

# MAINE STATE LEGISLATURE

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## CHAPTER 31.

## Ferries and Toll-Bridges.

## Ferries.

Sec. 1. County commissioners may license ferries, establish tolls, take bond; property to be appraised on removal of ferryman. R. S. c. 27, § 1. County commissioners may license persons to keep ferries at such places and for such times as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of state, with sureties, for the faithful performance of his duties. Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

\*8 Me. 368; \*42 Me. 20; 100 Me. 216.

Sec. 2. They may establish ferries to be supported by towns; penalty for neglect. R. S. c. 27, § 2. They may establish ferries at such times and places as are necessary, and fix their tolls, and in case no person is found to keep them for said tolls, shall regulate and fix the compensation of the ferryman, and shall discontinue such ferries when, in their judgment, it may be expedient. When no person is found to keep them for the tolls, the towns in which they are established shall provide a person to be licensed to keep them, and shall pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they shall be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars.

98 Me. 131; \*100 Me. 214.

Sec. 3. Neglect to keep safe boat, and for neglect of attendance; penalty. R. S. c. 27, § 3. Every keeper of a ferry shall keep a suitable and safe boat or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance, one dollar, to the prosecutor in an action of debt; and is liable in an action on the case to the party injured for his damages.

Sec. 4. Action on ferryman's bond. R. S. c. 27, § 4. Any one injured in person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs.

See c. 94, § 18.

Sec. 5. Steam or horse ferry. R. S. c. 27, § 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry shall be established on the same river within one mile above or below it.

121 Me. 109.

Sec. 6. Keeping a ferry, or conveying passengers or property, contrary to law; penalty. R. S. c. 27, § 6. A person who keeps a ferry contrary to the

provisions of sections one or two or without authority transports passengers or property across any licensed or established ferry for hire, or furnishes for hire a boat or other craft for such purpose, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case.

\*100 Me. 215; 121 Me. 109.

Sec. 7. Ice to be leveled and way kept in repair in winter. R. S. c. 27, § 7. When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them shall level the ice, and clear and repair the passageway from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds, and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners shall fix a reasonable compensation therefor, to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

79 Me. 463.

Sec. 8. Penalty for neglect and liability. R. S. c. 27, § 8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable, in an action on the case, for damages to any person injured thereby.

Sec. 9. Use of horse or steamboats. R. S. c. 27, § 9. A licensed ferryman who uses at his ferry a boat propelled by steam or horse power forfeits his license, and is liable to any person or corporation for damages occasioned thereby.

Sec. 10. Use of other boats. R. S. c. 27, § 10. Persons required to use, at a ferry, steam or horse boats, may, when the passage by them is dangerous, use other safe boats.

Sec. 11. Obstruction to ferries, prohibited; penalty. R. S. c. 27, § 11. Whoever places a weir or other obstacle, or without necessity anchors or places a raft, vessel, or water craft so as to obstruct the ordinary passageway of any boat at a ferry licensed or established, forfeits twenty dollars to the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without unreasonable delay or wilful misconduct.

Sec. 12. Piers sunk to guide boats at ferries. R. S. c. 27, § 12. The proprietors of a ferry, to guide their boats, may sink piers near their ferry ways, above, and below the same, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing where vessels had previously taken or discharged freights.

42 Me. 19.

Sec. 13. Eminent domain for ferries. 1929, c. 308. Corporations organized for the purpose of owning, controlling, operating or managing any steam ferry boat regularly engaged in the transportation of persons or property for compensation upon tidal waters over regular routes between points within this state, and under the jurisdiction of the public utilities commission, are hereby authorized and empowered to take and hold, as for public uses, such lands and easements as may be necessary for the proper location of any ferry wings or

other structures designed and used in such transportation in the same manner as set forth in sections eleven to twenty-two, both inclusive, of chapter sixty-nine of the revised statutes and amendments thereto, provided however that such taking shall be approved, and the public exigency determined, by decree of the municipal officers of the city or town in which such land and easements are located, by the county commissioners of the county, and by the public utilities commission.

**Sec. 14. Somerset commissioners, jurisdiction.** R. S. c. 27, § 13. The commissioners of the county of Somerset have exclusive jurisdiction in all matters relating to ferries between the counties of Somerset and Kennebec.

Penalty for evading payment of fare on ferry, c. 64, § 8; for disorderly conduct §§ 70, 71.

### Toll-Bridges.

**Sec. 15. Free passage over toll-bridges.** R. S. c. 27, § 14. 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 a funeral, or public worship on the Lord's day, may pass over toll-bridges, free of toll.

**Sec. 16. Persons exempted, to inform toll-gatherer.** R. S. c. 27, § 15. Every traveler 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 wilfully renders a false answer, and thereby evades the payment of his legal toll, forfeits to the proprietors ten dollars to be recovered in an action of debt.

**Sec. 17. Restrictions on weight of teams, and on droves of cattle and horses.** R. S. c. 27, § 16. If any person driving neat cattle or horses over any toll-bridge more than fifty feet in length from one abutment, pier, or trestle 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 it, neither he nor the owner of any property under his charge shall recover any damages against such corporation for his loss or injury.

79 Me. 565.

**Sec. 18. Penalty for delaying passengers.** R. S. c. 27, § 17. If a bridge corporation, or its agent, unreasonably delays or hinders any person driving a cart, wagon, sleigh, or other carriage from passing any toll-gate, such corporation forfeits to such person not less than two dollars, nor more than twenty dollars; to be recovered by an action on the case.

