 12. When proceedings for an estimation of damages, commenced in season, fail for a cause not affecting the merits, new proceedings may be commenced within one year thereafter, with the same effect as if commenced in season.

SEC. 13. When by an award of damages, upon which proceedings are closed, the corporation is required to do or to omit to do any act, and there is no compliance after notice and request within a reasonable time, the party injured is entitled to all the remedies provided in this chapter.

SEC. 14. 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.

CROSSINGS REGULATED.

SEC. 15. 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 selectmen 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.

SEC. 16. 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.

SEC. 17. 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.

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When no estimate of damages within three years, owner of land may file bill in equity.

1853, c. 41, § 11.

When proceedings fail without decision on the merit.

1853, c. 41, § 13.

Remedy for failure to do or omit acts.

1853, c. 41, § 10.

Service of process and notices, how made.

1853, c. 41, § 17.

Crossings of highways and streets, how made.

1853, c. 41, § 3.

Ways may be raised or lowered for crossing.

38 Maine, 26.

R. S., c. 81,

§ 8, 9, 12, 13, 14.

1853, c. 41, § 3.

Neglect to perform, subjects to damages.

R. S., c. 81,

§ 10, 11.

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Crossing canal
or railroad.
Bridges, how
repaired.
1853, c. 41,
§ 15, 16.

Bell on engine,
how used.
Substitute for
it.
1853, c. 41, § 17.

Boards placed
to give notice
of crossings.
1853, c. 41, § 18.

Gates at
crossings;
proceedings
respecting
them.
1853, c. 41, § 19.

Penalties for
neglects.
1853, c. 41,
§ 20, 21.

Fences, how
and where
made.
Liability for
injury, &c.
29 Maine, 307.
1842, c. 9, § 6.
1853, c. 41, § 4.

Remedy of
owner of land
adjoining, for

SEC. 18. A railroad may be carried over or under a canal or railroad, in such manner as not unnecessarily to impede the travel or transportation 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.

SEC. 19. A bell of the weight of thirty-five or more pounds is to be placed on each engine used on a railroad, and rung at the distance of eighty rods or more from the place of crossing of any way on the same level, and kept ringing until the engine has crossed such way. A steam whistle of equal power of sound may be substituted for the bell and used in like manner.

SEC. 20. Boards, with the words "Railroad crossing, look out for the engine while the bell rings" or "the whistle sounds," painted on each side in letters of the length of nine inches, plainly legible, are to be placed across a way, where it is crossed, supported so high as not to obstruct the travel and to be easily seen.

SEC. 21. When the municipal officers of a town deem it necessary for public safety, that gates should be erected across a railroad, where it crosses a way, 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 commissioners to decide upon its reasonableness, who, after notice and hearing, are to decide upon it. When they decide that such request is reasonable, the corporation is to comply with it and pay the costs. When they decide otherwise, the costs are to be paid by the applicants.

SEC. 22. For unnecessarily neglecting to comply with any provision of the three 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 traveler 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. TRESPASSES ON ADJOINING LANDS.

SEC. 23. 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 are to be maintained and kept in good repair by the corporation. For any neglect of it 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. 24. The owner of land adjoining a railroad, may give written notice to its superintendent, that such fence is not made,

or that it needs repair. For neglect to make or repair it for thirty days after such notice, the corporation forfeits to such owner one hundred dollars for each month's neglect after the thirty days.

SEC. 25. 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, or occasioned by its order, when the party injured has, within sixty days thereafter, given notice of it to the corporation; but its liability does not extend to acts of willful and malicious trespass. The person committing any trespass will also be liable for it.

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neglect to fence.
39 Maine, 273.
1853, c. 41, § 20.
Corporation liable for trespasses on adjoining land.
1853, c. 41, § 6.

CONNECTIONS. TARIFFS.

SEC. 26. 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 for the management of its own trains. The corporation owning the connecting road is to furnish its own depots 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.

Duties of corporations owning connecting roads.
1842, c. 9,
§ 1, 2.

SEC. 27. When corporations do not agree upon terms of connection or rates of transportation, either may make application to the supreme judicial court holden in a county where either road is located, and the court, after notice to the other, and hearing the parties, or on default, may appoint three commissioners to determine the matter.

Commissioners may be appointed by court to settle disputes.
1854, c. 93, § 1.

SEC. 28. These commissioners are to notify and hear the parties, and make and sign their award, prescribing the things to be done. Such award, made by them or a majority of them, is to be returned to the court held in the same county, to be accepted and recorded, or recommitted. When accepted, it is binding upon the parties until another award is made upon a new application, which cannot be made within one year after such acceptance.

Their duties and proceedings.
1854, c. 93, § 2.

SEC. 29. The court may prescribe the course of proceeding by the commissioners; and issue any process necessary to cause performance to be made according to any accepted award.

Court issue process to cause performance.
1854, c. 93, § 3.

SEC. 30. In the month of September annually, each corporation is to fix its rates of toll for transportation of timber, wood, and bark, per ton, cord, or thousand feet per mile; and on the first day of October following, 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.
1853, c. 41,
§ 19.

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ASSIGNMENTS, LEASES, SHARES TRANSFERRED, BONDS ISSUED.

Assignment or
lease of road,
forbidden.
1852, c. 247.

SEC. 31. 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 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 corporation, to be affected thereby.

Shares, how
transferred.
R. S., c. 81,
§ 22, 23.

SEC. 32. Shares in the capital of such corporation are personal estate, 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.

Bonds may be
issued and
sold at less
than par.
1852, c. 220,
§ 1, 2.
1856, c. 248, § 2.

SEC. 33. 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 not exceeding six per cent., 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 for that cause be admitted.

Holder of
coupons may
collect them in
his own name.
1856, c. 248, § 1.

SEC. 34. When coupons for interest are issued with such 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.

COMMISSIONERS' COMPENSATION.

Commission-
ers to be paid
by corpora-
tions as for
services re-
specting high-
ways.
1850, c. 203.
1854, c. 107, § 2.

SEC. 35. County commissioners, for services performed under the provisions of this chapter, are to be paid such compensation as is provided for their services respecting highways. For services in cases between corporations and the owners and occupants of lands, they are to be paid by the corporations. When an appeal from their decision is taken, the losing party is to pay the costs on the appeal.

ANNUAL REPORTS.

Report to be
made annually,
in February;
contents of it.
1849, c. 145, § 1.
1853, c. 41, § 18.
1845, c. 165, § 3.

SEC. 36. Every railroad corporation is to make an annual report to the secretary of state in the month of February, of its operations for the year previous to the first day of January preceding, to be verified by the oath of its treasurer. It is to state, first, the length of the road in operation, the length of single track, the length of double track, the time when laid, and the

weight of the rail per yard; second, the capital stock, and the amount called and paid in; third, the whole cost of the road, showing the amount expended for the purchase of lands, for grading, for expenses of engineering, for bridging, for masonry, for iron, and for passenger and other cars; fourth, the amount and nature of its indebtedness and its dues; fifth, the number of through and way passengers and the rate of fare; sixth, the amount received for the transportation of passengers, of property, of the mails and from other sources; seventh, the number of depots, engine houses, shops, engines and cars; eighth, the number of miles run by passenger, freight, and other trains respectively, and the average rate of speed; ninth, the whole number of stockholders and the number who reside in this state; tenth, the amount of each dividend and when made; eleventh, the amount charged for depreciation of road and other property; twelfth, the number of persons injured in life or limb, the cause of injury, and whether passengers or persons employed; thirteenth, whether any such accidents arose from carelessness or negligence of any person in the employ of the corporation, and whether such person is retained in its service. If any railroad company willfully neglects to make such report, it forfeits one thousand dollars, to be recovered by indictment to the use of the person prosecuting therefor.

PROVISIONS FOR SAFETY.

SEC. 37. 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.

Brakeman to two cars.
1842, c. 9, § 3.

SEC. 38. 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.

Fire, caused by engine.
37 Maine, 92.
1842, c. 9, § 5.

SEC. 39. 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 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.

Coroner to hold inquest on bodies of those killed on road.
1853, c. 41, § 1.

SEC. 40. 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.