**Sec. 19. Two persons and children can pass in carriage, toll free.** R. S. c. 27, § 18. No more than two persons and children with them, not received for the purpose of evading the payment of toll, have a right to pass a toll-bridge in any carriage, free of the toll payable by foot passengers in addition to the toll due on the carriage.

**Sec. 20. Injuring toll-gate or attempting to pass without paying toll; penalty.** R. S. c. 27, § 19. Whoever 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, forfeits not less than five dollars, nor more than fifty dollars to the

proprietors of the bridge, in addition to any actual damages caused by him; but no process shall be maintained to recover such penalty, unless the corporation has complied with its charter, and the bridge is in repair, as public safety and interest require.

28 Me. 304.

**Sec. 21. Covered toll-bridges to be lighted.** R. S. c. 27, § 20. 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 in length of the covered part, 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 forfeits two dollars, to be recovered by an action of debt, in the county where any part of the bridge is situated, to the prosecutor; and is also liable, in a special action for damages, to any person injured thereby.

**Sec. 22. Covered bridges to be snowed.** R. S. c. 27, § 21. Persons and corporations maintaining covered bridges for public travel shall keep them snowed at all reasonable times.

**Sec. 23. Surrender of toll-bridges to the county; appeal.** R. S. c. 27, § 22. When a toll-bridge corporation offers to surrender its bridge, free of cost or encumbrance, to the county commissioners of the county or counties where it is established, 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 twenty-seven.

See c. 27, § 8.

**Sec. 24. Owners of ferries and bridges may take land for tollhouses.** R. S. c. 27, § 23. Towns, corporations, and individuals owning ferries and bridges authorized to receive toll may take and use land within the limits of the highway for the erection and maintenance of tollhouses, but not to obstruct the public travel.

**Sec. 25. County commissioners may lay out road across toll-bridge; damages, how ascertained.** R. S. c. 27, § 24. County commissioners, upon petition therefor, may lay out a road across any toll-bridge and the approaches thereto, in their county, after notice and hearing, in the manner required by law for the location of highways. Such petition, praying that said bridge may be taken as a county bridge, shall be signed by not less than twenty taxpayers, qualified voters of said county, and shall allege that the bridge is necessary to the accommodation of public travel and that the payment of tolls is burdensome to the traveling public. The damages for laying out such road shall be ascertained, determined, and paid in the same manner as in the case of land taken for highways, and persons aggrieved thereby shall have the same rights of appeal as in the case of highways.

**Sec. 26. May maintain bridge as a toll-bridge; tolls to be set aside.** R. S. c. 27, § 25. If the county commissioners decide to make said bridge a county bridge, they may, for the purpose of defraying the costs or damages for the taking and repair of said bridge, maintain the same for a period not exceeding six years, as a toll-bridge. All money received for tolls after such taking shall be set aside as fast as accumulated, and, with interest and accretions, shall constitute a sinking fund for the payment of any bonds or other indebtedness incurred by the county for damages or expenses in taking said bridge.

**Sec. 27. Apportionment of damages.** R. S. c. 27, § 26. When the county commissioners have laid out a road across such toll-bridge and paid the damages therefor as in the case of highways, and abolished the tolls thereof, they may apportion not exceeding one-third of the sum so expended for damages, aside from tolls received, among the several towns benefited, having regard to their valuation and circumstances, whether such bridge shall be within or partly within the boundaries of such town, or not; and thereafter such bridge and its approaches shall be a public highway, and shall be kept safe and convenient for public travel by said commissioners, and maintained by the county free of toll; and the several towns shall pay to the county treasurer the several sums apportioned to each, within such time as the county commissioners may order.

**Sec. 28. Bridge in two counties, proceedings; damages.** R. S. c. 27, § 27. When a petition is presented respecting a toll-bridge in two counties, it shall be signed by at least twenty qualified persons in each county. The commissioners receiving the petition may call a meeting of the commissioners of both counties as provided by section twelve of chapter twenty-seven, and they shall proceed in the manner provided by law for the location of ways in two or more counties. Damages shall be apportioned between the two counties in proportion to their last state valuation prior to such location, and among the several towns in the manner provided by the preceding section.

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## CHAPTER 32.

### Fences. Drainage of Salt Marshes.

Sections 1-16 Fences.

Sections 17-19 Ditches on Salt Marshes.

Sections 20-48 Improvement of Marshes, Meadows and Swamps.

### Fences.

**Sec. 1. Legal fences.** R. S. c. 28, § 1. All fences four feet high and in good repair, consisting of rails, timber, stone walls, iron, or wire, and brooks, rivers, ponds, creeks, ditches, and hedges, or other things which in the judgment of the fence-viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences; provided, however, that no barbed wire fence shall be accounted legal and sufficient, unless it is protected by an upper rail or board of wood, and no division fence built after the twenty-sixth day of March, eighteen hundred ninety-seven, within thirty rods of any dwelling-house in the construction of which barbed wire is used, shall be accounted legal and sufficient, except by mutual written consent of the adjoining owners.

See c. 26, §§ 5, 6.

\*82 Me. 126; \*98 Me. 513; 112 Me. 342.

**Sec. 2. Maintenance.** R. S. c. 28, § 2. The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them.

60 Me. 560; 112 Me. 342.