Intoxication on railroads punished.
1853, c. 41, § 2.

SEC. 41. 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.

Negligence occasioning injury, punished.
1842, c. 9, § 4.

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Occasioning death, how punished.
1848, c. 70.
1855, c. 161,
§ 1, 2.

Not liable for death of a person walking on road.
1855, c. 161, § 3.
Forfeiture for walking on road.
1855, c. 161, § 5.

Printed copy of preceding section to be posted.
1855, c. 161, § 6.

Highways, how to be passed; not to be obstructed.
1855, c. 161, § 7.

Evading payment of fare; penalty.
1854, c. 107.

When one railroad crosses another, engineer to stop train and proceed slowly. One stop sufficient, when two crossings within 500 feet. Forfeiture for violation. Liability of corporation.
1857, c. 14,
§ 1, 2.

Lists of effects left by passengers to be published.
1853, c. 44, § 1.

Lists to be examined by

SEC. 42. 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. 43. 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. 44. 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. 45. A printed copy of the preceding section is to be kept posted in a conspicuous place in every passenger depot of a railroad; for neglect of it the corporation forfeits not exceeding one hundred dollars for every offence.

SEC. 46. 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.

SEC. 47. No person is entitled to be transported over a railroad, who does not, on demand, first pay the established fare. One who fraudulently evades payment, by giving a false answer, or by traveling 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. 48. When a railroad crosses another railroad on the same grade, every engineman 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 not pass it at a rate exceeding eight miles an hour; and 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 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.

BAGGAGE AND EFFECTS.

SEC. 49. Railroad corporations are to publish in one newspaper printed in each county where there is a passenger depot, 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. 50. 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. 51. 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 use.

SEC. 52. 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.

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municipal officers.
1853, c. 44, § 2.
Sale at auction, disposition of proceeds.
1853, c. 44, § 3.

Corporation liable for neglect of these duties.
1853, c. 44, § 4.

FORECLOSURE OF MORTGAGES TO SECURE PAYMENT OF BONDS AND COUPONS.

SEC. 53. Whenever a railroad corporation shall have mortgaged its railroad and franchise to secure the payment of any of its bonds or coupons, whether such mortgage was made directly to the holders of such obligations, or to trustees for their use, the refusal or neglect to pay any such bond or coupon within ninety days after a presentment, (subsequent to its pay day) to the treasurer or president for payment, shall be deemed a breach of the condition of the mortgage.

Breach of conditions of mortgage.
1857, c. 57, § 1.

SEC. 54. Upon the breach of such condition, it shall be the duty of the trustees to call a meeting of the holders or owners of bonds, secured by the deed creating said trust, any of whose bonds or coupons have been dishonored, by giving public notice of the time and place of such meeting, three weeks successively, in the newspaper published by the state printer, and in some newspaper published within the county in which the road extends, the last publication to be at least one week before the time of such meeting. The bond holders, assembled at such meeting, shall have the power to organize by the choice of a moderator and of a clerk, and to determine in regard to the expediency of the trustees entering into possession of such road, for the purpose of running and managing the same on their behalf. At such meeting, each holder of a bond secured by the mortgage, either in person or by proxy, shall have one vote for every hundred dollars of bonds held or represented. It shall be the duty of the trustees, (provided they shall be so instructed by the holders of the bonds secured by the mortgage) and they are hereby authorized, when not inconsistent with any of the provisions of the deed creating the trust, or the legal rights of any other parties, upon its being proved to them that the coupons or bonds, secured in the mortgage to them, have been and remain dishonored, without further process, or by action at law, to enter upon and take possession of such road, and of all the rolling stock and other property covered by the mortgage, and to apply the net proceeds of the earnings thereof, according to the legal rights of the parties in interest. And such trustees are hereby authorized, as fully as a board of directors of said

Trustees to call meeting of bond holders.

Notice, organization and proceedings.

Bond holders entitled to one vote for every one hundred dollars. Trustees to take possession of road when directed by bond holders.

Authority and powers of trustees.

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Earnings of road, how applied.

Trustees not liable except in certain cases.

When road to be surrendered.

Account of receipts and expenditures to be kept.

Meetings of bond holders, when held, how called.

Bond holders may instruct trustees.

May prescribe compensation of trustees. May vote by proxy. Trustees to contract for management of road when instructed.

1857, c. 57, § 2.

road, for the time being, to take charge of and manage said road, to appoint the requisite officers and agents, and to discharge the same, to fix the rate of fare and tolls, subject to the restriction of the charter of said railroad company, and to demand and receive the same, and to do all things in the management of said road, that a board of directors might lawfully do, with the right to prosecute and defend suits in their name as trustees, and to do all other things which the corporation itself might legitimately do. It shall be the duty of the trustees, after paying the running expenses, to apply sufficient of the earnings to keep the road, its buildings and equipment in repair, and to prevent any deterioration thereof, and to provide such new rolling stock as may be necessary, and then to apply the residue according to the legal rights of the parties having claims against such road. And said trustees shall not be personally liable, except for malfeasance or fraud, *provided however*, that the funds in their hands, or in the hands of their treasurer, (who shall be required to give bond for the performance of his duties,) shall be subject, after payment of prior running expenses and personal liabilities assumed by any of the trustees on account of operating said road, to the payment of such damages as shall arise from any misfeasance in the management of said road. And when all dishonored bonds and coupons, secured by the deed in which the trust is created, shall have been paid, said trustees shall surrender said road and other property to the parties who by law are entitled to receive the same. It shall be the duty of said trustees to cause a fair and exact account to be kept of the receipts from said road, and expenses and disbursements in the management of the same, and to exhibit the same to any officer of the corporation or other person interested, whenever requested so to do. While managing any railroad as provided in this section, they shall once in each year, and at other times when requested so to do, in writing, by the holders of one-fifth of the bonds in amount secured by the mortgage, call a meeting of the holders of said bonds, by giving such notice as is prescribed in the by-laws of the corporation for calling meetings of the stockholders thereof, and report to them the state of the property, the expenses of the management thereof, and the application of the earnings made by them. At such meeting the bond holders may vote such instructions to the trustees as they may deem advisable, and if not inconsistent with the duties prescribed in the deed of trust or contrary to law, said trustees shall conform to such instructions in the execution of the trust. At such meetings they may act on such questions as shall be specified in the call of the meeting. They may also prescribe the compensation of the trustees. At all such meetings the bond holders may act and vote either in person or by proxy, and each one hundred dollars of the bonds shall be entitled to one vote. On being instructed so to do by the holders of the bonds secured by the mortgage, at any meeting held or called as aforesaid, the trustees may, and it shall be their duty to contract with the directors of the corporation, or with any other competent party, to

take charge of, manage, and operate said road, so long as the trustees may rightfully retain possession thereof, and to pay over to the trustees the net earnings of said road, for the benefit of the bond holders.

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SEC. 55. In order to obtain a foreclosure of the mortgage, the holders of any such dishonored bonds or coupons may apply to the trustees under the deed securing the same, to have such mortgage foreclosed, and it shall be the duty of such trustees, upon application of bond holders to an amount equal to one-third of the amount of such mortgage, immediately to give public notice three weeks successively, in the newspaper published by the state printer, and in a newspaper published in each of the counties into which said road extends, if any shall be published therein, stating the date and conditions of the mortgage, and the claim of the applicants under it, and that the conditions thereof have been broken, by reason whereof they claim a foreclosure; and they shall cause a copy of such printed notice, and the name and date of each of said newspapers containing it, to be recorded in each of such counties, in its registry of deeds, within sixty days from the time of the first publication. And unless, within three years from the time of such first publication, the property shall be redeemed by the mortgagers or persons claiming under them, the right of redeeming shall be forever foreclosed, unless some bill in equity to redeem, founded on payment, or on an adequate and sufficient tender of the amount of the overdue bonds and coupons secured by said mortgage, had then previously been commenced.

Foreclosure of mortgage, notice of, how to be given. Proceedings.

Right of redemption. 1857, c. 57, § 3.

SEC. 56. Upon the completion of such recordings, the procedure for foreclosure shall inure to the benefit of all the holders of any such bonds or coupons, which, at the time of such completion, had been dishonored as above described; and it is only upon the payment or tender of payment of all such bonds and coupons, that the foreclosure shall be prevented; provided that tender may be made to the trustees, at any time after the notice, and before the foreclosure shall become absolute; and it shall be the duty of the holder of such dishonored bond or coupon, to present them to said trustees thirty days before the time of redemption shall expire, and such mortgage shall not be foreclosed by reason of the non-payment of any not so presented. Any person claiming under the mortgagers shall have free access to the books of the corporation to ascertain the amount of the overdue bonds and coupons remaining unpaid.

Foreclosure, how prevented.

Claimants to have free access to books of corporation. 1857, c. 57, § 4.

SEC. 57. If the foreclosure of the mortgage be effectuated, it shall inure to the benefit of all the holders of bonds and coupons provided for in its condition. And they, their assigns and successors, are hereby constituted a company, incorporated and chartered as of the day of the foreclosure, for all the purposes of the original company, with all the chartered and legal rights and immunities, which pertained to the original company at the time of the foreclosure; and it shall be [the] duty of the trustees, by suitable deed of release, to convey to such new company all the rights and interest by them held in said railroad, appurte-

Foreclosure, to whose benefit to inure. Bond holders to constitute corporation.

Trustees to convey property to new company.

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1857, c. 57, § 5.

Name of new corporation.

First meeting, how called.
1857, c. 57, § 6.

Bill in equity to redeem, proceedings in case of.
1857, c. 57, § 7.

Original corporation to continue in existence for certain purposes. Foreclosure not to impair rights of recovery against corporation.
1857, c. 57, § 8.

Rights of parties claiming under prior mortgage not impaired. Rights of new company to redeem prior mortgage.
1857, c. 57, § 9.

S. J. court to have equity jurisdiction.
1857, c. 57, § 10.

nances, and franchise, and other property, by virtue of their deed of trust and the foreclosure thereof; and if they neglect or refuse so to do, the court, upon application in equity, shall have power to compel them so to do; and upon such conveyance the said trustees shall be discharged of their trust.

SEC. 58. This new corporation, though a distinct one, may, for the calling of its first meeting, retain the same name with the old one; but shall at that meeting adopt a new corporate name, such as it shall choose to take, by which name it shall always afterwards be known. Its first meeting may be called in the same manner as was authorized for calling the first meeting of the original company. And the new corporation shall have the full right to take and retain the possession and use of the mortgaged property, notwithstanding the pendency of any bill in equity to redeem.

SEC. 59. Upon the hearing of any bill in equity to redeem, commenced as mentioned in fifty-fifth section, the new corporation may become a party and defend; and the court, if the bill be sustained by the answer, and proofs or otherwise, may decree a redemption and a return of the property, on such terms and conditions as equity may require, giving such effect, as to rents and profits on the one hand, and as to necessary expenditures on the other, as pertains in equity to the redemption of mortgaged lands; and may effectuate its decrees by all needful warrants and processes.

SEC. 60. The original corporation shall continue in existence for the sole purpose of collecting and paying its debts, and bringing its unsettled matters to a close. The foreclosure of the mortgage and consequent transfer of the mortgaged property, as above provided for, shall not impair the rights of recovery against the corporation or its stockholders, which any person may have, either on contract or other cause of action. But in suits founded upon any of the bonds or coupons, secured by the foreclosed mortgage, the actual value of the proportionate part of the property, which passed by the foreclosure, shall be deducted.

SEC. 61. Proceedings under the seven preceding sections, for the foreclosure of a subsequent mortgage, shall not impair the rights of any party claiming under a prior mortgage. The new corporation resulting from the foreclosure of a subsequent mortgage shall have all the rights of redeeming against a prior mortgage, and to the same extent, by bill in equity or otherwise, which the holders of the bonds and coupons secured by such subsequent mortgage, or their mortgage-trustees for them, could have had.

SEC. 62. Without impairing the rights of parties who shall see fit to enforce them at law, the supreme judicial court, as a court of equity, shall have jurisdiction of all matters arising under the provisions of the eight preceding sections, to be presented and acted upon as other questions arising in equity in this state.